



U.C. Berkeley War Crimes Studies Center Sierra Leone Trial Monitoring Program Weekly Report

Special Court Monitoring Program Update #32 Trial Chamber II - AFRC Trial 22 April 2005

by Sara Kendall, Senior Researcher

Witness Profiles Continued testimony of Witness TF2-227 regarding civilian abductions
Testimony of Witness TF1-282 regarding rape and forced marriage Testimony of Witness TF1-256 regarding civilian abductions and killings Testimony of Witness TF1-021 regarding killings in a Freetown mosque Testimony of Witness TF1-253 regarding killings in the Port Loko district

Trial Chamber II heard from four additional witnesses this week, bringing the total number of witnesses called thus far in the AFRC case to 14. The bulk of the direct evidence of individual responsibility heard to date in the AFRC trial has focused on the actions of “Brigadier Five-Five,” whom the prosecution alleges is third accused Santigie Borbor Kanu.

Continuing from last week, the court heard further testimony from Witness TF1-227, which sought to implicate “Five-Five” as the commander in charge of the Benguema training base on the Freetown peninsula, where rebel forces allegedly employed child combatants and captured civilians were used for forced labor. Witness TF1-282 was the third victim of sexual violence called by the prosecution in this case, who testified that “Five-Five” himself raped her when she was captured by rebels in the Port Loko district. This witness claimed she was subsequently raped by and “married” to a lower-level rebel commander. Witness TF2-256 testified that he was captured and his son was killed when a group of soldiers raided his village in the Port Loko district.

The trial chamber heard from the first witness to appear in both the RUF and the AFRC cases. This witness’s appearance was challenged by the defense, who claimed that he was testifying strictly about RUF activities and not AFRC activities, and allowing him to testify presumes the existence of a joint criminal enterprise between the two factions. The chamber ruled that the witness could proceed with presenting evidence, as it had to be heard before its relevance could be assessed. This week the defense additionally raised the matter of whether the substance of witness prepping meetings could be addressed during cross-examination, and the bench invited submissions from both parties in order to make a ruling on this point next week [1].

Witness Profiles

Witness TF1-282. Witness TF1-282 estimates that she is twenty years old. She testified as a Category A protected witness with voice distortion measures in place. She cannot read or write English, and she testified in Krio.

Witness TF1-256. Witness TF1-256 was born in the Port Loko district and is 42 years old. He testified in Temne.

Witness TF1-021. Witness TF-021 was born in Freetown and is 68 years old. He was educated through secondary school. He appeared previously to give testimony in the RUF case, and he testified in Krio.

Witness TF1-253. Witness TF1-253 was born in the Port Loko district and is 33 years old. He received some education, and he is a farmer/trader. He is married with children. He testified in Temne.

Continued testimony of Witness TF2-227 regarding civilian abductions

Witness TF1-227 continued his direct examination, which carried over from the previous week. His testimony on Friday established that he had been captured by rebels in the Freetown peninsula area in the end of January 1999, and he was taken by force to their base. The witness claimed that his house and a number of other homes had been burned by the rebels. The captured civilians were made to carry supplies for the rebels, and they eventually settled at the Benguema training grounds on the peninsula.

Count 13 of the AFRC indictment charges the accused with enslavement as a crime against humanity for abductions and forced labor. The indictment alleges that between the 6 January invasion and the end of February 1999, as the rebels were withdrawing from Freetown, “members of the AFRC/RUF abducted hundreds of civilians, including a large number of children, from various areas in Freetown and the Western Area” [2]. This witness described the treatment of captured civilians at the Benguema training grounds, where he alleged that “Five-Five” was the overall commander, though RUF commanders were also present. The witness’s allegations address a number of counts from the AFRC indictment, including civilian abductions, forced labor, and the use of child combatants. In particular, his direct examination gave details of commands issued by “Five-Five,” including ordering civilians to destroy a bridge. Abducted civilians at Benguema were forced to perform domestic work for the rebels, and the witness stated that they were beaten if they refused. He claimed that approximately 25 child combatants between the ages of 10 and 14 were present at the base, and many of them worked directly for the commanders. The witness testified that a commander at the base raped and murdered a young girl.

