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SCSL-04-14-T
(18531-18549)

18531

SPECIAL COURT FOR SIERRA LEONE

In Trial Chamber I

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

Registrar: Mr Lovemore Munlo, SC

Date: 16 June 2006

THE PROSECUTOR

-against-

SAMUEL HINGA NORMAN, MOININA FOFANA, and ALLIEU KONDEWA

SCSL-2004-14-T

PUBLIC

**FOFANA SUBMISSIONS REGARDING
PROPOSED EXPERT WITNESS
DANIEL J. HOFFMAN PHD**

For the Office of the Prosecutor:

Mr Christopher Staker
Mr James C. Johnson
Mr Joseph Kamara
Mr Mohammed Bangura
Ms Wendy van Tongeren
Ms Miatta Samba
Ms Bianca Suci

For Moinina Fofana:

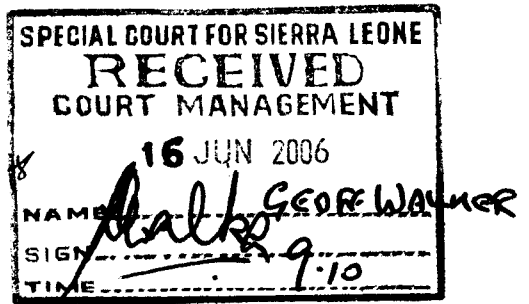
Mr Victor Koppe
Mr Michiel Pestman
Mr Arrow Bockarie
Mr Andrew Ianuzzi

For Samuel Hinga Norman:

Dr Bu-Buakei Jabbi
Mr Alusine Sani Sesay
Ms Clare DaSilva
Mr Kingsley Belle

For Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams
Mr Ansu Lansana
Mr Martin Michael



INTRODUCTION

1. Counsel for the Second Accused, Mr Moinina Fofana, (the “Defence”) hereby files the *curriculum vitae* of its proposed expert witness, Daniel J. Hoffman PhD, as well as submissions in support of his recognition as an expert.
2. The Defence submits that the recognition of expertise is properly determined as a preliminary matter based on an assessment of the proposed witness’s *curriculum vitae*. Further, it is submitted that the scope and domain of the proposed witness’s expertise is suitably limited to the drawing of factual opinions relevant to matters in dispute and based on the specialised knowledge and experience of the witness. Additionally, the Defence provides a non-exhaustive résumé of the witness’s proposed evidence in order to assist the Chamber with its evaluation of the relevance of Dr Hoffman’s expertise and to allow the other parties to the proceedings to adequately prepare for any cross-examination.
3. It is anticipated that Dr Hoffman’s report will be disclosed to the interested parties before the August recess, and in any event, as soon as possible. The report will be filed with the Chamber at least twenty-one days in advance of Dr Hoffman’s proposed testimony.

SUBMISSIONS

Recognition of the Witness’s Expertise

4. The question of a proposed witness’s expertise is a preliminary one based on an evaluation of the witness’s *curriculum vitae*. This has been the practice of the Chamber to date in the CDF proceedings¹.
5. An expert witness is “[a] person whom by virtue of some specialised knowledge, skill or training can assist the trier of fact to understand or determine an issue in dispute”².

¹ With respect to prosecution expert witness Colonel Richard Iron, TF2-EW1, the Chamber found, upon review of his *curriculum vitae* and prior to his testimony, that “Colonel Iron can be properly characterised as an expert, since his specialised military education and 25 years of professional military experience, including his field experience, as documented in his CV, have provided him with sufficient training and specialised knowledge to qualify him as a military expert”. *Prosecutor v. Norman et al.*, SCSL-2004-14-T-435, Trial Chamber I, ‘Decision on Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures’, 21 June 2005, at 4. Additionally, with respect to prosecution expert witness TF2-EW2, the Chamber found, upon review of her *curriculum vitae* and prior to her testimony, that “the Child Soldier Witness’ professional experience in general and in Sierra Leone particularly, which is detailed in her CV, properly characterize this witness as an expert on children within the fighting forces”. *Ibid.*, at 5.

Expert testimony is “testimony intended to enlighten the Judges on specific issues of a technical nature, requiring special knowledge in a special field”³. The purpose of expert evidence “is to provide a court with information that is outside its ordinary experience and knowledge. Indeed, a Trial Chamber should refrain from acting as its own expert in cases where expert evidence is appropriate”⁴.

