

Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

WEDNESDAY, 25 OCTOBER 2006
11.15 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges: Bankole Thompson, Presiding
Pierre Boutet
Benjamin Mutanga Itoe

For Chambers:

For the Registry:

For the Prosecution: Mr Peter Harrison
Mr Mohamed Bangura
Ms Shyamala Alagendra
Ms Amira Hudroge (intern)

For the accused Issa Sesay: Mr Wayne Jordash

For the accused Morris Kallon: Mr Shekou Touray
Mr Melron Nicol-Wilson

For the accused Augustine Gbao: Mr John Cammegh

1 PRESIDING JUDGE: Good morning, counsel. This is a
2 continuation of our Rule 98 proceeding. This is the decision of
3 the Chamber on the RUF motions for judgment of acquittal,
4 pursuant to Rule 98.

5 Brief procedural history: The trial of the case entitled
6 Prosecutor v Issa Sesay, Morris Kallon and Augustine Gbao,
7 SCSL-05-14-T, commenced on the 5th of July 2004. The corrected
8 amended consolidated indictment, hereinafter referred to as the
9 indictment, charges each of the accused in this case with 18
10 counts of crimes against humanity, violations of Common Article 3
11 to the Geneva Conventions and of Additional Protocol II, and
12 other serious violations of International Humanitarian Law.

13 The Prosecution closed its case on the 2nd of August 2006
14 after 182 days of trial. The Prosecution called a total of 85
15 witnesses to testify, in addition to one witness called at the
16 behest of the Defence. 190 exhibits have been tendered so far in
17 evidence.

18 On the 4th of August 2006, each of the Defence teams
19 indicated its intention to move the Court for a judgment of
20 acquittal, pursuant to Rule 98. In order to promote fairness and
21 efficiency of the proceedings under the amended version of this
22 Rule, and pursuant to the scheduling order concerning oral
23 motions for acquittal, issued on the 2nd of August 2006, both the
24 Defence and the Prosecution filed advance written notices of the
25 specific issues in respect of each count of the existing
26 indictment, as well as various legal arguments to be advanced in
27 support of their respective positions as regards the Rule 98
28 motions. Oral arguments were subsequently heard in open Court on
29 the 16th of October 2006.

1 Brief overview of the parties' main submissions. In both
2 written and oral submissions, counsel for the first accused
3 raised the issue of the lack or insufficiency of the evidence
4 under Rule 98 in relation to certain geographical locations
5 pleaded in various counts in the indictment. Counsel stated
6 that, following discussions with the Prosecution, the Prosecution
7 did concede the lack or insufficiency of evidence regarding
8 several of the aforementioned pleaded locations.

9 In both written and oral submissions, counsel for the
10 second accused submitted that certain pieces of evidence adduced
11 by the Prosecution fall outside the time frames set in the
12 indictment, and others do not sufficiently specify the time
13 periods of the events, simply referring to "mango season" or
14 "rainy season" in order to indicate various time periods of the
15 year, and that the Prosecution should have called expert
16 testimony with respect to these time frames. Counsel also argued
17 that issues of individual responsibility and modes of liability
18 could go to the evaluation of whether the evidentiary standard
19 set out in Rule 98 has been met or not.

20 In both written and oral submissions, both counsel for the
21 first accused and for the second accused submitted that count 8
22 of the indictment, namely forced marriage, other inhumane acts,
23 as a crime against humanity, is impermissible, duplicitous or
24 irrelevant.

25 In both written and oral submissions, counsel for the third
26 accused submitted that the general evaluation of the various
27 modes of liability should be addressed, not at this stage, but at
28 the end of the trial. However, counsel submitted that certain
29 relevance should be given at this stage to the modes of liability

1 where it is submitted that the evidence reflecting that mode of
2 liability is either missing or insufficient.

3 With reference to counts 10 to 11, namely, physical
4 violence, counsel argued that there is no evidence of the
5 physical presence or direct influence of the third accused in the
6 locations pleaded in the indictment as primarily relevant for
7 these counts and, therefore, that the third accused could not be
8 said to be criminally liable with reference to these counts
9 because of the insufficiency of the evidence. With reference to
10 count 3, namely, extermination, he further submitted that the
11 elements of this crime require proof of massiveness, and there is
12 no evidence of that. With reference to count 14, namely,
13 pillage, counsel said he accepted the elements of this crime as
14 formulated by the ICC, with the exception of the element of
15 "association with an armed conflict," and submits that this
16 should be restricted to the "context of an armed conflict."

17 In its written and oral submissions, the Prosecution
18 conceded that there is insufficient evidence to sustain a
19 conviction with reference to certain locations pleaded in the
20 indictment. However, counsel for the Prosecution submitted that
21 each of the Defence motions should be dismissed, in that the
22 evidence presented during the Prosecution's case is sufficient to
23 meet the standards of Rule 98 for each and all of the counts in
24 the indictment. Specifically, the Prosecution submitted that the
25 evaluation of the sufficiency of the evidence should take into
26 account factors, such as the allegations of a joint criminal
27 enterprise and the seniority of the accused, as well as the
28 widespread nature of the crimes committed over the territory of
29 Sierra Leone.

1 Findings and decision. Introduction. With this brief
2 procedural history of the case and an overview of the respective
3 parties' main submissions under Rule 98 motions, we would now
4 proceed to determine the issues and legal arguments raised by the
5 parties. It is a unanimous decision of the Bench, having regard
6 to the evidence so far adduced and available, and the law
7 applicable to various issues so raised in the process of a
8 Rule 98 adjudication.

9 Rule 98 of the Rules and Procedure of Evidence of the
10 Special Court for Sierra Leone, as amended by the plenary meeting
11 of the judges on the 13th day of May 2006, reads as follows:

12 "If, after the close of the case for the Prosecution, there
13 is no evidence capable of supporting a conviction on one or more
14 counts of the indictment, the Trial Chamber shall, by oral
15 decision and after hearing the oral submissions of the parties,
16 enter a judgment of acquittal on those counts."

17 In the considered view of the Chamber, Rule 98, as amended,
18 according to its plain and ordinary meaning, merely introduces an
19 oral procedure for the expeditious disposition of motions for
20 judgment of acquittal. It does not, we emphasise, modify the
21 legal standard applicable to motions of this type. In effect,
22 there is no substantive change to the Rule.

23 Applicable legal standard. Consistent with this view, as
24 to the legal effect of the recent amendment to Rule 98, the
25 Chamber reiterates that, as a matter of law, the applicable legal
26 standard under Rule 98 for determining the merits or otherwise of
27 a motion for judgment of acquittal is, as we stated in our
28 decision on motions for judgment of acquittal, pursuant to
29 Rule 98, dated the 21st day of October 2005 in the case of

1 Prosecutor v Samuel Hinga Norman, Moinina Fofana and Allieu
2 Kondewa, hereinafter referred to as our CDF Rule 98 decision,
3 "one that limits and restricts a tribunal only to a determination
4 as to whether the evidence adduced by the Prosecution at the
5 close of its case, is such as is legally capable of supporting a
6 conviction on one or more of the counts in the indictment."

7 Accordingly, we hold, as we did then, that the Rule does
8 "not envisage a judicial pronouncement on the guilt or innocence
9 of the accused at this stage."

10 It is also worth reiterating, as we held in that decision,
11 that "the standard is not whether the evidence is such as should
12 support a conviction, but rather, such as 'could' support a
13 conviction."

14 For an avoidance of doubt, we take the opportunity of
15 restating what we said in our aforementioned CDF decision, where
16 counsel for the third accused in that case submitted that the
17 standard of proof to be met by the Prosecution for the purpose of
18 Rule 98 was that canvassed in the Jelisic case, referred to in
19 the Strugar case, that is, one of "proof beyond reasonable
20 doubt." We dismissed that submission and held that it was our
21 "opinion that the proof beyond reasonable doubt standard should
22 only be addressed at a later stage of the proceedings."

23 We had this to say in this regard:

24 "We say this because we are of the opinion, and do take the
25 view, that in our quest at this stage to arrive at a
26 determination as to whether the evidence so far adduced by the
27 Prosecution is capable of supporting a conviction or not, we
28 should not, at this stage, delve into examining factors that are
29 considered as the real basis for justifying a finding of 'proof

1 beyond reasonable doubt,' such as an exhaustive analysis or
2 examination of the quality and reliability of the evidence so far
3 available in the records, and even the credibility of the
4 witnesses." I refer here to paragraphs 36 and 37 of our CDF Rule
5 98 decision.

6 It is significant to note, especially for the purposes of
7 the record, that the parties herein, that is, the Prosecution and
8 the Defence, concede that the applicable legal standard under
9 Rule 98 is as articulated by this Chamber in its CDF Rule 98
10 decision. We recall that counsel for the third accused did urge
11 the Bench to adopt what he characterised as "a commonsense
12 approach" in applying the said standard.

13 Reinforced, as we are, in our view as to the applicable
14 legal standard placed on Rule 98, we emphasise in this oral
15 decision what we had stated in our seminal decision on this issue
16 in the following terms:

17 "The key feature of the test is conceptually grounded on
18 the idea of a judicial assessment of the capability of the
19 evidence to support a conviction, which would of course
20 eventually entail a concise evaluation of the counts in the
21 indictment, with a view to ascertaining whether there is patently
22 no evidence in respect of any of them upon which a reasonable
23 tribunal of fact would convict the accused." I refer to
24 paragraph 50 of our CDF Rule 98 decision.

25 In light of the foregoing exposition of the law as to the
26 applicable Rule 98 legal standard, we now proceed to examine the
27 counts and the issues raised by the Defence to support their
28 respective motions for judgment of acquittal vis-a-vis the
29 submissions of the Prosecution.

