



U.C. BERKELEY WAR CRIMES STUDIES CENTER
SIERRA LEONE TRIAL MONITORING PROGRAM
WEEKLY REPORT

Special Court Monitoring Program Update # 92
Trial Chamber II – AFRC Trial

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Summary

This week saw the end of the defence case in the AFRC trial. The proceedings comprised the cross examination of the two remaining individual defence witnesses for the second accused, Brima Bazzy Kamara, the final part of the prosecution's cross examination of the common expert witness on military matters, Major General Prins, and the testimony of the common defence expert on forced marriage, Dr Thorsen.

Continued cross-examination of common military expert witness Major General Prins

Major General Prins continued to defend his main conclusions in the face of prosecution challenges. He maintained that the AFRC was not operating as a traditional military organisation and that they did not have an effective command and control system in place. The prosecution, on the other hand, suggested that the AFRC displayed enough characteristics of military organisation to warrant holding its leaders responsible for the misconduct of their armed personnel.

The Major General was confronted with testimony given before the Court – often by defence witnesses, which suggested that the conclusions he has reached about the AFRC are unwarranted. Major General Prins did, however, continue to maintain that the AFRC had very limited intelligence capacity, no effective communication between units on the ground, an ineffective and at times non-existent planning and orders process, no 'lessons-learned' mechanisms, no functioning disciplinary system, inadequate procedures for recruitment and training, no proper system for appointments and promotions, no effective logistical management or systems of arms and supplies procurement, no system for repair and maintenance of equipment, no effective medical system, no system for fund-raising

and finance, no effective pay and reward system, and no functioning religious welfare system.

The prosecution continued to suggest that the Major General's methodology was flawed, in that he is in effect comparing the AFRC to modern European armies. The prosecution further suggested that the Major General's conclusions were therefore to the effect that the AFRC falls short of the standards of such sophisticated and advanced armies. They maintained that it does not follow from such a determination that the AFRC may not be a functioning military organisation and that no command and control was asserted over the operative soldiers by a responsible military-political leadership. The prosecution therefore suggested that the Major General's research is unduly restricted by its constant reference to European military doctrine.

Common defence expert witness on forced marriage, Dr Dorte Thorsen

Dr Thorsen completed her PhD in African Studies at the University of Sussex in the UK in 2005 and is currently employed as a research fellow at the Nordic Africa Institute in Sweden. Dr Thorsen's work is focused on women's issues, and she has in this context worked extensively in rural areas of Burkina Faso. Her research methods are anthropological, she mainly does ethnographic fieldwork and she has spent the brunt of her academic career focusing on marriage and the dynamics within the household in rural Burkina Faso. She is also involved in projects dealing with migrants and migrant workers in Ghana, India and Bangladesh.

Dr Thorsen explained how she first had declined to produce a report on forced marriage for the defence because she felt it was problematic to draw connections between cultural practices, 'bush wives' and what she perceived as western views on forced marriage. She explained that the aim of her final report was to raise a set of questions and to problematise the concepts of 'forced marriage' and 'bush wives'.

She explained that she had never been to Sierra Leone before arriving to testify and had not conducted interviews or other research in Sierra Leone. She relied on secondary sources dealing specifically with Sierra Leone and used primary sources from her own work in Burkina Faso to frame and raise the questions she wished to raise in her report.

Dr Thorsen maintained that the term 'forced marriage' is often misleading and when speaking of cultural practices 'arranged marriage' is a more appropriate term. She explained that women often have more agency than the term 'forced marriage' suggests, and that the family and kin of young girls often act with a view to her long-term well being when engaging practices termed 'force marriage' by western researchers. She maintained that she is not making any claims about the situation in Sierra Leone, but suggested that the general questions she is raising are relevant to any discussion of marriage practices.

She maintained that while many women were abducted, and thus coerced to act as wives to soldiers in the bush during the conflict in Sierra Leone, others may have voluntarily

embarked on relationships with soldiers or may already be the wives or girl friends of combatants, who then voluntarily chose to move around with his armed faction. She also came across examples where Paramount Chiefs would ask all families in the chiefdom to provide somebody to be handed over to the rebels. She therefore emphasised that there are many reasons why women lived in the bush with groups of soldiers, and that ‘bush wives’ denotes a heterogeneous group of women with different histories.