6. A liberal approach to the admission of expert testimony is the norm before international criminal tribunals. This Chamber has already heard and admitted expert testimony on (i) military command and control⁵, (ii) the use of child combatants⁶, and (iii) forensic anthropology⁷. The International Criminal Tribunal for Rwanda (the “ICTR”) has allowed testimony by cultural, political, socio-economic, historical, military, linguistic, and forensic experts⁸. The International Criminal Tribunal for the former Yugoslavia (the “ICTY”) has allowed testimony by background, ballistic, forensic medicine, and military experts⁹. Indeed, expert evidence with respect to historical and sociological issues has been found to be of particular relevance to proceedings before international criminal tribunals given the peculiar nature of the “circumstances and background of the crimes that are [their] subject matter”¹⁰.
7. The Defence’s proposed expert witness, Daniel J. Hoffman, PhD, is a member of the Department of Anthropology at the University of Washington in Seattle, Washington USA. He joined that faculty in September 2004, after completing his doctoral studies at Duke University in Durham, North Carolina USA, which included the preparation of a

² *Prosecutor v. Norman et al.*, SCSL-2004-14-T-435, Trial Chamber I, ‘Decision on Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures’, 21 June 2005 at 4, *citing Prosecutor v. Galic*, IT-98-29-T, ‘Decision Concerning the Expert Witnesses Ewa Tabeau and Richard Phillips’, 3 July 2002 at 2.

³ *Ibid.*, (*citing Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber I, ‘Decision on a Defence Motion for the Appearance of an Accused as an Expert Witness’, 9 March 1998, at 2).

⁴ *Ibid.*, (*citing* RICHARD MAY AND MARIEKE WIERDA, INTERNATIONAL CRIMINAL EVIDENCE (Transnational 2002), ¶ 6.83).

⁵ *See Prosecutor v. Norman et al.*, SCSL-2004-14-T, Trial Transcript of 14 June 2005 (testimony of TF2-EW1).

⁶ *Ibid.*, Trial Transcript of 16 June 2005 (testimony of TF2-EW2).

⁷ *Ibid.*, Trial Transcript of 20 June 2005, (testimony of TF2-EW3).

⁸ *See, e.g., Prosecutor v. Nahimana et al.*, ICTR-99-52-T, Trial Chamber I, ‘Decision on the Expert Witness for the Defence’, 24 January 2003.

⁹ *See, e.g., Prosecutor v. Galic*, IT-98-29-T, Trial Chamber I, ‘Decision on the Expert Witness Statements Submitted by the Defence’, 27 January 2003.

¹⁰ MAY AND WIERDA, n 4 *supra.*, ¶¶ 6.94 and 6.96 (“it may be necessary for the judges to familiarize themselves with the context in which the crimes were committed. ... Evidence of a general sociological nature may also assist the Trial Chamber in understanding the cultural context of the crimes”). *See, e.g., Prosecutor v. Kupreskic et al.*, IT-95-16-T, Trial Chamber, ‘Judgment’, 14 January 2000, ¶¶ 75-76 (where the Chamber itself called an anthropologist with experience in the way of life in villages similar to that which was the subject of the trial); *see also Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber I, ‘Judgment’, 2 September 1998, ¶ 172.

book-length ethnographic study of the Kamajors. In 1999, Dr Hoffman worked as a contract photographer in several conflict zones including Kosovo, Bosnia, Somalia, Burundi, and the Democratic Republic of the Congo.

8. Dr Hoffman is a socio-cultural anthropologist with a particular focus on irregular combatants in the Mano River region of West Africa. The author of numerous scholarly publications on the anthropology of armed conflict in Sierra Leone and Liberia, Dr Hoffman regularly lectures on similar topics at his university and at academic conferences. He has submitted expert witness reports to the United States Immigration Court on two occasions, once in support of the asylum claim of a Sierra Leonean refugee and once on behalf of a Liberian. Dr Hoffman's *curriculum vitae* is attached hereto as Appendix B.
9. As explained in greater detail below, by virtue of his specialised knowledge of irregular combatants in general and the Kamajors in particular, he will assist the Chamber to understand and determine Mr Fofana's alleged responsibility under Article 6.3 of the Statute. Dr Hoffman's proposed testimony is intended "to provide [the Chamber] with information that is outside its ordinary experience and knowledge"¹¹ and to offer a counter-narrative to the Prosecution's description of the events which unfolded in Sierra Leone during the period relevant to the Indictment. Accordingly, the Defence submits that the Chamber should acknowledge Dr Hoffman's expertise.