1 With regard to count 8, the Chamber recalls that counsel
2 for the first accused submitted that count 8 of the indictment is
3 "legally impermissible and/or is duplicitous and/or is entirely
4 redundant." Counsel for the second accused took much the same
5 position as regards this count. In the Chamber's considered
6 opinion, this submission clearly goes to the root of the form of
7 the indictment. It cannot, therefore, be examined at this stage
8 as to its merits by reason of the provisions of Rule 72(B)(ii) of
9 the Rules of Procedure and Evidence. We do so hold. This is, of
10 course, without prejudice to the right of the Defence to raise
11 such issues in their final closing arguments.

12 Counsel for the second accused submitted that the time
13 frames pleaded in the indictment form the basis of the Court's
14 jurisdiction over the accused persons and that, consequently, any
15 evidence adduced outside those time frames "goes to no issue," as
16 he characterised it. Counsel cited the evidence of TF1-371, 24th
17 of July 2006, at page 5, lines 16 to 23 of the transcript,
18 regarding the time frames within which crimes allegedly took
19 place in Tombodu, reference being only to the "rainy season"; the
20 evidence of TF1-360, 20th of July 2005, at page 58, lines 12 to
21 14 of the transcript, again allegedly planning the commission of
22 crimes during the "rainy season" in the Kono District; and that
23 of TF1-263, alluding to events in Kono taking place in the "mango
24 season." He contended that the Prosecution has "impermissibly
25 departed" from the indictment and adduced evidence outside the
26 time frames specified in the indictment.

27 The Chamber opines that it is not quite clear whether
28 counsel's contention as to the alleged discrepancies between time
29 frames pleaded in the indictment and time frames as testified to

1 goes to the question of jurisdiction or that of lack of or
2 sufficiency of evidence. If it is the former, it is our view
3 that the Defence is precluded from raising this issue at this
4 stage by reason of Rule 72(B)(i). If, however, it is the latter,
5 which is the view taken by the Chamber, the said submission will
6 be addressed as to its merits under the rubric of sufficiency or
7 insufficiency of evidence for each and every count.

8 Counsel for the second accused also submitted that the
9 issue of individual criminal responsibility is implicated in the
10 evaluation of the sufficiency or lack of evidence thereof for the
11 purposes of a Rule 98 motion. We reiterate our opinion here that
12 the Rule 98 legal scenario requires the Chamber merely to
13 determine whether there is sufficient evidence capable of
14 sustaining a conviction on one or more counts in the indictment.

15 In his submissions to the Court, counsel for the third
16 accused also advanced some arguments regarding the modes of
17 liability charged in the indictment. Specifically, counsel
18 contended that certain relevance should be given at this stage to
19 the modes of liability when it is submitted that the evidence is
20 missing or insufficient. As regards this submission, it is
21 sufficient merely to reiterate our declared position on this
22 issue in our CDF Rule 98 decision for the purposes of the Rule 98
23 judicial determination. It is that, as a matter of law, that
24 Article 6(1) of the Statute of the Special Court does not, in its
25 proscriptive reach, limit criminal liability to only those
26 persons who plan, instigate, order, physically commit a crime or
27 otherwise, aid and abet in its planning, preparation or
28 execution. Its proscriptive ambit extends beyond that to
29 prohibit the commission of offences through a joint criminal

1 enterprise in pursuit of the common plan to commit crimes
2 punishable under the Statute. Further, Article 6(3) of the
3 Statute holds peers criminally responsible for the offences
4 committed by their subordinates where a superior has knowledge or
5 reason to know that subordinates are about to or have committed
6 an offence and that superior fails to take the necessary and
7 reasonable measures to prevent or to punish the perpetrators
8 thereafter. I here refer to paragraph 130 of our CDF Rule 98
9 decision.

10 In light of the above, we find no reason to depart from our
11 stand "that a determination of the accused liability depends to a
12 degree on the issues of face and weight to be attached to the
13 evidence which require an assessment of the credibility and
14 reliability of that evidence. These issues, however, do not
15 arise for determination at this stage." I refer here to
16 paragraph 131 of our CDF Rule 98 decision.

17 The Chamber has, however, reviewed the evidence led by the
18 Prosecution, as it is relevant to the modes of participation of
19 each accused in their alleged crimes. In particular, the
20 evidence of the positions of seniority that the accused held
21 within the RUF. We find, for the purposes of the Rule 98
22 standard, that there is evidence, if believed, to support that
23 each of the accused participated in each of the crimes charged in
24 counts 1 to 18 of the indictment.

25 Different spellings of names of towns. The Prosecution
26 indicated that the alternative or different spellings between the
27 indictment and the transcripts for certain towns' names and
28 specifically submitted that Foindu is an alternative spelling to
29 Foendor or Foendu. Tendakum is an alternative spelling to

1 Chendakom and Rochendakom and, finally, that Tomendeh is an
2 alternative spelling to Tomandu. The Defence for Sesay accepted
3 these alternative spellings, while the other Defence teams did
4 not make any comments in this regard. Alternative spellings are
5 also contained in the indictment for certain other towns' names.
6 The Chamber is cognisant of the fact that the spellings of a
7 town's name could differ, depending on a number of circumstances,
8 such as the witness's area of provenience, the pronunciation or
9 the subsequent interpretation in Court, and therefore accepts the
10 aforementioned alternative spellings. In addition, the Chamber
11 is also cognisant that the towns of Tombodu and Wonedu, in Kono
12 District, are also erroneously or alternatively referred to in
13 certain transcripts of this trial as, respectively, Tombudu,
14 Wenedu or Wondidu.

15 Charges as laid in the counts. The Chamber notes that the
16 indictment charges the accused persons in counts 1 and 2 with the
17 crimes of terrorising the civilian population and collective
18 punishments as violations of Article 3 common to the Geneva
19 Conventions and of Additional Protocol II, punishable under
20 Article 3(d) and Article 3(b) respectively of the Statute of the
21 Court.

22 They are also charged in counts 3 and 4 and 5 with
23 extermination as a crime against humanity; murder, as a crime
24 against humanity; and violence to life, health and physical or
25 mental well-being of persons, in particular murder, as a
26 violation of Article 3 common to the Geneva Conventions and of
27 Additional Protocol II, punishable under Article 2(b), Article
28 2(a) and Article 3(a) respectively of the Statute of the Court.

29 They are likewise charged in counts 6, 7,8 and 9 with

1 sexual violence in the form of rape, as a crime against humanity;
2 sexual slavery and any other form of sexual violence, as a crime
3 against humanity; other inhumane acts, as a crime against
4 humanity; and outrages upon personal dignity, as a violation of
5 Article 3 common to the Geneva Conventions and of Additional
6 Protocol II, punishable under Article 6(3), Article 2(g), Article
7 2(i) and Article 3(e) respectively of the Statute of the Court.

8 They are further charged in counts 10 and 11 with violence
9 to life, health and physical or mental well-being of persons, in
10 particular mutilation, as a violation under Article 3 common to
11 the Geneva Conventions and Additional Protocol II, and other
12 inhumane acts, as a crime against humanity, punishable under 3(a)
13 and Article 2(i) respectively of the Statute of the Articles of
14 the Court.

15 They are also, in count 12, charged with conscripting or
16 enlisting children under the age of 15 years into armed forces or
17 groups, or using them to participate actively in hostilities as
18 another serious violation of International Humanitarian Law,
19 punishable under Article 4(c) of the Statute of the Court.

20 Under count 13, the accused are charged with enslavement,
21 as a crime against humanity, punishable under Article 2(c) of the
22 Statute of the Court.

23 Count 14 charges the accused with pillage, as a violation
24 of Article 3 common to the Geneva Conventions and of Additional
25 Protocol II, punishable under Article 3(f) of the Statute of the
26 Court.

27 Counts 15, 16, 17 and 18 charge the accused with
28 intentionally directing attacks against personnel involved in a
29 humanitarian assistance or peacekeeping mission, as another

1 serious violation of International Humanitarian Law; with
2 unlawful killings in the form of murder, as a crime against
3 humanity; violence to life, health and physical or mental
4 well-being of persons, in particular, murder, as a violation of
5 Article 3 common to the Geneva Conventions and of Additional
6 Protocol II; and abductions and holding as hostage, taking of
7 hostages, as a violation of Article 3, common to the Geneva
8 Conventions and of Additional Protocol II, punishable under
9 Article 4(b), Article 2(a), Article 3(a) and Article 3(c)
10 respectively of the Statute of the Court.

11 Examination of the merits of each motion. The Chamber
12 notes that counts 1 and 2 are not the subject of any submissions
13 by any of the Defence teams for the accused persons. They will
14 therefore not feature directly in this decision.

15 The Chamber further notes that the third accused has not
16 moved the Chamber for a judgment of acquittal in respect of
17 counts 12, 13, 15, 16, 17, and 18. They will, therefore, not
18 feature directly in relation to the said accused in this decision
19 for the purposes of liability on the count system, as reflected
20 in the indictment.

21 The Chamber will presently proceed to its deliberation of
22 the merits of each motion for judgment of acquittal in respect of
23 each of the other counts in so far as they are relevant to each
24 of the accused for the purposes of a Rule 98 motion, guided by
25 the applicable legal standard, as enunciated.

26 But, first, it is important, as a preliminary matter, to
27 set out briefly the specific constitutive elements of each crime,
28 as charged in the counts in the indictment, except counts 1 and
29 2, which, as we have already noted, are not subjects of the

1 instant motions.

2 Common elements of the offences. For the sake of
3 simplicity, we will set out here the common elements for all the
4 types of offences contained in the indictment. These common
5 elements must be understood to form a part of the elements of the
6 crimes that will be discussed individually in the course of this
7 decision.