Dr Thorsen maintained she could not comment on whether ‘bush wives’ could exercise any meaningful level of free will pertaining to their status as bush wives or to their role in the jungle. She maintained that there is no relationship between the cultural practise of arranged marriage and the bush wife phenomenon as it arose in the context of the Sierra Leone civil war.

Cross-examination by the prosecution: The prosecution established that it is the first time Dr Thorsen had researched sexual violence or sexual violence in the context of conflict.

Dr Thorsen maintained that in peace time women and girls have social and family networks that allow them to escape from unwanted marriages, and she acknowledged that these networks may not be accessible during wartime. She disputed prosecution claims that all bush wives were forced to marry rebels, and emphasised that women often also had a personal stake in getting married. She maintained that there were alternatives to being a bush wife, and that many women accompanying troops were considered ‘girl friends’ rather than bush wives. She explained that women with the status of ‘girl friends’ were more vulnerable than bush wives and often had to do chores and domestic work for women with bush wife-status.

The prosecution suggested that women who “chose” bush wife-status were in effect trapped between a rock and a hard place as non-bush wives were even more vulnerable. The prosecution maintained that non-bush wives or girl friends were raped by multiple men, expected to carry out all the hard domestic work, were not provided with food and could be sent to fight at the front, and that women accompanying armed factions therefore “chose” to be bush wives as the lesser of two evils. Dr Thorsen maintained she could not comment on the specifics in Sierra Leone, but she reiterated that the issue is more nuanced than the prosecution suggested. She explained that some bush wives were able to attain status as a ‘first wife’ or a wife high up in the hierarchy – something they would not have been able to attain in peacetime when the marriage would have been embedded in a context of an extended family with many senior women. Dr Thorsen agrees that her report aims to raise a set of questions rather than provide a series of answers.

Kamara individual witnesses

DBK-126: Cross-examined by the prosecution on evidence given 11 October.

The witness claimed she did not know whether any of the three Accused were referred to as ‘Honourables’ or were part of the AFRC government. She maintained that she worked

as a cook at the SLA head quarters at Massingby Road (Kono District) and that Junior Lion was the commander in chief there. She therefore denied prosecution claims that Kamara was based at Massingby Road and operated as commander in chief of the SLA forces in Kono. The prosecution claimed that the witness has consistently mistaken Junior Lion for Kamara, and that all the acts she attributes to Junior Lion in her testimony were in fact carried out by Kamara. The witness denied this.

The witness also denied that Brima was commander in chief at Masofinia and she maintained that Brima and Kamara were prisoners of war. She refuted prosecution claims that Kanu was in charge of the civilians accompanying the soldiers when the group moved from Masofinia to Rosos. She further rejected claims that Brima was commander in chief, Kamara second in command and Kanu held a post of command at Camp Rosos.

She also refuted claims that any of the three Accused took part in the attack on Karina or Mandaha villages, or that she personally took part in the looting of civilian property at Karina village and helped mobilise captured and abducted women.

The witness confirmed that there was operative, solar powered radio communications equipment at Camp Rosos, but she rejected claims that civilians, including children, received combat training at the camp.

She maintained that she saw Kamara and Brima as prisoners of war at Colonel Eddie town and that she used to sneak food to them. The witness denied that Brima, Kamara and Kanu took over control of the AFRC forces after SAJ Musa's death and she denies ever seeing any of the three Accused at State House in Freetown. The witness also denied ever having seen SLA soldiers killing or abducting civilians, amputating limbs or burning houses during the retreat from Freetown.

The witness denied prosecution claims that she is a friend of Kamara and his family. She admitted having been convicted of contempt of court by the Special Court for threatening and abusing a protected witness testifying for the prosecution in the AFRC trial. Three other ladies – all of them wives of the Accused in this trial were also convicted of contempt of court for participating in the same incident. The witness denied being friends with the wives of the Accused. She acknowledged receiving legal assistance from one of the council for the first Accused when she was charged with contempt for court.

DBK-131: Cross-examined by the prosecution on evidence given 10 and 11 October.

The witness explained that the six months of training he received at the barracks at Benguima when he joined the SLA in 1992 included training on how to advance in formation, how to attack enemy positions, how to defend a position and how to retreat. They were also taught to follow the orders of their superiors. The witness also completed an additional training course lasting three months where he received instruction on how to use more advanced weaponry.