Scope and Domain of the Witness's Expertise

10. An expert's testimony should be restricted to his field of expertise: "An expert may be called upon to draw inferences or to formulate an opinion from particular facts based on his professional knowledge and experience, or he may be called on to give evidence on facts which are not obvious to the layman but which his professional knowledge and experience enable him to perceive"¹². However, an expert must not usurp the role of the Chamber by testifying as to the criminality of the accused. This would violate the so-called ultimate issue rule, which prohibits an expert witness from offering "his opinion on

¹¹ See n 4 *supra*.

¹² MAY AND WIERDA, n 4 *supra*, ¶ 6.88.

the criminal liability of the accused, a matter which falls within the sole jurisdiction of the Chamber at the close of the trial”¹³.

11. In his report and if called upon to testify before the Chamber, Dr Hoffman will draw inferences from *facts* based on his particular knowledge and experience, inferences relevant to the charges contained in the Indictment and designed to assist the Chamber in its determination of the ultimate issues. The witness himself, however, will not give testimony as to the alleged criminal liability of Mr Fofana.
12. Like Colonel Iron before him, Dr Hoffman will assist the Chamber in understanding and determining the issues related to the structure and organisation of the CDF through the prism of a different, though no less informative, domain of expertise. Based on his extensive knowledge—both anthropological and historical—of the post-colonial West African war-scape and the actors who inhabit it, Dr Hoffman will draw factual conclusions with respect to the relationship between and among Kamajor commanders and fighters. Moreover he will describe the various localised patronage networks and regional centres of power, which the Defence submits will accurately portray and elucidate certain behaviour of Sierra Leone’s civil militia.

Bases of the Witness’s Expertise

13. As a general matter, the bases of Dr Hoffman’s expertise are his specialised education and the empirical and scholarly research associated with his current posting, including his numerous publications and extensive teaching experience. More specifically, with respect to his academic research on the Kamajors, Dr Hoffman conducted at least one year of field work in various locations throughout southern and eastern Sierra Leone and the greater Mano River region¹⁴. During this time, he conducted nearly two hundred interviews with Kamajor combatants as well as ULIMO¹⁵ and LURD¹⁶ fighters.

¹³ *Ibid.*, (citing *Prosecutor v. Hadzihasanovic and Kubura*, IT-01-47-T, ‘Decision on Report of Prosecution Expert Klaus Reinhardt’, 11 February 2004, ¶¶ 11 and 13). See, e.g., *Prosecutor v. Kordic and Cerkez*, IT-95-14/2-T, Transcript of 28 January 2000 at 13289-13290 and 13306-13307.

¹⁴ In researching his doctoral dissertation, “The Kamajors of Sierra Leone”, Dr Hoffman conducted fieldwork in Sierra Leone during July–August 2000, September 2001–April 2002, and September 2003. He conducted similar fieldwork in Guinea and Liberia in April 2002 and again in Sierra Leone and Liberia in August–September 2005.

¹⁵ United Liberation Movement for Democracy (in Liberia).

¹⁶ Liberians United for Reconciliation and Democracy.

14. With respect to the preparation of his report for the instant case, Dr Hoffman drew upon his previous experience and research as well as new information collected over a ten-day visit to Sierra Leone in March of this year. This most recent research included lengthy interviews with the three accused persons and approximately twenty-five additional Kamajor combatants and CDF administrators in Freetown, Bo, Kenema, and surrounding areas. Additionally, Dr Hoffman has reviewed the record of the CDF case to date, including the testimony of all so-called “insider” witnesses and that of the Prosecution’s experts. Since returning to Seattle, he has conducted further research, reading, and conversations with colleagues related to the preparation of his report.
15. In accordance with the applicable jurisprudence, Dr Hoffman’s report will include a detailed list of the sources utilized in its preparation¹⁷.