8 Crimes against humanity. Suffice it to say that, as a
9 matter of law, the common elements for crimes against humanity
10 include the following: 1. There must be an attack; 2. The
11 attack must be widespread or systematic; 3. The attack must be
12 directed against any civilian population; 4. The acts of the
13 accused must be part of the attack; 5. The accused knew or had
14 reason to know that his acts constitute part of a pattern of
15 widespread or systematic crimes directed against a civilian
16 population.

17 In so far as the interpretation of these ingredients are
18 concerned, we fully adopt our reasoning at paragraphs 56 through
19 59 of our CDF Rule 98 decision, as to: (a) what constitutes an
20 attack; (b) what constitutes widespread and systematic; (c) what
21 is meant by directed against any civilian population; and (d)
22 what is meant by and what constitutes civilian population.

23 The indictment contains the following allegations of crimes
24 against humanity against the accused: Count 3, extermination;
25 count 4 and 16, murder; count 6, rape; count 7, sexual slavery
26 and other forms of sexual violence; count 8 and count 11, other
27 inhumane acts; and count 13, enslavement.

28 Violations of Article 3 common to the Geneva Conventions
29 and of Additional Protocol II. The common elements of war crimes

1 that are serious violations of Common Article 3 of the Geneva
2 Conventions and of Additional Protocol II are the following:
3 1. An armed conflict existed at the time of the alleged
4 violation of Common Article 3 or Additional Protocol II;
5 2. There existed a nexus between the alleged violation and the
6 armed conflict; 3. The victim was a person taking no direct part
7 in the hostilities at the time of the alleged violation.

8 It is noteworthy that the application of Article 3 of the
9 Court Statute, under which the said offences are punishable,
10 requires, as we said in our previous Rule 98 decision, "that the
11 alleged acts of the accused should have been committed in the
12 course of an armed conflict", and that, "it is immaterial whether
13 the conflict is internal or international in nature."

14 It is sufficient to state that this proposition finds
15 endorsement from the decision of the Appeals Chamber in
16 Prosecutor v Fofana, decision on preliminary motion on lack of
17 jurisdiction *materiae*: Nature of armed conflict, 25 May 2004,
18 paragraph 25, where it was held that: "The distinction is no
19 longer of great relevance in relation to the crimes articulated
20 in Article 3 of the Statute as these crimes are prohibited in all
21 conflicts."

22 The indictment contains the following allegations of war
23 crimes, that a serious violations of Common Article 3 of the
24 Geneva Conventions and of Additional Protocol II: Count 5 and
25 count 17, murder; count 9, outrages upon personal dignity;
26 count 10, mutilation; count 14, pillage; and count 18,
27 hostage-taking.

28 Other serious violations of International Humanitarian Law.
29 This Court also has jurisdiction over another category of

1 offences in according with Article 4 of the Statute. The common
2 elements of these offences are as follows: 1. An armed conflict
3 existed at the time of the alleged violation; 2. There existed a
4 nexus between the alleged violation and the armed conflict.

5 The indictment contains the following allegations of other
6 serious violations of international humanitarian law: Count 12,
7 conscription, enlistment, or use of child soldiers; and count 15,
8 intentionally directing attacks against peacekeeping missions.

9 Counts 3, 4 and 5, extermination, murder, and violence to
10 life, health and physical or mental well-being of persons, in
11 particular, murder.

12 Law applicable to counts 3, 4 and 5. First, we shall deal
13 with counts 3, 4 and 5. Count 3 charges the accused with a crime
14 of extermination as a crime against humanity, punishable under
15 Article 2(b) of the Statute. Count 4 also charges the accused
16 with murder, as a crime against humanity. Count 4 charges the
17 accused with violence to life, health and physical or mental
18 well-being of persons, in particular, murder, contrary to
19 Article 3 common to the Geneva conventions and of Additional
20 Protocol II.

21 For extermination, as a crime against humanity, we adopt
22 the Rome Statute's definition that extermination includes "the
23 intentional infliction of conditions of life, inter alia, the
24 deprivation of access to food and medicine, calculated to bring
25 about the destruction of part of a population." We accordingly
26 hold that, in addition to the common elements listed in this
27 decision, its specific relative constitutive elements are: 1.
28 The accused killed one or more persons, including by inflicting
29 conditions of life, calculated to bring about the destruction of

1 part of a population; 2. The conduct constituted or took place
2 as part of a mass killing of members of a civilian population; 3.
3 The accused intended to either kill or to cause serious bodily
4 harm in the reason knowledge it would likely result in death.

5 As to the crime of murder, we reiterate that to prove
6 murder, as a crime against humanity, the Prosecution must
7 establish the death of a victim or victims "resulting from an act
8 or omission of the accused, committed with the intent either to
9 kill or cause serious bodily harm in the reasonable knowledge
10 that it would likely result in death."

11 In other words, the elements of the offence of murder, as a
12 crime against humanity, include the common elements listed
13 already in this decision: 1. The death of one or more persons;
14 2. The death of the person was caused by an act or omission of
15 the accused; 3. The accused intended to either kill or cause
16 serious bodily harm in the reasonable knowledge that it would
17 likely result in death.

18 As far as the offence of violence to life, health and
19 physical or mental well-being of persons, in particular, murder,
20 contrary to Article 3 common to the Geneva Conventions and of
21 Additional Protocol II is concerned, suffice it to say here that
22 the definition of murder, as a crime against humanity, is legally
23 no different from that of murder as a violation of Article 3
24 common to the Geneva Conventions and of Additional Protocol II.
25 Thus, in addition to common elements of the Common Article 3
26 offences listed earlier, the elements of the offence include: 1.
27 The death of one or more persons; 2. The person was not taking a
28 direct part in the hostilities at the time of his or her death;
29 3. The death of the person was accused by an act or omission of

1 the accused; 4. The accused intended to either kill or cause
2 serious bodily harm in the reasonable knowledge it would likely
3 result in death; 5. The accused knew or had reason to know that
4 the person was not taking a direct part in hostilities.

5 Significant findings on counts 3, 4 and 5. The Prosecution
6 concedes that no evidence was adduced with respect to the
7 following locations pleaded in the indictment:

8 Bo District: Telu and Mamboma; Kono District: Willifeh
9 and Biaya; Koinadugu District: Heremakono, Kumalu (or Kamalu),
10 Katombo, Kamadugu, Kurubonla, and Kabala. The Trial Chamber has
11 reviewed the evidence and finds accordingly.

12 The Chamber, on the other hand, finds that there is
13 evidence which, if believed, is capable of supporting a
14 conviction for the following locations pleaded in the indictment:

15 Bo District: Tikonko, where, for example, TF1-004
16 testified about 200 civilians being killed; Sembehun, where
17 TF1-008 testified about RUF shooting around and two civilians
18 being shot, at least one of whom was killed; and finally,
19 Gerihun, where TF1-054 testified about the paramount chief being
20 shot and stabbed to death and seeing six dead bodies.

21 Kenema District: Kenema Town, where, for example, TF1-071,
22 TF1-125 and TF1-122 testified about the death of BS Massaquoi,
23 and others, upon accusations by Sam Bockarie of collaborating
24 with the Kamajors. In addition, the Chamber also relies on the
25 evidence of, for example, TF1-141 and TF1-035.

26 Kono District: Koindu Town, where TF1-051 testified about
27 surviving the killing of 101 people and about seeing other 50
28 dead bodies in the street. TF1-141 and TF1-366 testified about
29 "Operation No Living Thing" in December 1998; Tombodu, where

1 witness George Johnson, aka Junior Lion, TF1-012, TF1-071,
2 TF1-141, TF1-366, and TF1-371 testified about several people
3 being killed by Savage; Foindu, or Foendor, or Foendu, where
4 TF1-064 testified about the entire village being killed and, in
5 particular, children being decapitated; Mortema, TF1-071 saw
6 corpses, mostly in burnt villages in Kono District. Mortema was
7 one of the villages that was burnt down. TF1-329 saw people
8 brought into Kenema Hospital and saw people from Mortema, who had
9 been shot in the foot or the mouth, after a rebel attack. In
10 addition, the Chamber also relies on the evidence of, for
11 example, TF1-071, TF1-078, TF1-366.

12 Kailahun District: Kailahun Town, where, for example,
13 TF1-168, TF1-045, TF1-113, and TF1-366 testified about the
14 killing of about 65 suspected Kamajors. In addition, the Chamber
15 also relies on the evidence of, for example, TF1-371, who
16 testified about the killing of Fonti Kanu by accused Sesay in
17 Pendembu, and TF1-141 who testified about stabbing and killing an
18 old man with another SBU during an attack in Daru.

19 Koinadugu District: Koinadugu, where, for example, TF1-212
20 testified about 48 civilians being killed. This witness also
21 testified that her son was killed by a rebel and that Superman's
22 men killed civilians during an infight with SAJ Musa; Fadugu,
23 where TF1-329 testified about being shot in the leg and others
24 being killed; Bombali District, Bonyoyo, or Bornoya, where, for
25 example, TF1-156, testified about 20 people being killed with a
26 machete; Karina, where witness George Johnson, aka Junior Lion,
27 and TF1-031 testified about the killing of many civilians;
28 Mafabu, where TF1-159 testified that civilians were hacked or
29 shot to death; Mateboi, where witness George Johnson testified

1 about lots of civilians being killed; Gbendembu or Gbendubu or
2 Pendembu, where TF1-360 testified that over 20 civilians were
3 killed as revenge for one Father Mario, allegedly hiring
4 Kamajors, while TF1-174 testified about killings and amputations.
5 In addition, the Chamber also relies on the evidence of, for
6 example, TF1-028, TF1-031 and TF1-361.

