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THE SPECIAL COURT FOR SIERRA LEONE

BEFORE:

Hon. Justice Benjamin Itoe, Presiding
Hon. Justice Pierre Boutet,
Hon. Justice Bankole Thompson

Registrar: Mr. Herman von Hebel

Date filed: 23rd May 2008

The Prosecutor

-v-

**Issa Hassan Sesay
Morris Kallon
Augustine Gbao**

Case No: SCSL-04 -15-T

Public

**Sesay Defence Application for Notice to be taken of Adjudicated Facts
Pursuant to Rule 94(B)**

Office of the Prosecutor

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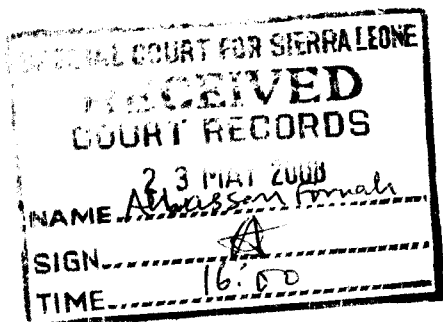
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1. Pursuant to Rule 94(B) of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (“the Rules”), the Defence requests that the Trial Chamber take judicial notice of certain facts that are relevant to the crimes charged in the Indictment and have already been adjudicated in other cases at the Special Court. The facts for which the Defence seeks judicial notice are set forth in Annexes A and B.
2. As grounds for this motion, the Defence submits that the facts detailed in the Annexes are neither controversial nor involve legal conclusions. The admission of these facts will enable the Defence and Prosecution to streamline the evidence they address in their closing briefs and assist in the promotion of consistency amongst the Judgments. Additionally, the admission of these facts is consistent with the objective of judicial economy, is consistent with the rights of the accused, and serves the interests of justice.

Rule 94(B) Promotes Consistency with other International Tribunals

3. The basis for taking judicial notice of the adjudicated facts is found in Rule 94(B), which states:

At the request of a party or its own motion, a Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Special Court relating to the matter at issue in the current proceedings.
4. The Rules of Procedure for both the International Criminal Tribunal for the former Yugoslavia (“ICTY”) and the International Criminal Tribunal for Rwanda (“ICTR”) contain nearly identical rules providing for the taking of judicial notice of adjudicated facts.¹
5. Like the ICTY and ICTR, the Special Court is an *ad hoc* tribunal whose jurisdiction is temporally as well as geographically limited in scope, and the four cases before the Special Court concern incidents and circumstances of an interrelated and often overlapping character. Therefore, it is highly likely that the four cases before the Special Court will share factual underpinnings. Rule 94(B) reflects this situation by allowing the Trial Chamber to accept the facts or documentary evidence from prior proceedings of the Special Court instead of

¹ Rule 94(B) of the ICTY reads “At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings”; Rule 94(B) of the ICTR reads “At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings”.

requiring the Prosecution or Defence to address the same factual underpinnings in their closing briefs.

6. Moreover, taking judicial notice of the adjudicated facts promotes consistency among the decisions rendered by each of the Trial Chambers and embodies an acknowledgment that previous decisions of the Special Court are potentially relevant to the current proceedings. However, Rule 94(B) does not provide for, and the Defence is not asking for, the Trial Chamber to allow findings on contested matters of law. This manifestly is not the purpose of Rule 94(B). Instead the purpose of Rule 94(B) is to narrow the factual issues in dispute.² The Defence submits that the facts detailed in the Annexes are neither controversial nor findings on contested matters of law.

Rule 94(B) Promotes Fairness and Judicial Economy in the Trial Proceedings

7. Rule 19(C) of the Rules requires that trials be both fair and expeditious.³ By using Rule 94(B), to take judicial notice of certain facts, the Trial Chamber will serve its duty to provide for a fair and expeditious trial.
8. The Trial Chamber's duty to provide for a fair trial is served by Rule 94(B) because the factual finding of each of the Trial Chambers are the result of careful consideration of all documentary and witness evidence presented during the trial. Said documentary and witness evidence whether submitted by the Prosecution or by the Defence has been subjected to cross-examination, and in some cases, additional independent inquiry by the Trial Chamber itself. In the case of the facts drawn from the AFRC Trial Judgment, none of the relevant facts set out in the Motions were contradicted by the findings of the Appeals Chamber. As such, these factual findings can be considered fair and reliable.

Relief Sought

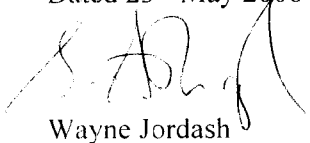
9. For the reasons set out above, the Defence requests that the Trial Chamber take judicial notice, pursuant to Rule 94(B) of the adjudicated facts identified in Annexes A and B.