Relevance of the Witness’s Expertise

16. As with all evidence before international criminal tribunals, a liberal approach to admissibility applies to expert testimony: “an expert may provide the judges with *any information useful to an evaluation of the facts*”¹⁸. The threshold for admissibility under the Rules of Procedure and Evidence (the “Rules”) is relevance¹⁹. Accordingly, “an expert witness statement must relate to an issue in dispute at trial in order to constitute relevant evidence that may have probative value within the meaning of Rule 89(C)”²⁰.
17. Dr Hoffman’s evidence will consist of factual observations related to (i) general matters of history and ethnography relevant to the Kamajors’ participation and role in the conflict in Sierra Leone and (ii) specific, disputed allegations contained in the Prosecution’s indictment. Both categories, the former no less than the latter²¹, are relevant to a meaningful evaluation of the facts under Rule 89(C).

¹⁷ See, e.g., *Prosecutor v. Stanislav Galic*, IT-98-29-T, Trial Chamber I, ‘Decision on the Expert Witness Statements Submitted by the Defence’, 27 January 2003.

¹⁸ *Ibid.*, ‘Decision Concerning the Expert Witnesses Ewa Tabeau and Richard Phillips’, 3 July 2002 (emphasis added) (citing *Prosecutor v. Hadzihasanovic and Kubura*, IT-01-47-T, ‘Decision on Report of Prosecution Expert Klaus Reinhardt’, 11 February 2004).

¹⁹ See Rule 89(C): “A Chamber may admit any relevant evidence”.

²⁰ *Prosecutor v. Galic*, IT-98-29-T, ‘Decision Concerning the Expert Witnesses Ewa Tabeau and Richard Phillips’, 3 July 2002.

²¹ It is submitted that international criminal tribunals should admit expert testimony aimed at placing the alleged crimes in historical and socio-cultural context so as to prevent the danger of fixing a historical record devoid of social meaning or nuance. See n 10, *supra*.

18. A non-exhaustive résumé of Dr Hoffman's proposed evidence is attached hereto as Appendix C. This résumé is organised with reference to the disputed portions of the Indictment and includes examples of the witness's anticipated evidence as well as the Defence's position as to its relevance.

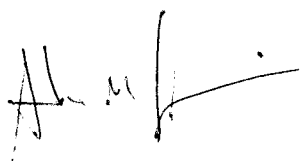
Procedural Matters

19. Finally, with respect to the disclosure and filing of Dr Hoffman's expert report—which is now in the final stages of its preparation—the Defence will strictly comply with the requirements set forth in the Rules, which mandate disclosure to the opposing party “as early as possible” and filing with the Chamber “not less than twenty-one days prior to the date on which the expert is expected to testify”²². It is anticipated that Dr Hoffman's report will be disclosed to the interested parties before the summer recess, and in any event, as soon as possible. The report will be filed with the Chamber at least twenty-one days in advance of Dr Hoffman's proposed testimony.

CONCLUSION

20. For the reasons outlined above, the Defence respectfully requests the Chamber to recognize Dr Hoffman as an expert and to accept his proposed evidence as *prima facie* relevant to the charges against Mr Fofana contained in the Prosecution's indictment.

COUNSEL FOR MOININA FOFANA



Victor Koppe

²² Rule 94bis.

APPENDIX A
Defence List of Authorities

Constitutive Documents of the Special Court

1. Rules of Procedure and Evidence: Rules 89(C) and 94*bis*

Jurisprudence of the Special Court

2. *Prosecutor v. Norman et al.*, SCSL-2004-14-T-435, Trial Chamber I, 'Decision on Prosecution Request for Leave to Call Additional Witnesses and for Orders for Protective Measures', 21 June 2005
3. *Prosecutor v. Norman et al.*, SCSL-2004-14-T, Trial Transcripts of 14 June 2005, 16 June 2005, and 20 June 2005