7 Freetown and Western Area: Kissy, where, for example,
8 TF1-334 testified about the killing of five nuns at Kissy Mental
9 Hospital; TF1-021 testified about the killing of 71 civilians in
10 a mosque; TF1-101 testified about various civilians being killed
11 for refusing to have their hands amputated a roadblock;
12 Wellington, where TF1-331 testified about rebels killing her
13 husband, a young child and her sister; and TF1-325 testified
14 about the killing of his family; Calaba Town, where TF1-029
15 testified about rebels coming from Wellington and killing people.
16 In addition, the Chamber also relies on the evidence of, for
17 example, TF1-093, who testified about killing of civilians in
18 Freetown in January 1999.

19 Port Loko district: Manaarma, where, for example, TF1-253
20 testified about the killing of 73 people burnt alive in a house:
21 Tendakum or Chendekum or Rochendekom, where TF1-255 testified
22 about the killing of 47 people; Nonkoba, where TF1-345 testified
23 about the killing of 40 civilians with sticks and machetes; and
24 TF1-256 testified about seeing dead bodies.

25 The Chamber is satisfied that there is evidence capable of
26 supporting a conviction on the following counts contained in the
27 indictment: Count 3, extermination, a crime against humanity,
28 punishable under Article 2(b) of the Statute; count 4, murder, a
29 crime against humanity, punishable under Article 2(a) of the

1 Statute; count 5, violence to life, health and physical or mental
2 well-being of persons, in particular, murder, a violation of
3 Common Article 3 to the Geneva Conventions and Additional
4 Protocol II, punishable under Article 3(a) of the Statute.

5 Counts 6, 7, 8 and 9, rape, sexual slavery and any other
6 form of sexual violence, other inhumane act and outrages upon
7 personal dignity. The law applicable to counts 6, 7, 8 and 9.

8 With reference to counts 6, 7, 8 and 9, these relate
9 generally to sexual violence, specifically to rape in count 6;
10 sexual slavery and any other form of sexual violence in count 7;
11 other inhumane acts in count 8; and outrages upon personal
12 dignity in count 9. Counts 6, 7 and 8 charge those crimes as
13 crimes against humanity, and count 9 charges outrage upon
14 personal dignity as a violation of Article 3 common to Geneva
15 Conventions and Additional Protocol II.

16 With specific reference to rape, as a crime against
17 humanity, we hold that its constitutive elements are as follows:

- 18 1. That the accused invaded the body of a person by conduct
19 resulting in penetration, however slight, of any part of the body
20 of the victim of the accused with a sexual organ, or of the anal
21 or genital opening of a victim with any object or any other part
22 of the body; 2. That the invasion was committed by force or by
23 threat of force, or coercion, such as that caused by fear of
24 violence, duress, detention, psychological oppression, or abuse
25 of power against such person, or another person, or by taking
26 advantage of a coercive environment, or the invasion was
27 committed against a person incapable of giving genuine consent;
- 28 3. The accused intended to effect the sexual penetration or
29 acted in the reasonable knowledge that this was likely to occur;

1 4. The accused knew or had reason to know that the victim did
2 not consent.

3 Guided by the Rome Statute, we hold, in respect of count 7,
4 that the relevant constitutive elements of sexual slavery are:

5 1. That the accused exercised any or all of the powers attaching
6 to the right of ownership over one or more persons, such as by
7 purchasing, selling, lending, or battering such a person or
8 persons, or by imposing on them a similar deprivation of liberty;

9 2. The accused caused such person or persons to engage in one or
10 more acts of a sexual nature; 3. The accused intended to
11 exercise the act of sexual slavery, or acted in the reasonable
12 knowledge that this was likely to occur.

13 Further guided by the Rome Statute, we hold, in respect of
14 the second part of count 7, that the relevant constitutive
15 elements of any other form of sexual violence are: 1. The
16 accused committed an act of a sexual nature against one or more
17 persons, or caused such persons to engage in an act of a sexual
18 nature by force, or by threat of force or coercion, such as that
19 caused by fear of violence, duress, detention, psychological
20 oppression, or abuse of power against such person or persons, or
21 another person, or by taking advantage of a coercive environment
22 of such person or persons in capacity to give genuine consent; 2
23 that the conduct was of similar seriousness to the other acts
24 enumerated in Article 2(g) of the Statute; 3. The accused
25 intended to commit the act of sexual violence or acted in the
26 reasonable knowledge that this was likely to occur.

27 Consistent with our CDF Rule 98 decision, we hold that, to
28 sustain a conviction for inhumane acts, as charged in count 8,
29 the Prosecution must prove: 1. The occurrence of an act or

1 omission of similar seriousness to the act or other acts
2 enumerated in Article 2 of the Statute; 2. The act or omission
3 caused serious mental or physical suffering, or injury, or
4 constituted a serious attack on human dignity; 3. The accused,
5 at the time of the act or omission, had the intention to commit
6 the inhumane act or acted in reasonable knowledge that this was
7 likely to occur.

8 MR CAMMEGH: I'm so sorry to interrupt, Your Honour. Could
9 Mr Gbao please use the restroom.

10 PRESIDING JUDGE: Leave granted. Furthermore, in respect
11 of count 9, which charges the accused with the offence of
12 outrages upon personal dignity, as a violation of Article 3
13 common to the Geneva Conventions and Additional Protocol II, the
14 Chamber adopts the following relevant elements for this crime in
15 addition to those listed as common elements: 1. That the
16 accused humiliated, degraded or otherwise violated the dignity of
17 one or more persons; 2. That the severity of the humiliation,
18 degradation or other violation was of such a degree as to be
19 generally recognised as an outrage upon personal dignity; 3. The
20 accused intended to humiliate, degrade or otherwise violate the
21 dignity of the person or acted in the reasonable knowledge that
22 this was likely to occur; 4. The accused knew, or had reason to
23 know, that the person was not taking a direct part in the
24 hostilities.

25 Significant findings on counts 6, 7, 8 and 9. The
26 Prosecution concedes that no evidence was adduced with respect to
27 the following locations pleaded in the indictment:

28 Kono District: Fokoiya, Tomendeh or Tomandu and Superman
29 Camp; Koinadugu District: Heremakono, Fadugu and Kabala. The

1 Trial Chamber has reviewed the evidence and finds accordingly.

2 The Chamber, on the other hand, finds that there is
3 evidence, which, if believed, is capable of supporting a
4 conviction for the following locations pleaded in the indictment:

5 Kono District: Koidu, where, for example, TF1-141
6 testified that women were abducted and made to cook and become
7 wives of combatants; Tombodu, where TF1-064 testified she was
8 married to an old man in Tombodu, but managed to escape before he
9 had sex with her; Kissi Town or Kissi Town Camp, where TF1-016
10 testified that she was forced to marry a man and lived with him
11 for one month, while also her daughter was forced to marry
12 another man; Foendor or Foendu, where TF1-064 testified that she
13 was raped by a Temne man who was forced to do so by Tamba Joe,
14 who also took the witness's sister-in-law into a house to have
15 sex. In addition, the Chamber also relies on the evidence of,
16 for example, TF1-071 and TF1-305.

17 Koinadugu District: Koinadugu, where TF1-212 testified
18 about a 12-year-old girl being raped, while she and other young
19 girls were taken to Koinadugu, where they were put in a room and
20 could be signed out by rebels. If not signed out, they would be
21 raped by others. In addition, the Chamber also relies on the
22 evidence of, for example, TF1-213, who testified about 25 girls
23 being captured in Lengekoro and about being raped while hiding in
24 the bush.

25 Bombali District: Mandaha, where, for example, TF1-301
26 testified that her 10-year-old daughter was raped by rebels and
27 that younger girls were taken away by rebels at night and she
28 could hear them screaming; Rosos, or Rosors, or Rossos, where,
29 for example, witness George Johnson, aka Junior Lion, testified

1 that, on their way from Mansofinia to Camp Rosos, over 100 girls
2 were forced into marriage. In addition, the Chamber also relies
3 on the evidence of, for example, TF1-334, who testified about
4 raping of women in Karina, while over 35 women were captured and
5 given to the rebels as wives, and TF1-196, who testified about
6 being raped while in the bush near Malama.

7 Kailahun District, where, for example, witness Denis Koker
8 testified that rebels would capture women from various villages
9 in the district. In addition, TF1-108 testified that one of his
10 four wives died after being raped. TF1-113 testified about being
11 arrested, being stripped naked in front of other people and
12 beaten upon the order of accused Gbao in Kailahun Town. TF1-371
13 testified that women were abducted in RUF-captured areas after
14 attacks since the time before the merger with the AFRC. Some of
15 these women had no other choice than to become the wives of
16 commanders.

17 Freetown and Western Area, where, for example, TF1-022
18 testified about two young girls brought by the RUF to their
19 commander for forced marriage. TF1-023 testified about being
20 forced to marry AFRC Rambo in Calaba Town. TF1-029 testified
21 about being abducted from Wellington and being raped in Calaba
22 Town and Benguema. TF1-081 testified about the majority of a
23 group of 1,168 women having been abducted from Freetown and,
24 finally, TF1-334 testified about abductions and raping in
25 Freetown.

26 Port Loko District, where, for example, TF1-256 testified
27 about four women who were raped in Rochendekom or Tendakum.
28 TF1-255 testified about her two daughters being abducted and
29 forced to have sex with and cook for rebels for a month.