He testified that during his time in the army the SLA was organised into platoons, companies, battalions and brigades. The witness agreed that the soldiers in the SLA followed orders. The witness also agreed that the AFRC government consisted of a mixture of SLA and RUF.

The witness knew that Brima was referred to as an ‘Honourable’ and held the position of PLO 2. He claimed he had never heard Brima referred to as Gullit and denied having heard Kamara or Kanu referred to as ‘Honourables’. He further explained that many people were referred to as honourable in Sierra Leone, including himself on occasion. He claimed that men with money, status or power were often referred to as honourables by less powerful men. He claimed he knew of about 200 soldiers who were referred to as ‘Honourables’ during the AFRC regime.

He maintained that he had never heard of J.P. Koroma announcing ‘Operation Pay Yourself’, but he admitted that looting was common amongst both SLA and RUF soldiers. The witness denied that the SLA had child soldiers in their ranks, and agreed that SLA troops endeavoured to wear uniforms whenever they were available. He also maintained that he had a radio set through which he could communicate with SAJ Musa.

The witness also maintained that he has heard of Prosecution witnesses coming to court to lie for money, but rejected that he is lying in order to get a financial reward. He also reiterated allegations that prisoners at Pademba Road got special privileges when they agreed to testify for the prosecution before the SCSL.

He further maintained that there was no defined command structure in Kabala after the intervention, but he acknowledged that RUF and SLA personnel lived together in Koinadugu Village until Superman and SAJ Musa fell out. He rejected claims that civilians in Koinadugu were forced to work for them and maintained that civilians worked for the troops voluntarily. He also maintained that it was the RUF who later killed civilians in Koinadugu Village.

The witness maintained that the three Accused were prisoners and that he had seen them captive in Colonel Eddie Town. He rejected claims that Brima took over command after SAJ Musa’s death. The witness further insisted that he went to State House after the AFRC troops again invaded Freetown, and that the three Accused were not in charge of any troops at State House. He also denied that SLA soldiers killed civilians, amputated limbs, burned civilian property or abducted civilians on their withdrawal from Freetown.

The witness maintained that it was the SLA soldiers released from Pademba Road Prison who were responsible for the atrocities committed in Freetown during the withdrawal. He also denied that Kamara was the commander at West Side. He refuted prosecution charges that he personally took part in the kidnapping of a British UNAMSIL peace keeper.

The witness admitted that he was arrested and charged with crimes committed at the West Side and that he spent six years in Pademba Road Prison. He denied that he was

defended by one of Kamara's defence attorneys, and denied that he has been meeting with Brima and other defence witnesses to agree on a story to tell the Court.

Admissibility of report by defence expert witness on military matters, Major General Prins

The prosecution objected to the defence motion to tender Major General Prins' report as evidence. The prosecution asked that only parts of the report be tendered, as all quotes and information taken from David Keen's book come from unsubstantiated sources, all information gathered from witness DSK-082 consist of opinions and all information gathered from the final documents of the Truth and Reconciliation Commission are opinions not given under oath and not subject to testing by cross-examination.

The defence relied on various human rights treaties' emphasis on the right to a fair trial and equality of arms and on case law from the European Court of Human Rights to the effect that where prosecution expert evidence has been heard, defence expert evidence must also be allowed. The defence maintained that it is crucial that they should be allowed to comment on all the material the prosecution has presented to the court – in this case the testimony and report of the prosecution expert witness on military affairs Colonel Iron.

The Bench resolved to admit the report of Major General Prins into evidence.

Admissibility of report by common defence expert witness on child soldiers, Mr Gbla

The Prosecution accepted the contents of the report and did not wish to subject its contents to cross examination. The Bench therefore accepted the defence motion to tender this report into evidence. Mr Gbla will not be appearing in court to give evidence on the contents of his report.

Admissibility of report by common defence expert witness on forced marriage, Dr Thorsen

The prosecution objected to the tendering of Dr Thorsen's report as evidence because Dr Thorsen has not conducted any research specifically on Sierra Leone and lacks knowledge of the country and the conflict. The prosecution also objected to the tender as Dr Thorsen's report, on her own admission, does not provide the Court with any concrete answers to questions about the practice of 'bush marriages' during the conflict.

The defence maintained that Dr Thorsen's report would assist the Court when it treats the issue of bush wives as laid out in the indictment.

The Court considered the content of Dr Thorsen's report to be relevant and admitted the report into evidence.