² *Prosecutor v. Dusko Sikirica, Damir Došen, Dragan Kolundžija*, Case No. IT-95-8, Decision on Motion for Judicial Notice of Adjudicated Facts, 27 September 2000.

³ Rules of Procedure and Evidence for the Special Court for Sierra Leone Rule 26bis, (The Trial Chamber and the Appeals Chamber shall ensure that a trial is fair and expeditious and that proceedings before the Special Court are conducted in accordance with the Agreement, the Statute and the Rules, with full respect for the rights of the accused and due regard for the protection of victims and witnesses)

26175

Dated 23rd May 2008



Wayne Jordash
Sareta Ashraph

BOOK OF AUTHORITIES

Prosecutor v. Dusko Sikirica, Damir Došen, Dragan Kočundžija, Case No. IT-95-8, Decision on Motion for Judicial Notice of Adjudicated Facts, 27 September 2000

ANNEXES

ANNEX A Adjudicated Facts from AFRC Trial Judgment, dated 20th June 2007.

ANNEX B Adjudicated Facts from CDF Trial Judgment, dated 2nd August 2007.

ANNEX A: Adjudicated Facts from AFRC Trial Judgment, dated 20th June 2007.A: Junta period

1. Pursuant to the agreement reached with the AFRC on it taking power, Foday Sankoh was appointed Johnny Paul Koroma's deputy. As Sankoh was still absent, his post remained de facto vacant. At a later stage, SAJ Musa, a senior member of the SLA, became de facto deputy to Johnny Paul Koroma.⁴
2. Both the AFRC and the RUF factions officially declared that they were joining forces to bring peace and political stability to Sierra Leone.⁵
3. The office of the Principal Liaison Officer (PLO) was established by the AFRC government on 10 July 1997. According to the Decree establishing the office, the PLOs were responsible for supervising, monitoring and coordinating the operations of any Department of State or such other business of Government, as may from time to time be assigned to them.⁶
4. The Principal Liaison Officers were members of the Supreme Council. They were responsible for supervising various ministries, and were superior to other members of the Supreme Council and the Council of Secretaries.⁷
5. As a PLO 2, the Accused Brima reported to PLO 1, Abu Sankoh, and ultimately to SAJ Musa and the Chairman, Johnny Paul Koroma.⁸
6. The AFRC Government also included three Regional Ministers, also known as Regional Secretaries: for the North (Mr. Kamara aka 'Bushfall'); South (AF Kamara, aka 'Ambush'); and East (Eddie Kanneh). These men reported directly to the Chairman and were also supervised by the Deputy Chairman.⁹
7. The Commander-in-Chief of the Armed Forces was Johnny Paul Koroma. Avivavo Kamara, the Deputy Defence Minister, reported directly to Koroma but was also subordinate to SAJ Musa. Avivavo Kamara's immediate subordinate was the Director of Defence, Brigadier Mani. Brigadier Mani's subordinate was SFY Koroma, Johnny Paul Koroma's brother and the Chief of Defence Staff. SFY Koroma's immediate subordinate was the Chief of Army Staff, Brigadier SO Williams, also known as Kowas.¹⁰

⁴ Judgment, para. 165.

⁵ Judgment, para. 169.

⁶ Judgment, para. 321.

⁷ Judgment, para. 300.

⁸ Judgment, para. 322.

⁹ Judgment, para. 271.

¹⁰ Judgment, para. 272.

8. Resident Minister East, Eddie Kanneh, was heavily involved in diamond mining and had overall control of the diamond mining areas in Kono and Kenema Districts and reported directly to Johnny Paul Koroma.¹¹
9. The Accused Brima was Principal Liaison Officer 2 in the AFRC government and was responsible for overseeing mining activities and reporting to SAJ Musa, the Mines Minister, in Freetown.¹²
10. The Accused Brima was in Kono when ECOMOG ousted the AFRC government in Freetown.¹³
11. The RUF and AFRC were allied in one Government and worked together during the AFRC Government period but the individuals continued to identify themselves as either RUF or SLA and that at an organisational level separate commanders for each group co-existed in the Districts.¹⁴
12. The Accused Brima exercised effective control over members of the RUF merely by virtue of his *de jure* position within the AFRC Government administration in Freetown.¹⁵
13. The Supreme Council did not have the collective ability to effectively control the military, as the military retained its own distinct chain of command and organisational structure.¹⁶

B: Retreat (Freetown – Kabala/ Kono)

14. The retreat from Freetown was uncoordinated and without any semblance of military discipline. AFRC soldiers and RUF fighters fled with their families using either civilian cars or army vehicles. The fleeing troops passed through the villages of Lumley, Goderich, York and Tumbo. From Tumbo they crossed Yawri Bay to Fo-gbo. They then proceeded to Newton and Masiaka (Port Loko District). It took three to four days for the troops to reach Masiaka. This period is often referred to as “the intervention”.¹⁷
15. After the chaotic retreat from Freetown, the AFRC and RUF troops gathered in Masiaka but organisation and control remained minimal.¹⁸
16. At Masiaka, Johnny Paul Koroma announced “Operation Pay Yourself” over the BBC. Koroma informed his troops that they he could no longer pay them and they would therefore have to fend

¹¹ Judgment, para. 328.