Jurisprudence of the *Ad Hoc* Tribunals

4. *Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber I, 'Judgment', 2 September 1998
5. *Prosecution v. Galic*, IT-98-29-T, Trial Chamber I, 'Decision on the Expert Witness Statements Submitted by the Defence', 27 January 2003
6. *Prosecutor v. Galic*, IT-98-29-T, Trial Chamber I, 'Decision Concerning the Expert Witnesses Ewa Tabeau and Richard Phillips', 3 July 2002
7. *Prosecutor v. Kordic and Cerkez*, IT-95-14/2-T, Trial Transcript of 28 January 2000
8. *Prosecutor v. Kupreskic et al.*, IT-95-16-T, Trial Chamber, 'Judgment', 14 January 2000
9. *Prosecutor v. Nahimana et al.*, ICTR-99-52-T, Trial Chamber I, 'Decision on the Expert Witness for the Defence', 24 January 2003

Other Authorities

10. RICHARD MAY AND MARIEKE WIERDA, INTERNATIONAL CRIMINAL EVIDENCE (Transnational 2002)

APPENDIX B

***Curriculum Vitae* of Daniel J. Hoffman PhD**

CURRICULUM VITAE

Daniel Hoffman

Box 353100
 Department of Anthropology
 University of Washington
 Seattle, WA 98195-3100
 djh13@u.washington.edu

602 N 41st Street
 Seattle, WA 98103

CURRENT APPOINTMENT

Assistant Professor of Anthropology, University of Washington (appointment beginning Sept. 2004)

EDUCATION

PhD

Sept. 2004, Department of Cultural Anthropology, Duke University

MA

2001, Department of Cultural Anthropology, Duke University

BA, with honors

1994, Department of Anthropology, Princeton University

Tibetan Studies certificate

1993, School for International Training (Dharamsala, India; Katmandu, Nepal)

PROFESSIONAL EXPERIENCE

May 1999 – September 1999.

Contract photographer, International Medical Corps (medical NGO)

Contracted for coverage of operations in Kosovo, Bosnia, Somalia, Burundi, DR Congo

June 1994 – January 1998.

Freelance photojournalist based in Johannesburg, RSA

Clients include AP, AFP, Reuters, *Weekly Mail & Guardian* (Johannesburg)

January 1995 – January 1998.

Contract photographer, Black Star Photo (New York), based in Johannesburg, RSA

Clients include *Newsweek*, *New York Times*, *Der Spiegel*, *US News & World Report*

GRANTS AND AWARDS

2005

Royalty Research Fund, University of Washington

2001

Social Science Research Council / International Dissertation Research Fellowship

Social Science Research Council / Global Security and Cooperation Program Fellowship

The Wenner-Gren Foundation Individual Research Grant (declined)

Advanced International Studies Fellowship, Duke University Graduate School (declined)

2000

Graduate Award for International Research Travel (summer), Duke University Graduate School

Center for International Studies Travel Award (summer), Duke University

PUBLICATIONS

Under review

“Militias,” *New Encyclopedia of Sub-Saharan Africa*

“The City as Barracks: Freetown, Monrovia and the Organization of Violence in Postcolonial African Cities,” *Cultural Anthropology*.

“The Disappeared: Images of the Environment at Freetown’s Urban Margins,” *Visual Anthropology*.

Scholarly articles and chapters

“Disagreement: Dissent Politics and the War in Sierra Leone” *Africa Today* 15(3).

“Despot Deposed: Charles Taylor and the Challenge of State Reconstruction in Liberia,” in *Legacies of Power*, R. Southall and J. Daniels, eds. Pretoria, South Africa and Uppsala, Sweden: Human Sciences Resource Council and the Nordic Africa Institute.

“Violent Events as Narrative Blocs: The Disarmament at Bo, Sierra Leone,” *Anthropological Quarterly* Vol. 78, No. 2 (2005).

“The Brookfields Hotel (Freetown, Sierra Leone)”, *Public Culture* Vol. 17, No. 5 (2005).

“The Civilian Target in Sierra Leone and Liberia: Political Power, Military Strategy, and Humanitarian Intervention”, *African Affairs* 103 (2004), 211-226.

“Irregular Combatants and the International Human Rights Discourse in the Mano River Conflict Zone”, *Africa Today* Vol. 50, No. 4 (co-authored with Mariane Ferme)

“The Submerged Promise: Strategies for Ethnographic Writing in a Time of War”, *Anthropological Quarterly*, Vol. 77, No. 2 (2004), 323-330.

“Like Beasts in the Bush: Synonyms of Childhood and Youth in Sierra Leone”, *Postcolonial Studies*, Vol. 6, No. 3 (2003), 295-308.