1 The Chamber is therefore satisfied that there is evidence
2 capable of supporting a conviction on the following counts
3 contained in the indictment: Count 6, rape, a crime against
4 humanity, punishable under Article 2(g) of the Statute; count 7,
5 sexual slavery and any other form of sexual violence, a crime
6 against humanity, punishable under Article 2(g) of the Statute;
7 count 8, other inhumane act, a crime against humanity, punishable
8 under Article 2(i) of the Statute; count 9, outrages upon personal
9 dignity, a violation of Common Article 3 to the Geneva
10 Conventions and of Additional Protocol II, punishable under
11 Article 3(e) of the Statute.

12 Counts 10 and 11, violence to life, health and physical or
13 mental well-being of persons, in particular, mutilation and other
14 inhumane acts. The law applicable to counts 10 and 11. Counts
15 10 and 11 of the indictment refer to physical violence, including
16 mutilation. Count 10, violence to life, health and physical or
17 mental well-being of persons, in particular, mutilation, contrary
18 to Article 3 common to the Geneva Conventions and Additional
19 Protocol II contains the following elements: 1. The accused
20 persons subjected one or more persons to mutilation, in
21 particular, by permanently disfiguring the person or persons, or
22 by permanently disabling or removing an organ or appendage; 2.
23 The conduct was neither justified by medical, dental or hospital
24 treatment of the person or persons concerned or carried out on
25 such persons or persons' interest; 3. The accused intended to
26 subject the person or persons to mutilation or acted in the
27 reasonable knowledge that this was likely to occur; 4. The
28 accused knew or had reason to know that the person was not taking
29 a direct part in the hostilities.

1 Count 11 of the indictment contains the offence of other
2 inhumane acts. The elements of this crime have already been
3 defined under count 8, and will not be repeated here.

4 Significant findings on counts 10 and 11. The Prosecution
5 concedes that no evidence was adduced with respect to the
6 following locations pleaded in the indictment:

7 Koinadugu District: Konkoba or Kontoba; Bombali District:
8 Lohondi, Malama and Mamaka. The Trial Chamber has reviewed the
9 evidence and finds accordingly.

10 The Chamber, on the other hand, finds that there is
11 evidence, which, if believed, is capable of supporting a
12 conviction for the following locations pleaded in the indictment:

13 Kono District: Tombodu, where, for example, witness George
14 Johnson, aka Junior Lion, testified about civilians being flogged
15 over 200 times for refusing to follow orders; Kaima or Kayima,
16 where TF1-074 testified about 18 people having the inscription
17 AFRC/RUF carved into them; Wonededu, where TF1-015 testified about
18 being threatened with a gun and then beaten with a board until he
19 lost all of his teeth. In addition, the Chamber also relies on
20 the evidence of, for example, TF1-272, who testified about having
21 received, at a hospital, 58 amputees from Sewafe/Koidu area; and
22 TF1078, who testified about being beaten by the rebels with his
23 wife and four others while hiding in the bush along the Moinde
24 River.

25 Kenema District: Kenema Town, where TF1-071, TF1-125,
26 TF1-122 and TF1-129 testified about Sam Bockarie interrogating
27 and beating BS Massaquoi and others. TF1-122 also testified
28 about being arrested and beaten with a belt when he tried to stop
29 a woman from being hassled. TF1-129 testified that he was

1 beaten.

2 Koinadugu District: Kabala, where, for example, TF1-272
3 testified about amputee patients coming from Kabala and elsewhere
4 in the district. TF1-117 testified that he and others, under the
5 command of SAJ Musa, amputated the hands of civilians in Kabala.
6 In addition, the Chamber also relies on the evidence of, for
7 example, TF1-215, who testified about amputations taking place in
8 Yifin, Kromata, Badela and Kondembaia.

9 Bombali District; Rosos, for example, where TF1-343
10 testified that he saw five people amputated. In addition, the
11 Chamber also relies on the evidence, for example, TF1-031, who
12 testified about three men being amputated in Mayaya Village.

13 Freetown and Western Area: Kissy, where, for example,
14 TF1-093 testified that amputations were being undertaken in
15 Calaba Town and Kissy. In particular, this witness testified
16 that, in Kissy, during the retreat, Five-Five gave the order to
17 be amputate 200 civilians and send them into Freetown. Also,
18 TF1-022 testified about being amputated with others.

19 Wellington, where, for example, TF1-331 testified about
20 being amputated and then hit with a bottle on her way to the
21 hospital, and about a 6-year-old girl being cut in half.

22 Calaba Town, where, for example, TF1-093 testified that
23 amputations were undertaken there and in Kissy.

24 Port Loko District, where, for example, TF1-255 testified
25 about being hit with a gun, and others being hit or cut. TF1-253
26 testified about being struck, having cinders pressed on his body
27 and saw two women amputated in a Manaarma. TF1-256 testified
28 about civilians wounded after capture in Rochendekom or Tendakum.
29 This witness also testified about another civilian being beaten

1 by the soldiers all night.

2 The Chamber is therefore satisfied that there is evidence
3 capable of supporting a conviction on the following counts
4 contained in the indictment: Count 10, violence to life, health
5 and physical or mental well-being of persons, in particular,
6 mutilation, a violation of Common Article 3 to the Geneva
7 Conventions and of Additional Protocol II, punishable under
8 Article 3(a) of the Statute; count 11, other inhumane acts,
9 crimes against humanity, punishable under Article 2(i) of the
10 Statute.

11 Count 12, conscripting or enlisting children under the age
12 of 15 years into the armed forces or groups, or using them to
13 participate actively in hostilities. The law applicable to count
14 12. Count 12 charges the accused with the use of child soldiers,
15 other serious violations of International Humanitarian Law,
16 conscripting and enlisting children under the age of 15 years
17 into the armed forces or groups.

18 In addition to the common elements listed in this decision,
19 the specific elements of this offence are as follows: 1. The
20 accused conscripted, or enlisted one or more persons into an
21 armed force or group, or used one or more persons to participate
22 actively in hostilities; 2. Such person or persons were under
23 the age of 15 years; 3. The accused knew or had reason to know
24 that such person or persons were under the age of 15 years; 4.
25 The accused intended to conscript or enlist or use child
26 soldiers, or acted in the reasonable knowledge that this was
27 likely to occur.

28 Significant findings on count 12. The Prosecution concedes
29 that no evidence was adduced with respect to Bonthe, Moyamba,

1 Pujehun, Bo and Tonkolili districts and throughout the Republic
2 of Sierra Leone. The Trial Chamber has reviewed the evidence and
3 finds accordingly.

4 The Chamber, on the other hand, finds that there is
5 evidence which, if believed, is capable of supporting a
6 conviction for other districts in Sierra Leone. The Chamber
7 relies on the evidence of, for example, TF1-141, TF1-314, and
8 TF1-199, who were abducted and trained within small boys or girls
9 units. TF1-174, who testified about child soldiers in Makeni,
10 Port Loko and Lunsar areas, as well as TF1-371, TF1-366, TF1-362,
11 TF1-361, TF1-113, TF1-334, TF1-122, TF1-255, TF1-045 and TF1-096,
12 who also testified about children being abducted, trained and
13 participating in attacks in Bombali, Kenema, Kono, Kailahun,
14 Freetown and the Western Area, Kambia, Koinadugu and Port Loko
15 districts and were assigned to commanders such as accused Sesay,
16 Kallon and Gbao.

17 The Chamber is therefore satisfied that there is evidence
18 capable of supporting a conviction on the following count
19 contained in the indictment: With respect to Bombali, Kenema,
20 Kono, Kailahun, Freetown, Kambia, Koinadugu and Port Loko, and
21 not throughout the Republic of Sierra Leone; count 12, enlisting
22 or conscripting children under the age of 15 years into armed
23 forces or groups, or using them to participate actively in
24 hostilities, another violation of humanitarian law, punishable
25 under Article 4(c) of the Statute.

26 Counts 13, enslavement. The law applicable to count 13.
27 As regards enslavement, the subject matter of the allegations in
28 count 13, guided by the Rome Statute, the Chamber holds that to
29 sustain a conviction for this offence, the Prosecution must prove

1 the common elements of a crime against humanity, and the
2 following specific elements: 1. The accused exercised any or
3 all of the powers attaching to the right of ownership over a
4 person, such as by purchasing, selling, lending, or battering
5 such person or persons, or by imposing on them a similar
6 deprivation of liberty; 2. The accused intended to exercise the
7 act of enslavement or acted in the reasonable knowledge that this
8 was likely to occur.

9 Significant findings on count 13. The Prosecution concedes
10 that no evidence was adduced with respect to the following
11 locations pleaded in the indictment:

12 Koinadugu District: Heremakono, Kumala or Kamalu,
13 Kamadugu; Freetown and Western Area: Peacock Farm; Port Loko
14 District: Masiaka. The Trial Chamber has reviewed the evidence
15 and finds accordingly.

16 The Chamber, on the other hand, finds that there is
17 evidence, which, if believed, is capable of supporting a
18 conviction for the following locations pleaded in the indictment:

19 Kenema District: Cyborg Pit in Tongo Field, where, for
20 example, TF1-060 testified that the RUF forced hundreds of people
21 to mine at Tongo. TF1-035 testified that civilians were forced
22 to mine at Cyborg like slaves. TF1-122 testified about speaking
23 to lots of men who had been forced to mine at Tongo Field. In
24 addition, the Chamber also relies on the evidence of, for
25 example, TF1-371, who testified about forced mining going on in
26 the district during and after the junta period in order to
27 generate revenue. Also, TF1-041 testified about forced mining
28 going on in Tongo.