¹² Judgment, para. 332.

¹³ Judgment, para. 331.

¹⁴ Judgment, para. 1655.

¹⁵ Judgment, para. 1655.

¹⁶ Judgment, para. 1656.

¹⁷ Judgment, para. 176.

¹⁸ Judgment, para. 177.

for themselves. Immediately thereafter the rebels began a widespread campaign of looting.¹⁹

17. When SAJ Musa learned about Koroma's decision – that the AFRC soldiers should be subordinate to RUF command – he was furious. He would not accept the notion that untrained RUF fighters could be in charge of former soldiers, and insisted that the purpose of his group was to reinstate the army and that the RUF could not lead such a mission.²⁰
18. Before the operation to recapture Kono took place, a dispute erupted over command and control issues resulting in hostilities between the two factions and the deaths of several fighters. As a result, SAJ Musa, and a significant number of AFRC troops loyal to him, opted not to participate in or support the operation.²¹ SAJ Musa and troops loyal to him were based in Koinadugu district.
19. RUF commander Denis Mingo, Kamara and other soldiers collected Johnny Paul Koroma from his village and moved with him to Makeni, Bombali District.²²
20. Johnny Paul Koroma took overall command of the AFRC/RUF troops in Kono District. Koroma and other former soldiers and RUF commanders attended a meeting at RUF commander Denis Mingo's house in Koidu. The discussion, chaired by Mingo, revolved around the relative positions of the AFRC and RUF. Koroma agreed with Mingo that the AFRC troops would be subordinate to the RUF, a decision which was unpopular with some of his own commanders.²³
21. Koroma did not have any form of contact whatsoever with any of his former associates from the time of his arrest in Kailahun in February/March 1998 until the end of the Indictment period.²⁴

C: Brima – Kailahun to Kono to Koinadugu

22. In February 1998, the Accused Brima was detained by the RUF in Kailahun District. In late April or early May 1998, he travelled from Kailahun to Kono District. Upon arrival Brima took overall command of the AFRC troops based in Kono District. Brima's arrival in Kono District marked the departure of the AFRC troops from Kono District towards Mansofinia in Koinadugu District.²⁵

D: Movement from Koinadugu District to Freetown

23. At a meeting in Koinadugu District, various AFRC commanders met with SAJ Musa to discuss the future and develop a new military strategy. The commanders agreed that the troops who had

¹⁹ Judgment, para. 178.

²⁰ Judgment, para. 180.

²¹ Judgment, para. 181.

²² Judgment, para. 446.

²³ Judgment, para. 183.

²⁴ Judgment, para. 188.

²⁵ Judgment, para. 342.

arrived from Kono District should act as an advance troop which would establish a base in north western area Sierra Leone in preparation for an attack on Freetown. The purpose was to “restore the Sierra Leone Army”. The RUF was not involved in these deliberations.²⁶

24. While SAJ Musa appears to have been the overall strategist for the AFRC, once Brima left Mansofinia he had no contact with Musa until he reached Camp Rosos and even then communication was cursory. Thus, the Accused Brima was not subject to higher level supervision or command during this period.²⁷
25. The advance team returned to Mansofinia in May 1998 and started a three month journey through Sierra Leone to Rosos, which is located in eastern Bombali District. From Mansofinia they travelled south into Kono District and passed Kondea, Worodu and Yarya, the hometown of the Accused Brima. From there the troops headed north east [sic; west], back into Koinadugu District to Yifin, and then moved eastwards passing Kumala and Bendigu toward the area near Bumbuna (Tonkolili District). From there the troops headed further north east [sic; west] into Bombali District, passing Bonoya, Karina, Pendembu and Mateboi before finally arriving at Rosos. Villages attacked by the troops in their path included Mandaha, Rosos, Bornoya, Mateboi, and Gbendembu in Bombali District.²⁸
26. The Accused Brima was the overall commander of the AFRC forces that committed the crimes in Bombali District.²⁹
27. Between 1 May 1998 and 30 November 1998, members of the AFRC unlawfully killed an unknown number of civilians in Bornoya, Mateboi and Gbendembu in Bombali District.³⁰
28. Much of the journey was conducted by foot. The troops settled in Rosos, where they remained for around three months (July – September 1998). However, following ECOMOG discovery and bombardment of the camp, they traveled west to a village known as ‘Colonel Eddie Town.’ From ‘Colonel Eddie Town’ the troops staged a number of attacks on ECOMOG positions in order to supplement their dwindling stocks of arms and ammunition.³¹
29. As the different factions were unable to communicate with each other, SAJ Musa sent a second advance group to locate the first advance team in or about September 1998. The route taken by this second group is not clear, but it appears that they traveled along a route similar to the one taken

²⁶ Judgment, paras. 190 and 379.