“Frontline Anthropology: Research in a Time of War”, *Anthropology Today* (2003) 19(3): 9-12.

“Combattants irreguliers et discours international des droits de l’homme dans les guerres civiles africaines. Les cas des ‘chasseurs’ sierra-leonais” *Politique Africaine* No. 88, December, 2002. (co-authored with Mariane Ferme)

On-line publications

“September 11 in Sierra Leone”, *GSC Quarterly* No. 3, Winter 2002. <http://www.ssrc.org/gsc/newsletter3/>

“The Academy and Conflict in Sierra Leone: An interview with Dr. Joe A.D. Alie”, *GSC Quarterly* No. 3, Winter 2002. <http://www.ssrc.org/gsc/newsletter3/>

Opinion and op-ed pieces

“America has compelling interest in Liberia”, *The Observer* (Charlotte, NC) 27 July 2003 (Sunday).

“Another view on Liberia”, *The New Mexican* (Santa Fe, NM) 22 July 2003.

“African object lessons for Iraqis”, *News and Observer* (Raleigh, NC) 24 April, 2003.

Book Reviews

“No War No Peace,” by Paul Richards in *Africa Today* 52(2)

“Beyond Plunder,” by Amos Sawyer for *Journal of Modern African Studies* (forthcoming)

Photographs and photo-essays

Photo of kamajors. Published in “from the field” *Public Culture* Vol. 14, No. 2, Spring 2002.

“Images of a Dark Continent: the misrepresentation of Africa” *Mental Floss*. June, 2001. Vol. 1, No. 1

News coverage of Africa and the Balkans published in *The New York Times*, *Newsweek*, *Der Spiegel*, *US News & World Report*, and newspapers and magazines worldwide through distribution via Associated Press, Agence France Presse, Reuters, and the Black Star photo agency.

PRESENTATIONS

- 2006 “The City as Barracks,” paper presented at the “Geographies of Violence” invited workshop, University of Texas, Austin (28 February)
- 2005 “Building the Barracks: The Brookfields Hotel and the Nomos of Atlantic Postmodernity” paper presented to the “War and the Atlantic World” symposium, Duke University (22 April)
- 2005 “Despot Deposed: Charles Taylor and the Challenge of State Reconstruction in Liberia” paper presented at invited talk at Yale University Program on Order, Conflict, and Violence (March 23)
- 2005 “African War Photography: Four Projects,” paper presented to Center for African Studies, University of Florida 2005 Gwendolyn Carter Conference, “States of Violence: The Conduct of War in Africa” (March 17-19)
- 2005 “Building the Barracks: Local Warriors and Global Militaries” paper presented to the Project for Critical Asian Studies and the Simpson Center, University of Washington (April 22)
- 2004 “Despot Deposed: Charles Taylor and the Challenge of State Reconstruction in Liberia” paper presented at the Presidential Transitions conference, Cape Town, South Africa. Dec. 8-9.
- 2003 “Writing in a Time of War” paper presented at American Anthropological Association Annual Meetings, Chicago, IL. Nov. 19-23.
- 2003 “Child on the Wing: Children Negotiating the Everyday in the Geography of Violence” invited workshop of the Rockefeller Foundation’s Humanities and the Study of Culture Program, John Hopkins University. Nov. 15 (organized by Dr. Veena Das and Dr. Pamela Reynolds).

- 2003 "The Benefits of Youth" paper presented at African Studies Association Annual Meetings, Boston MA. Oct. 29 - Nov. 2.
- 2003 "The Civilian Target in Sierra Leone and Liberia" paper presented at American Political Science Association Annual Meetings, Philadelphia, PA. August 29.
- 2003 Panel discussant, "The Baghdad Project" (fund-raiser for independent media in Iraq), Santa Fe, NM. August 16.
- 2003 "Liberia / US Relations, The Cold War and Today" joint lecture and film screening with T. Nelson Williams, former Liberian Deputy Minister of Information, in conjunction with Perkins Library Special Collections, Duke University. March 17.
- 2003 "Frontline Anthropology" paper presented at Martin Luther King, Jr. Day panel discussion, "Scholarship and Activism in a Time of War", Duke University. January 19.
- 2002 SSRC/IDRF Fellows conference, Austin, TX. November 18-22.
- 2001 SSRC/GSC Fellows conference, Belfast, Ireland. August 26-30.