29 Kono District: AFRC/RUF camps, where, for example TF1-071

1 testified that there were civilians in many camps in Kono
2 District who were fed, but not paid, and were forced to work. In
3 particular, this witness testified that there were 500 civilians
4 in Meiyor and in Wonededu. Tombodu, where, for example, TF1-012
5 testified about being forced, together with other civilians, to
6 carry loads or such for food. This witness also testified about
7 accused Sesay announcing that the civilians are going to mine for
8 the government, the RUF. Koidu, where, for example, witness
9 Denis Koker testified that junta forces abducted civilians and
10 forced them to do labour. TF1-071 testified that civilians were
11 mining for the RUF. TF1-077 testified that 50 civilians were
12 abducted from Koidu and forced to carry looted property to
13 Tombodu. Wonededu, where, for example, TF1-071 testified that
14 there were 500 civilians doing forced work in the camp. Tomendeh
15 or Tomandu, where, for example, TF1-016 testified about being
16 captured with 13 others in Tomandu and locked in a house before
17 being made to carry loads and taken to Kissi Town.

18 Koinadugu District: Kabala, where, for example, TF1-361
19 testified that a lot of civilians were captured and handed to the
20 G5 in Kabala, and TF1-184 testified that he saw captured
21 civilians carrying bags and ammunitions. Koinadugu, where, for
22 example, TF1-361 testified that civilians were trained in
23 Koinadugu in order to attack Kabala. Fadugu, where, for example,
24 TF1-199 testified that, after they left his village, they
25 journeyed for three days and nights through villages. The rebels
26 burned houses, looted property and captured people. They passed
27 through Karina and Fadugu.

28 Bombali District, where, for example TF1-159 and TF1-196
29 testified about being captured and forced to pound rice. TF1-343

1 testified that the rebels captured him and other civilians and
2 TF1-360 testified that young men were captured in Pendembu.

3 Kailahun District, where, for example, Denis Koker
4 testified that between 100 and 500 civilians were forced to farm
5 without pay. TF1-141 saw RUF government farms in Benduma and
6 Buedu where civilians were doing all the work. And TF1-108,
7 TF1-113, and TF1-330 testified about large numbers of civilians
8 being forced to farm and carry loads.

9 Freetown and Western Area: Kissy, where, for example,
10 TF1-022 testified that he and others were made to come with the
11 rebels or be shot. TF1-334 testified that Gullit declared that
12 it was time to make a hasty withdrawal, and that the burnings and
13 abductions should start again, and, subsequently, as they began
14 to withdraw towards Kissy Mental Home, civilians were captured
15 and houses burnt. Calaba Town, where, for example, TF1-023
16 testified he was captured and told that civilians were to be used
17 as human shield. In addition, the Chamber also relies on the
18 evidence of, for example, TF1-362, who testified that civilians
19 were captured during the junta pull-out from Freetown and on the
20 route to Kailahun, and TF1-334, who testified about 300 civilians
21 being abducted in Freetown, and used to carry loads while women
22 were taken as wives and children trained.

23 Port Loko District: Port Loko, for example, TF1-253 was
24 captured outside Port Loko and made to bring the rebels there for
25 the attack on ECOMOG. He was able to escape before arriving
26 Lunsar where, for example, TF1-255 was made to go and fetch rice
27 for the RUF in Lunsar. Tendakum, or Chendakum, where, for
28 example, TF1-255 testified that rebels forced him and his brother
29 to fetch rice and build shelters. Nonkoba, where, for example,

1 TF1-345 testified that she and other civilians were captured and
2 made to pound rice and cook.

3 The Chamber is therefore satisfied there is evidence
4 capable of supporting a conviction on the following count
5 contained in the indictment: Count 13, enslavement, a crime
6 against humanity, punishable under Article 2(c) of the Statute.

7 Count 14, pillage. The law applicable to count 14. With
8 respect to the war crime of pillage, the subject matter of
9 count 14 of the indictment, it is the Chamber's considered view
10 that to succeed on this charge, the Prosecution must prove the
11 following elements in addition to those previously described: 1.
12 That the accused unlawfully appropriated the property; 2. That
13 the owner of the property was a person not taking a direct part
14 in the hostilities; 3. That the appropriation was without the
15 consent of the owner; 4. That the accused intended to unlawfully
16 appropriate the property; and 5. That the accused knew or had
17 reason to know that the owner was a person not taking a direct
18 part in the hostilities.

19 Significant findings on count 14. The Prosecution concedes
20 that no evidence was adduced with respect to the following
21 locations pleaded in the indictment:

22 Bo District: Telu and Mamboma; Koinadugu District:
23 Heremakono and Kamadugu; Kono District: Foindu and Yardu Sandor.

24 The Trial Chamber has reviewed the evidence and finds
25 accordingly. The Chamber, on the other hand, finds that there is
26 evidence, which, if believed, is capable of supporting a
27 conviction for the following locations pleaded in the indictment:

28 Bo District: Sembehun, where, for example, TF1-008
29 testified about Sam Bockarie taking 800,000 leones from the

1 section chief and an RUF group shooting a man who refused to hand
2 over a tape; Tikonko, where, for example, TF1-004 testified that
3 his house was broken into and all his belongings taken away or
4 scattered. In addition, the Chamber also relies on the evidence
5 of, for example, TF1-054, who testified about shops being looted
6 in Bo and the surrounding areas.

7 Koinadugu District: Kabala, where, for example, TF1-184
8 testified about captured civilians carrying bags and ammunitions;
9 Fadugu, where, for example, TF1-199 testified that after they
10 left his village, they journeyed for three days and nights
11 through the villages. The rebels burned houses, looted property
12 and captured people. They passed through Karina, Fadugu, and
13 TF1-329 testified that a rebel stole money and other things from
14 her house in Fadugu. In addition, the Chamber also relies on the
15 evidence of, for example, TF1-172, who testified about the rebels
16 looting his animals and money in Seraduya.

17 Kono District: Tombodu, where, for example, TF1-012
18 testified that 35 houses were burned and described the rebels
19 going through civilians' pockets and taking their wallets. In
20 addition, the Chamber also relies on the evidence of, for
21 example, TF1-141, who testified about travelling in a convoy to
22 Mboma in Kailahun District with civilians carrying the loads of
23 government properties, such as the money taken from a bank,
24 households, shoes, rice, and many other things looted from Koidu
25 Town. TF1-371, TF1-366, and TF1-141 testified about the looting
26 of a bank in Koidu Town and TF1-141 and TF1-366 stated that the
27 operation was led by accused Kallon. TF1-041, TF1-366, and
28 TF1-361 testified about accused Kallon ordering Koidu to be
29 burned down due to the ECOMOG advance. TF1-366 testified that he

1 went to a village called Gandorhun Gbane where he saw about 10
2 houses burned and several civilians and Kamajors killed. The
3 entire village was looted.

4 Bombali District: Karina, where, for example, TF1-028
5 testified that soldiers came to Karina, took people's property;
6 Mateboi, where, for example, TF1-043 testified that the rebels
7 attacked Mateboi. In addition, the Chamber also relies on the
8 evidence of, for example, TF1-174, TF1-361, TF1-366, who
9 testified about widespread looting during "Operation Pay
10 Yourself" in Makeni.

11 Freetown and the Western Area: Kissy, where, for example,
12 witness George Johnson, aka Junior Lion, testified they burned
13 Kissy Police Barracks and took a Hilux jeep. TF1-022 testified
14 that RUF fighters demanded money from civilians and he had his
15 money and his watch taken; Wellington, where, for example,
16 TF1-029, TF1-331 and TF1-334 testified that Wellington was all
17 burnt. In addition, TF1-235 testified that he was robbed at
18 gunpoint by a soldier and had his house burglarised by rebels;
19 Calaba Town, where, for example, TF1-093 and TF1-334 testified
20 about the rebels attacking the town; Fourah Bay, where, for
21 example, TF1-334 testified about attacks and killings. Witness
22 George Johnson, aka Junior Lion, testified that houses were
23 attacked during the withdrawal from Freetown; Upgun, where, for
24 example TF1-093 testified that houses were attacked; State House,
25 where, for example, TF1-334 testified about looting of offices;
26 Pademba Road, where, for example, TF1-334 testified that all
27 weapons and ammunitions taken from the prison after prisoners
28 were released. In addition, the Chamber also relies on the
29 evidence of, for example, TF1-366, who testified that looting and

1 burning were going on in Waterloo and about an order that all the
2 looting in Freetown during the invasion in January 1999 was to be
3 considered as government properties for the movement and should
4 be taken to Kailahun by accused Sesay.

5 The Chamber is therefore satisfied that there is evidence
6 capable of supporting a conviction on the following count
7 contained in the indictment: Count 14, pillage, a violation of
8 Common Article 3 to the Geneva Conventions and of Additional
9 Protocol II, punishable under Article 3(f) of the Statute.

10 Counts 15, 16, 17 and 18. Intentionally directing attacks
11 again personnel involved in a humanitarian assistance or
12 peacekeeping mission; murder; violence to life, health and
13 physical or mental well-being of persons, in particular, murder,
14 and taking of hostages.

15 The law applicable to counts 15, 16, 17 and 18. It may be
16 recalled that count 15 charges the accused with intentionally
17 directing attacks against personnel involved in a humanitarian
18 assistance or peacekeeping mission as another serious violation
19 of International Humanitarian Law, punishable under Article 4(b)
20 of the Statute of the Court.

21 Guided by the Rome Statute, the Chamber holds that in
22 addition to the common elements previously described, the
23 following elements are essential to the proof of the offences
24 charged in the aforementioned count 15: 1. That the accused
25 directed an attack; 2. That the object of the attack was
26 personnel installations, material, units of vehicles involved in
27 a humanitarian assistance or peacekeeping mission in accordance
28 with the charter of the United Nations; 3. That the accused
29 intended such personnel, installations, material, units or

1 vehicles so involved to be the object of the attack; 4. That
2 such personnel, installations, material, units or vehicles were
3 entitled to that protection given to civilians or civilian
4 objects under the international law of armed conflict; and 5.
5 Whether the accused knew or had reason to know that the
6 personnel, installations, material, units or vehicles were
7 protected.