²⁷ Judgment, para. 383.

²⁸ Judgment, para. 192.

²⁹ Judgment, para. 1723.

³⁰ Judgment, para. 897.

³¹ Judgment, paras. 193 and 384.

by the first advance team.³²

30. Upon his arrival in 'Colonel Eddie Town' in November 1998, SAJ Musa assumed command. He emphasised his disenchantment with the RUF and stressed that it was vital that his troops arrive in Freetown before the RUF. SAJ Musa reorganised the troops and began the advance towards Freetown. The troops passed through the villages of Mänge, Lunsar, Masiaka and Newton before arriving in Benguema in the Western Area in December 1998. Throughout the advance, the troops withstood frequent attacks by ECOMOG.³³
31. On one occasion during the advance, SAJ Musa and the AFRC troops heard the British Broadcasting Corporation (BBC) interview Sam Bockarie over the radio. Bockarie explained that it was RUF troops who were approaching Freetown. Musa immediately contacted Sam Bockarie, insulted him and told him that he had no right to claim that the troops approaching Freetown were RUF troops.³⁴
32. A group of AFRC soldiers led by 'O-Five' arrived at 'Colonel Eddie Town' and ordered the arrest of the three Accused. SAJ Musa arrived subsequently and became the overall commander of the AFRC troops, followed by 'O-Five' and 'Junior Mavin'. In Newton, on the outskirts of Freetown, SAJ Musa held a meeting in which he reinstated the Accused Brima, Kamara and Kanu.³⁵

E: Freetown attack; January 1999

33. On 5 January 1999 the Accused Brima gathered the troops in Allen Town and told them the time had come to attack Freetown. At this meeting he further instructed his troops to capture State House, burn police stations, release the prisoners held at Pademba road prison and execute 'collaborators,' meaning anyone who did not support the troops. He further informed his troops that as he did not have the wherewithal to pay them, they were free to loot from the civilian population although he expected his troops to hand any 'government property', meaning diamonds or dollars, to the Brigade.³⁶
34. Witness TF1-334 was part of the advance troop and confirmed that when the AFRC captured new ground, they would wait for the brigade senior command, including the Accused Brima, to arrive and tell them what to do next. It was accepted that the soldiers would not do anything without the command of Gullit. Gullit ordered the soldiers to set fire to vehicles and this was a deliberate tactic to create an obstacle to prevent ECOMOG armoured cars reaching the

³² Judgment, para. 196.

³³ Judgment, para. 198.

³⁴ Judgment, para. 200.

³⁵ Judgment, para. 388.

³⁶ Judgment, paras. 398 and 1790.

AFRC position.³⁷

35. Accused Kanu was Chief of Staff and also the commander in charge of civilian abductees throughout the attack on Freetown on 6 January 1999 and the retreat to Newton.³⁸
36. Upon capturing State House, the AFRC established its headquarters there. The Accused Brima was in command. Other senior commanders including the Accused Kamara and Kanu were also present there from time to time. On arrival at State House, Brima ordered the opening of Pademba Road prison.³⁹
37. From the death of SAJ Musa until around the time the troops lost control of State House, the AFRC faction had a chain of command. After the loss of State House, this chain of command was interrupted until the troops regrouped. In the interim, individual commanders gave orders to the troops in their proximity.⁴⁰
38. From State House, senior officers established radio contact with Sam Bockarie and asked for reinforcement. However, the support never arrived.⁴¹
39. Following heavy assaults from ECOMOG, the troops were forced to retreat from Freetown. This failure marked the end of the AFRC offensive as the troops were running out of ammunition. While the AFRC managed a controlled retreat, engaging ECOMOG and Kamajor troops who were blocking their way, RUF reinforcements arrived in Waterloo. However, the RUF troops were either unwilling or unable to provide the necessary support to the AFRC troops.⁴²

West Side

40. The AFRC forces withdrew, reorganised and established bases in the Western Area, including in Newton and Benguema. They remained there until approximately early April 1999, when the AFRC divided. One group travelled to Makeni in Bombali District to support one of several RUF factions involved in internecine battle.⁴³
41. A smaller group moved to Port Loko District and settled in the region of the Okra Hills near Rogberi. This group became known as the “West Side Boys” and frequently targeted and attacked the civilian population. Towns and villages attacked included Manaarma, Nonkoba and Tendakum. These troops remained in Port Loko District until the negotiation of the Lomé Peace

³⁷ Judgment, para. 1791.

³⁸ Judgment, para. 535.