TEACHING

January 2006 – March 2006

Instructor, ANTH 209 "Anthropology Through Visual Media"
Department of Anthropology, University of Washington

September 2005 – December 2005

Instructor, ANTH 313 "Peoples of Africa"
Department of Anthropology, University of Washington

Instructor, ANTH 581 "Dissertation Writing"
Department of Anthropology, University of Washington

March 2005 – June 2005.

Instructor, ANTH 567 "Theories in Sociocultural Anthropology"
Department of Anthropology, University of Washington

Instructor, ANTH 469, "Visual Anthropology"
Department of Anthropology, University of Washington

January 2005 – March 2005.

Instructor, ANTH 313 "Peoples of Africa"
Department of Anthropology, University of Washington

Instructor, ANTH 561 "War & Society"
Department of Anthropology, University of Washington

January 2004 – May 2004.

Instructor, undergraduate seminar 'War and Society'
Department of Cultural Anthropology, Duke University

January 2003 – May 2003.

Instructor, lecture course 'Introduction to African Studies'
Program in African and African American Studies, Duke University

September 2000 – May 2001.

Instructor, 'Senior Thesis Writing Seminar'
Department of Cultural Anthropology, Duke University

January 2000 – May 2000.

Teaching Assistant (discussion section instructor), 'Film and Anthropology'
Department of Cultural Anthropology, Duke University

OTHER

2004

Expert witness, asylum claim of Liberian refugee represented by Law Offices of Carol L. Edward
& Associates, Seattle (USA)

2003

Expert witness, asylum claim of Sierra Leonean refugee represented by Villanova University
Law Clinic (USA)

APPENDIX C

Résumé of Proposed Evidence of Daniel J. Hoffman PhD

General Contextual Matters

With a view to contextualising the evidence before the Chamber and situating the Kamajors within an accurate factual narrative of the conflict in Sierra Leone, Dr Hoffman will discuss general matters of history and ethnography based on his areas of academic research. These will likely include, *inter alia*, the patronage networks that led to the war and gave a certain sociological logic to the way it was conducted; Kamajor fighters as violent labourers in a global economy and consumers of a global popular culture; the potentiality of youth for violence and the possibility of understanding such violence as political discourse, that is, as part of a struggle for visibility and speech; and the shifting thinking that accompanied the movement of fighters across international borders.

Apart from simply providing contextual background, such information will be used to counter the Prosecution's meta-narrative of the CDF as a criminal organisation and its (flawed) position that any prohibited activity committed by individual, allegedly subordinate Kamajors is necessarily attributable to Mr Fofana through a vertical chain of command based on traditional conceptions of military organization. It is anticipated that Dr Hoffman will counter the overly simplified version of events presented to date by describing a much more nuanced state of affairs: a war that has migrated along with young combatants, refugees, traders, arms, diamonds, and NGOs over fifteen years and the porous borders of Guinea, Sierra Leone, and Liberia, Côte d'Ivoire (not to mention ties to Libya, South Africa, the UK and the USA). For example, to the extent that some Kamajor atrocities may be understood as the political expressions of a disaffected youth culture struggling for visibility through violence, the Prosecution's theories of criminal enterprise and effective control break down.

Additionally, Dr Hoffman will attempt to show that the prosecution's "Clausewitzian"²³ narrative of the conflict in Sierra Leone as simply the sequence of men's movements on the battlefield is a serious misreading of the totality of the events that actually transpired here.

²³ Referring to the Prussian military theorist Carl von Clausewitz.

Specific Matters in Dispute

Dr Hoffman's report will provide factual opinions related to several key issues in dispute. The Prosecution has attempted to characterise the CDF as an organised armed force and further attempted to situate Mr Fofana as a superior figure within that organisation, wielding a wide and high level of control. Such issues of organisation and control are significant in so far as Mr Fofana faces criminal responsibility not only for the actions he is said to have committed himself, but also for those of his alleged subordinates within the CDF. Dr Hoffman's expert conclusions, related to the following specific allegations, are intended to assist the Chamber in arriving at a fully informed determination of the matters in dispute.