8 As regards count 16, which charges the accused with
9 unlawful killings, particularly murder, as a crime against
10 humanity, were guided by the same applicable legal principles as
11 expounded earlier in the decision in relation to count 4.

12 With reference to count 17, which charges the accused with
13 violence to life, health or physical or mental well-being of
14 persons, in particular, murder, as a violation of Article 3
15 common to the Geneva Conventions and of Additional Protocol II,
16 what we stated earlier by way of applicable legal principles in
17 relation to count 5 apply with equal force to count 17.

18 As to count 18, which charges with the accused for the
19 abductions and holding as hostage and taking hostages, as a
20 violation of Article 3 common to the Geneva Conventions and of
21 Additional Protocol 2, punishable under Article 3(c) of the
22 Statute of the Court, relying on the Rome Statute, we adopt the
23 following, for the purposes of the instant Rule 98 motions, as
24 the essential elements of these counts: 1. That the accused
25 seized, detained or otherwise held hostage one or more persons;
26 2. That the accused threatened to kill, injure or continue to
27 detain such person or persons; 3. That the accused intended to
28 compel a state or international organisation a natural or legal
29 person, or a group of persons to act or refrain from acting as an

1 explicit or implicit condition for the safety of the release of
2 such person or persons; 4. That the accused knew or had reason
3 to know that the person or persons were not taking a direct part
4 in the hostilities.

5 Significant findings on count 15, 16, 17, 18. The
6 Prosecution concedes that no evidence was adduced with respect to
7 "humanitarian assistance workers." The Trial Chamber has
8 reviewed the evidence and finds accordingly. In addition, the
9 Prosecution also concedes that, with the exception of Bombali,
10 Kailahun, Port Loko, Kono, and Tonkolili districts, no evidence
11 has been adduced in any other locations within the territory of
12 the Republic of Sierra Leone. However, the Prosecution also
13 concedes that no evidence has been adduced for Kailahun District
14 with regards to count 15, 16 and 17, and that no evidence has
15 been adduced for Kono District with regards to counts 15 and 16.
16 The Trial Chamber has reviewed the evidence and finds
17 accordingly.

18 The Chamber finds, on the other hand, that there is
19 evidence which, if believed, is capable of supporting a
20 conviction for the following districts:

21 Bombali: Tonkolili and Port Loko districts, where, for
22 example, TF1-314 testified that accused Kallon and Gbao ordered
23 the attacks on UNAMSIL peacekeepers; later, captured peacekeepers
24 were taken to Kono. TF1-041 testified about accused Gbao's
25 involvement in Makeni. TF1-366 and witness Ngondi stated that
26 accused Sesay, Kallon and Gbao were attacking the peacekeepers.
27 TF1-253 testified about an attack on the Malian peacekeepers at a
28 secondary school in Port Loko and saw a lot of corpses. Also,
29 witness Kasoma testified about being ambushed by accused Kallon

1 near Lunsar on his way to Makeni, with about 100 other Zambian
2 peacekeepers under his command. Later, after being taken to
3 Makeni, the accused Sesay ordered the witness and his men to be
4 moved to Kono.

5 Kono District, where, for example, TF1-304 testified about
6 peacekeepers, captured by the RUF in Makeni, being taken to
7 Tombodu and staying there for over a month. TF1-071 testified
8 that he saw about 300 abducted peacekeepers in Koidu and Yengema.
9 These peacekeepers were captured in a Magburaka and Lunsar by
10 accused Kallon and Gbao. Witness Kasoma testified that he was
11 taken from Makeni to Yengema, where he stayed with a Kenyan
12 peacekeepers in the house of a commander for 23 days.

13 Kailahun District, where, for example, witness Kasoma
14 testified that he was taken to Kailahun from Yengema, where he
15 met another group of about 50 to 60 Zambian peacekeepers.
16 Witness Janagathan testified about being abducted with others in
17 Bombali District and then taken to Small Sefadu where he was kept
18 for 18 days and then taken to Kailahun.

19 The Chamber is therefore satisfied that there is evidence,
20 which, if believed, is capable of supporting a conviction on the
21 following counts contained in the indictment:

22 With respect to Bombali, Tonkolili and Port Loko districts
23 and not throughout the Republic of Sierra Leone, count 15,
24 intentionally directing attacks against personnel involved in a
25 humanitarian assistance or peacekeeping mission, another
26 violation of humanitarian law, punishable under Article 4(b) of
27 the Statute.

28 With respect to Bombali, Tonkolili and Port Loko districts
29 and not throughout the Republic of Sierra Leone, count 16,

1 unlawful killings, murder, a crime against humanity, punishable
2 under Article 2(a) of the Statute.

3 With respect to Bombali, Tonkolili, Port Loko and Kono
4 districts and not throughout the Republic of Sierra Leone, count
5 17, violence to life, health and physical or mental well-being of
6 persons, in particular, murder, a violation of Common Article 3
7 to the Geneva Conventions and of Additional Protocol II,
8 punishable under Article 3 of the Statute.

9 With respect to Bombali, Tonkolili, Port Loko, Kono and
10 Kailahun districts, and not throughout the Republic of Sierra
11 Leone, count 18, abductions and holding as hostage, taking of
12 hostages, a violation of Common Article 3 to the Geneva
13 Conventions and of Additional Protocol II, punishable under
14 Article 3(c) of the Statute.

15 Disposition. Based on the several considerations in this
16 oral decision, the Chamber, pursuant to Rule 98, as amended: 1.
17 Finds no merit in the motions of each accused; namely Issa Hassan
18 Sesay, Morris Kallon and Augustine Gbao, in respect of any count
19 or counts in the indictment and, accordingly, dismisses the said
20 motions; 2. Notwithstanding the aforesaid main finding, the
21 Chamber further finds in respect of particular allegations
22 embodied within paragraphs in the counts of the indictment as
23 follows:

24 (1). No evidence was adduced by the Prosecution against
25 the accused persons in respect of the offense of extermination
26 charged in count 3, as a crime against humanity, punishable under
27 Article 2(b) of the Statute; murder charged in count 4 as a crime
28 against humanity, punishable under Article 2(a) of the Statute;
29 violence to life, health and physical or mental well-being of

1 persons, in particular, murder, charged in count 5 as a violation
2 of Common Article 3 to the Geneva Conventions and of Additional
3 Protocol II under Article 3(a) of the Statute, in respect of the
4 following areas:

5 (i) Telu, as alleged in paragraph 46 of the indictment;
6 (ii) Mamboma, as alleged in paragraph 46 of the indictment; (iii)
7 Willifeh, as alleged in paragraph 48 of the indictment; (iv)
8 Biaya, as alleged in paragraph of the indictment; (v) Heremakono,
9 as alleged in paragraph 50 of the indictment; (vi) Kumalu or
10 Kamalu, as alleged in paragraph 50 of the indictment; (vii)
11 Katombo, as alleged in paragraph 50 of the indictment; (viii)
12 Kamadugu, as alleged in paragraph 50 of the indictment; (ix)
13 Kabala, as alleged in paragraph 50 of the indictment; (x)
14 Kurubonla, as alleged in paragraph 50 of the indictment.

15 (2). No evidence was adduced by the Prosecution against
16 the accused persons in respect of the offences of rape, charged
17 in count 6, as a crime against humanity, punishable under Article
18 2(g) of the Statute; sexual slavery and any other form of sexual
19 violence, charged in count 7, as a crime against humanity,
20 punishable under Article 2(g) of the Statute; other inhumane act,
21 charged in count 8, as a crime against humanity, punishable under
22 Article 2(i) of the Statute; and outrages upon personal dignity,
23 charged in count 9, as a violation of Common Article to the
24 Geneva Conventions and of Additional Protocol II, punishable
25 under Article 3(e) of the Statute in respect of the following
26 areas:

27 (i) Fokoiya, as alleged in paragraph 55 of the indictment;
28 (ii) Superman Camp, as alleged in paragraph 55 of the indictment;
29 (iii) Tomandu or Tomendeh, as alleged in paragraph 55 of the

1 indictment; (iv) Kabala, as alleged in paragraph 56 of the
2 indictment; (v) Fadugu, as alleged in paragraph 56 of the
3 indictment; (vi) Heremakono, as alleged in paragraph 56 of the
4 indictment.

5 (3). No evidence was adduced by the Prosecution against
6 the accused persons in respect of the offences of violence to
7 life, health and physical or mental well-being of persons, in
8 particular mutilations, charged in count 10, as a violation of
9 Common Article 3 common to the Geneva Conventions and of
10 Additional Protocol II, punishable under Article 3 of the
11 Statute, and other inhumane acts, charged in count 11, as a crime
12 against humanity, punishable under Article 2(i) of the statute,
13 in respect of the following areas:

14 (i) Konkoba or Kontoba, as alleged in paragraph 64 of the
15 indictment; (ii) Lohondi, as alleged in paragraph 65 of the
16 indictment; (iii) Malama, as alleged in paragraph 65 of the
17 indictment; (iv) Mamaka, as alleged in paragraph 65 of the
18 indictment.

19 (4). That there is no evidence adduced by the Prosecution
20 against the accused persons in respect of the offences of
21 conscripting or enlisting of children under the age of 15 years,
22 into armed forces or groups, or using them to participate
23 actively in hostilities charged in count 12, as another serious
24 violation of International Humanitarian Law, punishable under
25 Article 4(c) of the Statute in respect of the following districts
26 of the Republic of Sierra Leone:

27 (i) Bonthe District; (ii) Moyamba District; (iii) Pujehun
28 District; (iv) Bo District; (v) Tonkolili District.