³⁹ Judgment, para. 1794.

⁴⁰ Judgment, paras. 611, 616, and 620.

⁴¹ Judgment, para. 204.

⁴² Judgment, para. 206.

⁴³ Judgment, para. 208.

Accord.⁴⁴

42. The three AFRC Accused retreated from Freetown to Newton and Benguema in the Western Area in late January 1999. In approximately early April 1999, the AFRC troop separated into two groups, with the Accused Brima and Kanu moving with some fighters to Makeni in Bombali District.⁴⁵
43. The Accused Brima, accompanied by the Accused Kanu and a group of AFRC troops, went to Lunsar to assist 'Superman', who was fighting against Issa Sesay at the time.⁴⁶
44. Upon withdrawing from Newton in late February or early March 1999, the Accused Kamara retreated to the region of Okra Hills in Port Loko District. During this same period, the Accused Brima and the Accused Kanu went to Makeni, Bombali District.⁴⁷
45. The Accused Kamara was the overall commander of the AFRC forces also called 'West Side' in Port Loko District in 1999, and that he had substantial authority in this position.⁴⁸
46. The Accused Kamara was in command of a group of AFRC troops that went to Four Mile and Mamamah, near Mile 38. A series of orders were given by the Accused Kamara to the troops at Mamamah which were obeyed. From Mamamah they went to Gberibana, in the 'West Side'. At the 'West Side', Kamara called a meeting at which he restructured the troops and made appointments.⁴⁹
47. Between February and April 1999, in Port Loko District, an unknown number of civilians were unlawfully killed by AFRC troops in Manaarma.⁵⁰

⁴⁴ Judgment, para. 208.

⁴⁵ Judgment, para. 424.

⁴⁶ Judgment, para. 1818.

⁴⁷ Judgment, para. 484.

⁴⁸ Judgment, para. 500.

⁴⁹ Judgment, para. 486.

⁵⁰ Judgment, para. 965.

ANNEX B: Adjudicated Facts from CDF Trial Judgment, dated 2nd August 2007.

A: Instructions for Tongo attack; December 1998

1. Between 10 and 12 December 1997, a passing out parade was held at Base Zero. It was witnessed by many civilians and Kamajors at Talia. At this parade instructions for the Tongo and Black December operations were given.⁵¹
2. Norman said in the open that “the attack on Tongo will determine who the winner or the loser of the war would be” and that “[...] there is no place to keep captured or war prisoners like the juntas, let alone their collaborators”. Norman also said that “[if] the international community is condemning human rights abuses [...] then I take care of the human left abuses”, which was clarified by him to mean that “[...] any junta you capture, instead of wasting your bullet, chop off his left [hand] as an indelible mark [...] to be a signal to any group that will want to seize power through the barrels of the gun and not the ballot paper [;] [w]e are in Africa, we want to practice democracy”. Fofana also spoke at this meeting saying “[n]ow, you’ve heard the National Coordinator [...] any commander failing to perform accordingly and losing your own ground, just decide to kill yourself there and don’t come to report to us.” Then all the fighters looked at Kondewa, admiring him as a man with mystic power, and he gave the last comment saying “a rebel is a rebel; surrendered, not surrendered, they’re all rebels [...] t]he time for their surrender had long since been exhausted, so we don’t need any surrendered rebel.” He then said, “I give you my blessings; go my boys, go.”⁵²
3. Following the passing out parade, a meeting was held by Norman at the *walehun*, which was a small place in the bush which took the role of a big *barri*. Further instructions for the Tongo and Black December operations were then given to the commanders by Norman. The meeting had in attendance, among others, Fofana, Kondewa, Mohamed Orinco Moosa, Albert J Nallo, KG Samai, Ngobeh, some commanders from the Tongo area, such as, Musa Junisa, TF2-079 and Vandi Songo, and some members of the War Council. Norman repeated that whoever took Tongo would win the war and that it should be taken at all costs. He told them not to spare anyone working with the juntas or mining for them. Norman also said that all collaborators should forfeit their properties and be killed. Norman ordered that gravels mined by the AFRC/RUF should be washed by the Kamajors and the proceeds should be taken to Base Zero. Everyone in the meeting contributed to the discussion, including Fofana and

⁵¹ Judgment, para. 320.

⁵² Judgment, paras. 321 and 721(x).