Captured civilians traveled with the rebels throughout various towns on and around the Freetown peninsula to avoid the advancing ECOMOG troops, and they were forced to carry supplies for the rebels and engage in domestic work at various locations where they stopped. The witness described how an AFRC commander at Mile 38 ordered the amputations of the hands of approximately five number civilians; as other witnesses have testified, the witness claimed that the civilians were told to report to President Kabbah in Freetown. The witness claimed that the rebels had a word for captured civilians “pavulul” which differentiated them from the rebels, as they were expected to perform domestic work rather than going to the warfront.

Under cross-examination, the witness stated that he had been with the rebels for a total of ten months. Defense counsel for the third accused alleged that “you have not told us that any rebel or any commander or SBU [Small Boys Unit] did anything bad to you personally” during the witness’s captivity: both the prosecution and the bench objected to the question, stating that it discounted the capture itself, which took place against the witness’s will. As with previous witnesses, defense for Kanu explored the witness’s descriptions of “Brigadier Five-Five,” and in particular he focused on inconsistencies in prior statements where the witness had alleged that a different commander ordered the destruction of the bridge. The Presiding Judge warned defense counsel that his repetitive questioning of the witness verged on harassment.

Testimony of Witness TF1-282 regarding rape and forced marriage

The witness was living in the Port Loko district during the Freetown invasion in January of 1999, and she heard of the invasion through her brother, who came from Freetown at the time. As the rebels entered her village the witness fled to the bush, but she was captured there with a number of other villagers. An armed rebel forced the witness to leave the group and brought her to two men: one who was referred to as “Five-Five” raped her while the other rebel stood by with a gun. After they returned to the group, “Five-Five” ordered the captured civilians to walk to another village, where the witness was raped again by another rebel upon arriving there. The witness stated that this rebel took her as his “wife,” and she slept with him every night in a house with other rebels. During this time, the rebel she was staying with informed the witness that “Five-Five” had ordered rebels to loot civilian properties.

Continuing a common theme of cross-examination heard in both trial chambers thus far, the defense focused on witness compensation as a form of incentive for testifying. Counsel for the first accused asked the witness to compare the facility where she was staying before she testified with her previous living conditions, and the prosecution objected that her prior circumstances were irrelevant. Defense counsel argued that “we are in an area of Africa where not everybody has modern conveniences. It may be of assistance to the Trial Chamber when considering certainly the evidence of witnesses whether certain emoluments or improvements in their lives may impact upon their willingness to give evidence in this case.” In general the chamber has granted extensive leeway to the defense to cross-examine on witness allowances and transport payments, and continuing with this permissive approach, the chamber allowed the defense to proceed.

However, in some instances this permissiveness could be functioning to the detriment of the witness herself. Despite the fact that he was not representing Kanu, counsel for Brima implied to the witness that when one of her captors called for “Five-Five,” he could have been referring to a popular brand of cigarettes rather than the man who subsequently raped her [3]. Brima’s counsel also asked the witness about the details of the rape, which has not been common practice thus far in Trial Chamber I. The decision by Kamara’s counsel not to cross-examine reflects a more common approach to victims of gender-based violence.

Testimony of Witness TF1-256 regarding civilian abductions and killings

The witness stated that in April of 1999 he fled to the bush in an effort to escape forces that he identified as SLA soldiers: women and children from his village in the Port Loko district were captured, and the witness fled with his family to the town garden, where they were intercepted by the soldiers. The civilians were lined up, registered, and counted: the witness maintained that there were a total of 55 captured villagers. The witness and another man were made to build houses for the soldiers, and when the witness entered the bush to gather building materials, he encountered the corpses of seven individuals from the group of civilians, including the body of his own son. The witness stated that his niece informed him that she was raped by one of the soldiers while in the garden, and three other women also told the witness that they had been raped by their captors. The defense objected to the introduction of hearsay evidence in light of the possibility that the witness’s niece may have been available to testify before the court; the bench responded that the admissibility of hearsay evidence has been well grounded in the jurisprudence of international criminal tribunals.