29 (5). No evidence was adduced by the Prosecution against

1 the accused persons in respect of the offence of enslavement,
2 charged count in 13, as a crime against humanity, punishable
3 under Article 2(c) of the Statute in respect of the following
4 areas:

5 (i) Heremakono, as alleged in paragraph 72 of the
6 indictment; (ii) Kamala or Kamalu, as alleged in paragraph 72 of
7 the indictment; (iii) Kamadugu, as alleged in paragraph 72 of the
8 indictment; (iv) Peacock Farm, as alleged in paragraph 75 of the
9 indictment; (v) Masiaka, as alleged in paragraph 76 of the
10 indictment.

11 (6). No evidence was adduced by the Prosecution against
12 the accused persons in respect of the offence of pillage, charged
13 in count 14, as a violation of Common Article 3 of the Geneva
14 Conventions and of Additional Protocol II punishable under
15 Article 3(f) of the Statute in respect of the following areas:

16 (i) Telu, as alleged in paragraph 78 of the indictment;
17 (ii) Mamboma, as alleged in paragraph 78 of the indictment; (iii)
18 Heremakono, as alleged in paragraph 78 of the indictment; (iv)
19 Kamadugu, as alleged in paragraph 79 of the indictment; (v)
20 Foindu, as alleged in paragraph 80 of the indictment; (vi) Yardu
21 Sandor, as alleged in paragraph 80 of the indictment.

22 (7). No evidence was adduced by the Prosecution against
23 accused persons in support of the separate and distinct offence
24 of intentionally directing attacks against personnel involved in
25 a humanitarian assistance mission, charged in count 15, as
26 another serious violation of International Humanitarian Law,
27 punishable under Article 4(b) of the Statute.

28 (8). No evidence was adduced by the Prosecution against
29 accused persons in respect of the offences of intentionally

1 directing attacks against personnel involved in a peacekeeping
2 mission, charged in count 15, as another serious violation of
3 International Humanitarian Law, punishable under Article 4(b) of
4 the Statute; murder charged in count 16, as a crime against
5 humanity, punishable under Article 2(a) of the Statute, violence
6 to life, health and physical or mental well-being of persons, in
7 particular, murder, charged as in count 17, as a violation of
8 Article 3, common to the Geneva Conventions and of Additional
9 Protocol II, punishable under Article 3 of the Statute, and
10 taking of hostages, charged in count 18, as a violation of
11 Article 3, common to the Geneva Conventions and of Additional
12 Protocol II, punishable under Article 3(c) of the Statute for the
13 whole of the Republic of Sierra Leone, except for the following
14 districts:

15 (i) Bombali District; (ii) Tonkolili District; (iii) Port
16 Loko Kono District; (iv) Kono District, only with regard to count
17 17 and 18, for which there is evidence that, if believed, is
18 capable of supporting a conviction; (v) Kailahun District, only
19 with regard to count 18, for which there is evidence, which, if
20 believed, is capable of supporting a conviction.

21 Accordingly states that all the aforementioned locations
22 should be deemed irrelevant for the purposes of the Defence case.
23 We wish to clearly indicate here that our findings that there is
24 evidence capable of sustaining a conviction on all the counts,
25 subject to our further finding, that no evidence or insufficient
26 evidence has been adduced by the Prosecution to sustain its case
27 in respect of certain localities is not limited to, nor is it
28 only based on the testimony of those witnesses whose evidence we
29 have specifically highlighted in our decision in respect of the

1 incidents and events referred to in our factual findings, but,
2 also, on the testimony of other Prosecution witnesses, which
3 relates thereto as regards those same or other locations that
4 feature in the indictment.

5 Consequently, in the light of our main finding, dismissing
6 each motion for judgment of acquittal, and pursuant to Rule 85 of
7 the Rules, each accused person is hereby put to his election to
8 call evidence, if he so desires. This is our decision. This
9 concludes the Rule 98 proceeding.

10 MR JORDASH: Sorry to detain Your Honours, but I would like
11 to address you on the issue of the Defence cases and when they
12 will start. This concerns all the accused, obviously, but
13 concerns Mr Sesay, to a greater degree, than any other accused.

14 I raised at the beginning of August --

15 PRESIDING JUDGE: You have our leave to address us.

16 MR JORDASH: Thank you, Your Honour. I raised the issue at
17 the beginning of August, and the issue was an issue -- well, an
18 invitation to Your Honours to allow submissions when the Defence
19 case should start. I've heard numerous rumours around the Court,
20 from all kinds of people, about when the case will start. I
21 should say, at this stage, that we anticipate calling a case
22 similar in size to the Prosecution's case, with a number of
23 witnesses, both civilian and expert, all of whom need to know
24 what the proposed timetable is likely to be, especially but not
25 exclusively the expert witnesses. We have professional diaries,
26 myself and the rest of my team, which need to be organised.

27 What I'm trying to say, in short: 1. I reiterate my
28 request to be able to make submissions as to when the Defence
29 case should start; and 2. I will respectfully invite

1 Your Honours to hear those submissions as soon as possible and to
2 make a decision as soon as possible.

3 If this case, for example, is to begin in January, the
4 reality is that the Sesay team have probably less than two months
5 of real-time to be prepared for a case which is likely to be the
6 size, if not bigger, than the Prosecution case, and this will be
7 some task. I leave it at that. I hope I have made my position
8 clear.

9 PRESIDING JUDGE: Does that apply to the other counsel?
10 Actually, my immediate reaction, without consulting my brother
11 judges -- did you want to say something, counsel? You associate
12 with Mr Jordash's position?

13 MR TOURAY: Generally, we agree with the line of action.

14 PRESIDING JUDGE: Yes, quite, what he's said.

15 MR TOURAY: Yes.

16 PRESIDING JUDGE: My immediate reaction, without consulting
17 my brother judges, is, in tact, to want to say straightaway,
18 perhaps, a status conference to work out these preliminaries may
19 well be necessary, and just speaking randomly, I was thinking
20 that we might even convene something on Friday, if you are around
21 here on Friday. If you are in that mood, I think we can marshal
22 the resources of the Chamber to come here some time on Friday for
23 a full status conference to get all these things discussed and
24 work out the modalities. Because, clearly, now, anything we give
25 you will be off the cuff or random, and the kind of machinery we
26 have in our Rules is to have all ideas collated and co-ordinated
27 in the context of a status conference before -- I mean, I'm
28 virtually saying a status conference as distinct from a
29 pre-Defence conference, which would be down the road.

1 MR JORDASH: I fly on Friday, but, providing it was in the
2 morning, I think that would be a useful hearing. It would be
3 particularly useful if Your Honours were able to, before the
4 hearing, give an indication as to which way the wind is blowing.

5 PRESIDING JUDGE: Certainly. As I say, we have not been
6 taken by surprise by you. This is something we should be
7 anticipating, but I was just thinking, in the interest of
8 expedition, we might just put ourselves in a posture where we
9 come here Friday morning, we probably will start at 9.30 rather
10 than 10 o'clock, and see if we can put things together.

11 MR JORDASH: That would be perfect for me.

12 JUDGE ITOE: Your flight is at what time, Mr Jordash?

13 MR JORDASH: In the evening, but I will probably get a 3.00
14 or 4.00 helicopter.

15 PRESIDING JUDGE: Okay. Mr Cammegh.

16 MR CAMMEGH: I'm afraid I leave tomorrow. I'm sure that's
17 not a problem. It would be very nice to leave with some idea as
18 to whether it's likely to be January or April, is the other month
19 I've heard --

20 PRESIDING JUDGE: I can tell you we have an extremely
21 complicated schedule, Trial Chamber I, and would like to be so
22 definitive ourselves, but I think anything we say now would be
23 clearly off the cuff and non-binding, but within the context of a
24 formal status conference, we can agree on dates and periods, and
25 time frames.

26 MR CAMMEGH: Well, I'm sure Your Honours would agree any
27 input from me at a status conference wouldn't match the
28 significance of that of my learned friend, Mr Jordash, who
29 appears first. I'm perfectly happy for that to go ahead in my

1 absence, and anything I may have to say or may want to say, I'm
2 sure can be expressed by either duty counsel or Mr Jordash.

3 PRESIDING JUDGE: Quite right. This is a kind of situation
4 where you have to draw from the resources of the Defence office
5 to assist here.

6 MR CAMMEGH: Yes. Thank you.

7 JUDGE ITOE: But one would have thought, Mr Cammegh, that
8 you might have, maybe certain time frames, you know, certain
9 proposals, that you may, off the cuff, put on the table for us to
10 factor in our deliberations on Friday.

11 MR CAMMEGH: Given Mr Jordash's comment that the Defence
12 case for Sesay is likely to match the case for the Prosecution in
13 size, I feel so bludgeoned into submission I think, perhaps, it's
14 worthless to say anything. I'm content for it to go on in my
15 absence. I understand fully that there are a lot of factors at
16 play, and I will abide or accept whatever the result is on
17 Friday.

18 PRESIDING JUDGE: Thank you very much. Does the
19 Prosecution have any -- I mean, our disposition is to have a
20 status conference on Friday.

21 MR HARRISON: Whatever is the Court's view is satisfactory.

22 PRESIDING JUDGE: Well, then, the Rule 98 proceedings is
23 over. We'll give notice about a status conference on Friday.

24 [Whereupon the Rule 98 proceedings adjourned at
25 1.20 p.m.]

26
27
28
29