Kondewa. Norman then ordered Fofana to provide logistics for the operation. At the meeting, Norman suggested that a deputy should be elected to deputise Fofana. Orinco Moosa was elected to this position.⁵³

4. Fofana's speech at the passing out parade in December 1997 when the attack on Tongo was discussed was an encouragement and support of Norman's instructions to kill captured enemy combatants and collaborators, to inflict physical suffering or injury upon them and to destroy their houses. At this parade Fofana, as Director of War, addressed the fighters immediately after the National Coordinator for the CDF had given his instructions about Tongo. Fofana not only encouraged the Kamajors to follow Norman's unlawful orders to commit criminal acts but also told them that if they failed to perform accordingly, they should not come back to Base Zero to report but to kill themselves rather than losing their own ground. Those Kamajors who then proceeded to attack Tongo not only received a direction from Norman to commit specific criminal acts, they also had a clear encouragement and support from Fofana, as one of their leaders, to commit such acts.⁵⁴
5. Fofana was aware that one of a number of crimes would probably be committed by the Kamajors and that one of those crimes was in fact committed. Fofana knew of Norman's orders that the Kamajors were to kill captured enemy combatants and collaborators to inflict physical suffering or injury upon them and to destroy their houses. Based on his awareness that the Kamajors who operated in the towns of Tongo Field had previously engaged in criminal conduct, which had been reported to Base Zero, Fofana knew that it was probable that the Kamajors would commit at least one of these acts in compliance with the instructions issued. With this knowledge and his knowledge of the orders given by Norman, the National Coordinator, Fofana encouraged and supported the Kamajors in their actions, in consequence of which they committed acts of killing and infliction of physical suffering or injury in Tongo.⁵⁵
6. The criminal acts which were explicitly ordered by Norman were as follows: killing of captured enemy combatants and collaborators, infliction of physical suffering or injury upon them and destruction of their houses. These crimes were committed by the Kamajors in the towns of Tongo Field during the second and third attacks.⁵⁶

⁵³ Judgment, paras. 322 and 721(xi).

⁵⁴ Judgment, para. 722.

⁵⁵ Judgment, para. 724.

⁵⁶ Judgment, para. 727.

7. The Kamajors who then proceeded to attack Tongo not only received a direction from Norman to commit specific criminal acts, they also had encouragement and support from Kondewa through his blessing, as one of their leaders with mystical powers, to commit such acts. Kondewa's words had a substantial effect on the perpetration of those criminal acts.⁵⁷

B: Attacks on Tongo (January 1998) and Lalehun (February 1998)

8. The Kamajors launched a third attack on Tongo in the afternoon of 14 January 1998. Many civilians had received warnings that the Kamajors were planning the attack and most of those that were able to leave had done so.⁵⁸
9. There was gunfire in Tongo at the beginning of the attack and chaos created by thousands of civilians running toward the NDMC Headquarters. There were corpses on the side of the road on the way to the headquarters. Some had visible wounds on their bodies and others did not. Civilians were shot while attempting to flee and some civilians were killed.⁵⁹
10. Kamabote, one of the Kamajor commanders in the Tongo January 1998 attack, stood before the crowd at the football field near the NDMC and called on two women to identify rebels. The women identified two men as rebels and Kamabote shot them both dead. The women were ordered to continue identifying rebels and they pointed out more than 10 men. The Kamajors stripped these men and handed them over to armed Kamajors who took them toward Dodoma, a place behind the NDMC Headquarters where cows are slaughtered. Kamajors led another 200 men and women in the same direction. The members of this group had been identified as rebels and included a rebel youth leader, a woman who sold cookery and a man who sold second-hand clothing.⁶⁰
11. On the night of 14 January 1998, the civilians slept at the NDMC Headquarters because they were not allowed to leave.⁶¹
12. On 15 January 1998, there were many corpses in the football field near NDMC Headquarters. Some of these corpses appeared to have been hacked by a machete, while others did not have any visible injuries. On the same morning, a rebel named Cobra and

⁵⁷ Judgment, para. 736.

⁵⁸ Judgment, para. 389.

⁵⁹ Judgment, para. 390.

⁶⁰ Judgment, para. 393.

⁶¹ Judgment, para. 397.

20 men surrounded by armed Kamajors were brought to the field. The men were accused of being rebels and were taken to an open space in the NDMC Headquarters known as the MP office, where they were all hacked to death. The bodies of these rebels were left where they were killed.⁶²

13. Around noon on 15 January 1998, a Kamajor commander ordered the civilians to leave the NDMC Headquarters. Before they could do so, another commander, angry that they were trying to leave, ordered Kamajors to shoot at the crowd. The Kamajors began shooting sporadically. The civilians dropped to the ground and remained there until the firing stopped. Many were hit by stray bullets. One man was hit by a bullet. While the man was suffering from his wound, he was approached by a Kamajor who chopped at his back with a machete, then stole his belt and hit him with it, telling him to get up. The man eventually died.⁶³
14. A female civilian left the NDMC Headquarters with her husband and elder sister after being freed. At an intersection near NDMC Headquarters, a Kamajor confiscated her elder sister's bag, which contained all of their belongings. The civilian then went with her family to her sister's house. At the back of the house she was approached by a Kamajor who hit her in the waist with a stick. She turned and saw her older brother 15 yards away being held by three Kamajors who took his money and left. Another Kamajor approached her brother and showed him a list of Limbas to be killed. The Kamajor told him that he had come there for him and then cut off his ear. The brother knelt down and asked the Kamajor to spare his life because he had a wife and children. The Kamajor cut his throat with a machete and then mutilated his body. The female civilian witnessed this but did not reveal their relationship because she knew that the Kamajors were looking for Limbas.⁶⁴
15. A group of 15 men and women was joined by other civilians along the Kenema Road. They eventually numbered 65 people. The civilians were attacked by Kamajors at the Kamboma Bridge and taken to a house in Kamboma Town where they were told that the Kamajors had received orders to kill anyone who passed by. The group was separated into two lines. The Kamajors shot each person in both lines and rolled the bodies into a swamp behind the house. When there were only eight civilians left, the commander of Foindu Junction, Mohamed