Tendering exhibits through a witness

On 25 October the prosecution presented witness DBK-131 with a document dated September 1997, written on paper with a letterhead from the Office of the President at State House, Freetown. The document concerns the appointment of a new head of the Customs, Excise and Immigration operation in the Kambia/Gunua border region. The letter is signed by a 'Tamba Alex Brima' holding the rank of sergeant. It is also apparent from the document that this Tamba Alex Brima is PLO 2 and an 'Honourable'. The witness maintained that he had never seen this paper before, and the prosecution did not argue that the witness was in any way involved in writing or distributing this document.

The prosecution did, however, ask that this document be tendered as an Exhibit. When asked by the Bench why they sought to tender it through this particular witness – who claimed to have no knowledge of the document and who could not be linked to it in any way, the prosecution explained that this document had only recently come to light and that this was the last defence witness scheduled to testify so that they had to attempt to tender the document via this witness. The prosecution maintained that the document is relevant and should be admitted under rule 89(c).

The Bench rejected the tender, explaining that witness as DBK-131 remained unconnected with the document and that any tendering through this witness was thus impossible.

Cautioning of witness DBK-126

During her cross examination witness DBK-126 was repeatedly told by council for the prosecution and by the Bench to keep her answers short and concise and not to launch into elaborate explanations. When she expressed exasperation at being asked the same questions several times and being called a liar, Presiding Judge Lussick saw the need to explain to witness that she was obliged to fully and accurately answer the questions posed to her. He cautioned her that she could be fined two million leones or risk having to serve a jail term of six months if she failed to follow the court's orders. The witness became very distressed at this and the court had to take a short adjournment for the witness to have a chance to collect herself. Upon resuming proceedings it became clear that the witness believed she had in fact been fined two million leones and sentenced to a jail term. The Presiding Judge explained to her that he had only issued a warning and not meted out a sentence or a fine.

The Presiding Judge consistently addressed the witness in a very firm tone. This tone, when taken together with the stress of giving evidence and possibly a less than accurate translation, did undoubtedly contribute to her misunderstanding the message from the Bench. This event further emphasises the importance of accurate translation and illuminates the need for a sensitive approach to witnesses, who find themselves an intimidating environment, by all parties to the proceedings before the Special Court.

Status Conference, Friday 27 October

The status conference produced agreement on the length of the trial briefs to be filed and the Bench issued an order to the effect that these final briefs must be submitted no later than 1 December 2006. The final oral submissions were scheduled for 7 and 8 December 2006.

Due to a lack of success in tracking down defence witness TFI-511, defence council suggested that the statement this witness had given to investigators should be tendered as evidence under Rule 92*bis*.¹ The prosecution objected, as they maintained that the testimony's veracity must be tested in cross examination, and that the statement of the witness is unreliable.

It transpired that the witness had in fact been interviewed by *prosecution* investigators and that tapes and transcripts of these interviews exist. It is these items that the defence seeks to tender as evidence. In order to establish whether the transcripts and tapes are reliable the Bench resolved to call Mr Gilbert Morissette, a senior prosecution investigator, to give evidence.

Mr Morissette testified that the first set of interviews which prosecution investigators conducted with witness TFI-511 were recorded on tape. These tapes turned out to be indecipherable when efforts were made to transcribe their content. A second interview with the witness was therefore conducted in the presence of a court reporter with a view to making a transcript while the interview was in progress. This court reporter was, however, unable to understand large parts of the testimony due to the witness's strong accent. Mr Morissette claimed that what was written down from that interview is therefore incomplete and partly guess-work on the court reporter's part. He testified that the prosecution deemed the witness unreliable and therefore chose not to call him in to testify before the court.

The Bench explained that under rule 92*bis* the Court must be satisfied that the information in statements submitted as evidence is susceptible of confirmation. The Bench considered that the documents here in question are indeed of such a character, and the statement of TFI-511 was therefore admitted into evidence.

¹ [Rule 92 bis \(C\) of the Special Court's Rules of Evidence and Procedure states that: \(A\) 'A Chamber may admit as evidence, in whole or in part, information in lieu of oral testimony', \(B\) 'The information submitted may be received in evidence if, in the view of the Trial Chamber, it is relevant to the purpose for which it is submitted and if its reliability is susceptible of confirmation, \(C\) 'A party wishing to submit information as evidence shall give ten days notice to the opposing party. Objections, if any, must be submitted within 5 days'.](#)