The witness stated that after three days in the garden he was taken to the rebel headquarters, where he was held captive in a box with three other people. After he was released from the box, the witness stated that he was beaten and made to perform domestic work for the rebels. Under cross-examination, as he explained why he did not originally want to come to the Special Court, the witness expressed the pain he was feeling from recounting these events: “When something happens to you and they start explaining, in fact you would feel the pain as though it just

happened to you anew.” He added, “I am feeling the pain just like the time that I saw all these things happening.”

Testimony of Witness TF1-021 regarding killings in a Freetown mosque

Shifting from testimony relating to the Port Loko area, the prosecution called Witness TF1-021 to testify regarding killings that allegedly took place in a mosque in Freetown in January 1999. Defense counsel objected that the testimony of this witness did not address actions of the AFRC, and he added that the prosecution had not yet led evidence relating to a conspiracy between the two factions. The chamber overruled the objection, stating that it was not in a position to rule on the relevance of the evidence without first hearing it, and added that it may be linked to other evidence yet to be brought by the prosecution.

The witness stated he was praying in the Rogbalan mosque in the Kissy area of Freetown when a group of armed rebels entered and threatened to kill the civilians because they had voted for President Kabbah. The civilians collected money and gave it to the rebels, who subsequently fired on the group, killing 71 people. This witness stated that his son was among the casualties, and the rebels maintained that the killings were motivated by a failed attempt at a peace negotiation with President Kabbah. This number of casualties at the mosque corroborates testimony from Witness TF-083 last week, who stated that after he was amputated and fled to the Rogbalan mosque to escape the crossfire, he discovered 70 corpses in and around the mosque.

Cross-examination by counsel for the first accused focused in part on alleged inconsistencies in the witness’s ability to identify who the rebels were. He claimed in direct examination that he did not know what they were called, but according to a previous statement disclosed to the defense, he had referred to them as RUF rebels. The other two defense teams refrained from cross-examining the witness.

Testimony of Witness TF1-253 regarding killings in the Port Loko district

As with the previous witness TF1-256, the testimony of this witness focused on events that transpired in the Port Loko district in April of 1999. He stated that Gbethis, a traditional hunting group, had established a presence in his town to defend civilians against the rebels. When rebels ambushed some of the villagers, they asked their captives whether they were Gbethis and shot two people who were too slow to respond, including the witness’s younger brother. The witness stated that he saw the corpses of a number of other villagers as he was taken to the village of Manarrra by the rebels. While in Manarrra he witnessed the rebels shoot a man from his village, and they threatened to amputate the witness’s hand. They set fire to a house in which they had locked a number of people, and they burned other houses in the town as they were leaving for Port Loko. The witness escaped from the rebels while they attacked Malian peacekeepers in Port Loko, and he returned home to bury the corpses of people from his village, including members of his family. He stated that he found 73 heads in the remains of the house where the rebels had locked the villagers.

Further testimony of the witness will continue on Monday.

1.) On 12 April, the prosecution objected to the Brima defense asking about the substance of a pre-testimony meeting between a prosecution lawyer and the witness: “When you met on Thursday, what exactly did you talk about?” In their motion, the prosecution contended that such questions should be restricted to the number of such meetings, the dates they took place, and their duration, but the substance of the discussions fall outside the scope of cross-examination unless the defense is alleging misconduct on the part of the prosecution.

2.) *Further Amended Consolidated Indictment*, SCSL-2004-16, Paragraph 72.

3.) Defense counsel Metzger stated to the witness, "So for all you know, having taken you into this area clearing or otherwise the man may have remembered that he wanted to smoke some cigarettes and said Five-Five and went off to get his cigarettes. That could have been the position; is that right?"



WSDHANDACENTER
FOR HUMAN RIGHTS & INTERNATIONAL JUSTICE
Stanford University

This publication was originally produced pursuant to a project supported by the War Crimes Studies Center (WCSC), which was founded at the University of California, Berkeley in 2000. In 2014, the WCSC re-located to Stanford University and adopted a new name: the WSD Handa Center for Human Rights and International Justice. The Handa Center succeeds and carries on all the work of the WCSC, including all trial monitoring programs, as well as partnerships such as the Asian International Justice Initiative (AIJI).

A complete archive of trial monitoring reports is available online at:

<http://handacenter.stanford.edu/reports-list>

For more information about Handa Center programs, please visit:

<http://handacenter.stanford.edu>