⁶² Judgment, para. 398.

⁶³ Judgment, para. 400.

⁶⁴ Judgment, para. 401.

Kaineh, arrived and told the Kamajors that it was an ambush and they should stop spoiling cartridges and use knives to kill the remaining people. The remaining eight people were hacked on the napes of their necks with machetes. One survivor (TF2-015), who was the last person in the line, was hacked with a machete and rolled into the swamp on top of the other dead bodies. This man (TF2-015) lay there for one hour before he was saved by rebels. He was the only one of the 65 civilians to survive.⁶⁵

16. Kamajors killed Brima Conteh, the Nyawa Town Speaker, a few days later. He was arrested by Kamajors from Lalehun at a meeting of the chiefs held by BJK Sei in Tongo. Brima Conteh was stripped naked and taken to Lalehun, with a cement block on his head and a rope around his neck. He was paraded around town in this condition. Baimba Aruna denounced Brima Conteh as the chief of the rebels and ordered his death. Kamajors took Brima Conteh to a banana plantation and slit open his throat and stomach. Two Kamajors ate the insides of his stomach. The Kamajors severed Brima Conteh's head and left his body in the plantation. A Kamajor was ordered to proceed to town with Brima Conteh's head for a celebration. Another Kamajor named Vand'i took Conteh's intestines to town in a five gallon container. The Kamajors proceeded from house to house with his head and intestines; eventually they were left at Baimba Aruna's house.⁶⁶

17. On 16 February 1998, Kamajors killed Chief Kafala. Chief Kafala had been accused of being a junta member who was leading soldiers. He was brought from Bendu to Koribondo in the presence of many people. Chief Kafala was decapitated and his body was mutilated in the street opposite the hospital. This was done in the presence of four civilians. Kamajors took Chief Kafala to the swamp where a Kamajor further mutilated him on the upper right shoulder and then forced him into a small hole with a shovel. Chief Kafala's feet were amputated and he was shot twice. The Kamajors ordered the civilians present to cover him with mud; two of them did so while the Kamajors sang.⁶⁷

18. The following acts of murder were inter alia committed:⁶⁸

- a) In early January 1998, a 12 year-old boy named Foday Koroma was killed in Talama because he was related to a rebel from Tongo.

⁶⁵ Judgment, para. 406.

⁶⁶ Judgment, para. 409.

⁶⁷ Judgment, para. 425.

⁶⁸ Judgment, para. 750.

- b) On 14 January 1998, two men identified as rebels were killed by Kamabote at the NDMC Headquarters in Tongo.
- c) On 14 January 1998, Kamabote killed a man named “Dr. Blood” and a woman named Fatmata Kamara at the NDMC Headquarters in Tongo. Both were considered to be collaborators.
- d) On 14 January 1998, at the NDMC Headquarters in Tongo, two women identified more than 10 men as collaborators. These men were led by armed Kamajors to a place behind the Headquarters where cows were slaughtered. Two hundred others who had been identified as rebels were also led in the same direction.
- e) On 14 January 1998, Kamajors took TF2-048’s uncle, an unidentified woman and an unidentified child behind a house at the NDMC Headquarters in Tongo. The Kamajors returned with blood on their machetes. These people have not been seen again.
- f) On 15 January 1998, 20 men who had been accused of being rebels were hacked to death with machetes at the NDMC Headquarters in Tongo.
- g) Around noon on 15 January 1998, Kamajors shot at a crowd of civilians at the NDMC Headquarters in Tongo. Many civilians were hit by stray bullets and at least one died.
- h) On 15 January 1998, Kamajors at a checkpoint hacked one man to death for carrying a photograph of a rebel.
- i) On 15 January 1998, Kamajors at another checkpoint hacked a boy named Sule to death for carrying a wallet that resembled SLA fatigues.
- j) Kamajors separated men and women in Bumie and killed five men after making them stare at the sun.
- k) In mid-February 1998, Aruna Konowa was killed in Lalehun, on the order of a Kamajor boss named Chief Baimba Aruna, because he was considered to be a collaborator.
- l) A few days after the killing of Aruna Konowa, Brima Conteh was killed in Lalehun by Kamajors who accused him of being “the chief of the rebels”.

D: Kenema Town; 15 February 1998

19. From the house of a neighbour, directly across the street from her father’s house, a witness (TF2-154) watched Kamajors surround her home. She heard them say that they had come to kill her father and her family and to burn the house.⁶⁹

⁶⁹ Judgment, para. 584.

20. TF2-154 observed that Kamajors launched an RPG into her father's house and two young male tenants came running out. The tenants, who were aged approximately 19 and 22, were not related to TF2-154. Although both young men protested that they were not part of the junta, they were killed by the Kamajors. The Kamajors set TF2-154's father's house on fire.⁷⁰
21. On the morning of 15 February 1998, more than one hundred Kamajors entered Kenema via Sanoh Street and Suppui Street and went to the barracks. Some of the Kamajors were in traditional dress and had something smeared on their faces. They were armed with guns, bows and cutlasses. Gunshots were fired; after quite some time, they ceased.⁷¹
22. Two Kamajors chased Sergeant Mason through the police barracks on 15 February 1998. One Kamajor with a gun shot Sergeant Mason three times. Sergeant Mason fell to the ground and another Kamajor chopped at his head and neck with a cutlass. Sergeant Mason died from the wounds inflicted by these Kamajors.⁷²
23. A group of Kamajors stopped Corporal Fandai and asked him who he was. Corporal Fandai responded that he was a police officer. The Kamajors, who were speaking in Krio, told Corporal Fandai that they wanted to kill him. Corporal Fandai asked for time to pray but was shot three times. Corporal Fandai's corpse was found on the ground near his home.⁷³
24. Momoh Tawol was sitting on his veranda when Corporal Fandai was killed. He asked in Krio who had fired; one of the Kamajors responded in Krio that they had made a mistake. One of the Kamajors then shot Momoh Tawol four times. Momoh Tawol fell on his knees and was shot three more times. The same Kamajor who had chopped at Sergeant Mason's head chopped at Tawol's head and neck. Momoh Tawol's corpse was left outside near his home.⁷⁴
25. The same group of Kamajors killed Sergeant Mason, Corporal Fandai and Momoh Tawol.⁷⁵
26. A police officer, was stopped by a group of Kamajors that came to Kenema on Sunday morning, 15 February 1998. While the Kamajors were questioning him, Sergeant Turay came up to the group of Kamajors and was identified by one of them as the police supervisor. Sergeant Turay raised his hand to show the Kamajors an identification card and Brima

⁷⁰ Judgment, para. 585.

⁷¹ Judgment, para. 586.

⁷² Judgment, para. 587.

⁷³ Judgment, para. 588.

⁷⁴ Judgment, para. 589.

⁷⁵ Judgment, para. 590.

Massaquoi, a Kamajor commander, chopped his hand. Sergeant Turay begged for his life and started backing up but Brima Massaquoi ordered the Kamajors to fire. Sergeant Turay was hit in the neck and did not get up again because there was constant firing. He died from wounds inflicted by the Kamajors.⁷⁶

27. SI Mimor, who was partially paralyzed, was limping towards his quarters when he was spotted by Kamajors who shouted in Krio, “[I]ook, at the policeman [...] that we’ve been [sic] looking for.” One of the Kamajors took his cutlass and chopped SI Mimor on his arm and leg. SI Mimor fell down, bleeding. His corpse was left outside.⁷⁷

28. OC Kano and Desmond Pratt were stopped and questioned by Kamajors as they walked across the police football field. OC Kano produced an identity card. After examining the card the Kamajors shot OC Kanu and Desmond Pratt. Desmond Pratt’s corpse was left outside.⁷⁸

E: Kenema Town; 16 February 1998

29. On the morning of Monday, 16 February 1998, the juntas returned and attacked Kenema. There was heavy exchange of fire between Kamajors and rebels for several hours.⁷⁹

30. Some of the firing against Kamajors came from the direction of the police barracks on Hangha Road. Fallah Bindi recognized policemen among the rebels that were shooting at the Kamajors: the police were wearing their blue uniforms, which had insignia on the shoulders and the trousers.⁸⁰

31. On Monday, 16 February 1998, after driving off the rebels, Kamajors entered the Kenema Police Barracks and started searching the houses. A group of three Kamajors searched the houses and killed some policemen that were hiding under their beds. At least one body was taken outside and burnt in the field.⁸¹

⁷⁶ Judgment, para. 591.

⁷⁷ Judgment, para. 592.

⁷⁸ Judgment, para. 593.

⁷⁹ Judgment, para. 595.

⁸⁰ Judgment, para. 596.

⁸¹ Judgment, para. 599.