*The CDF was an organised armed force*²⁴

Dr Hoffman will report on the CDF as an organisation and, rather than portraying it as a singular, organized armed force with a centralized command structure, he will suggest that it is more accurately described as a cluster of overlapping militarised elements whose identifiable bodies and mobilizations were based largely around regional affiliation which lacked a central command and fixed organizational structure.

Dr Hoffman will bring his expertise to bear on the evidence suggesting that local chiefs and patrons exercised greater authority over Kamajor fighters than any centralised administrative or military body and how, as the state bureaucracy retreated and ultimately collapsed, greater reliance was placed on traditional authorities and networks of power. For example, he will likely conclude that centralised organizations were viewed with great scepticism by the average citizen including many of the Kamajor fighters.

Additionally, Dr Hoffman will draw conclusions based on the evidence that the costs of Kamajor conscription were borne largely by the local chiefs and that those participating in hostilities were often put forward for initiation by village elders to whom a great deal of loyalty was shown. He will explore the ethnographic ramifications of such networks of patrimonial patronage and their impact on relationships between and among Kamajor fighters and commanders.

²⁴ See Indictment, ¶ 6.

Further, even assuming a moderately organized centre of power at Base Zero during the push to regain control of Sierra Leone, the evidence to date suggests that it served as only one locus of the cross-country drive to liberate the country and that another equally important quasi-organisational centre existed at Gendema/Bo Waterside under the command of Eddie Massally. Based on his research and assessment of the evidence, Dr Hoffman will address the ethnographic implications of the rift between Messrs. Norman and Massally, which appears to have caused some but by no means all of the Kamajors to assemble at Base Zero, and the organisational consequences of that division.

As the National Director of War, Moinina Fofana was seen and known as a top leader of the CDF²⁵

The relevant issue here is the extent to which the mere holding of a title corresponded to the possession of any actual authority within the CDF. Dr Hoffman will comment on the evidence in this regard, explaining the objective significance or lack thereof associated with much of the terminology used by the Kamajors, with particular reference to their adoption of many of the tropes and jargon of Western military and pop culture, the obvious examples of which are the heavy borrowing of terms such as “commander” to refer to men who had no real experience on the battlefield and the adoption of aliases such as “Chuck Norris” and “Rambo” designed to instil fear by their mere mention.

As National Director of War, Moinina Fofana had direct responsibility for implementing policy and strategy for prosecuting the war; he liaised with field commanders, supervised and monitored operations; he gave orders to and received reports about operations from subordinate commanders, and he provided them with logistics including supply of arms and ammunition²⁶

Such allegations, couched as they are in the jargon and terminology familiar to a traditional military force, are typical of the Prosecution’s approach to the CDF as an organisation. However, it will be instructive to examine how these concepts translate into the Kamajor culture. Dr Hoffman will explain what exactly is meant by certain terminology used by the Kamajors and, based on his expertise, expose certain flawed assumptions embedded in the Prosecution’s allegations and case presentation.

²⁵ See Indictment, ¶ 14.

²⁶ See Indictment, ¶ 15.

For example, whereas the Prosecution assumes a rather pedestrian meaning to the term “commander”—that of a regimental officer of a typical western military—Dr Hoffman will explain that the term is heavily loaded with meaning drawn from the patrimonial patronage systems which informed much of the Kamajor’s activity and interaction, connotations not obvious to the layman.

*Moinina Fofana, as the National Director of War of the CDF, knew of and approved the use of children to participate actively in hostilities*²⁷

Dr Hoffman will report on the traditional role of “children” in Mende society and how that role was affected by the war, a war in which initiation and participation with one of the fighting forces was arguably synonymous with the rights and responsibilities of manhood itself. Such analysis will support the Defence’s theory that it was highly unlikely that Mr Fofana had actual knowledge that any of the Kamajor fighters were below the age of fifteen, let alone that he approved the use of any such combatants.

*The alleged criminal activity was within a common purpose, plan or design in which Mr Fofana participated or was a reasonably foreseeable consequence of the common purpose, plan or design in which Mr Fofana participated*²⁸

An indispensable element of the Prosecution’s joint criminal enterprise theory is the existence of a common plan, design, or purpose, which amounts to or involves the commission of a crime provided for in the Statute. However, it is the Defence position that the commission of any Kamajor atrocities were the actions of renegade individuals, and that the only discernable common plan, purpose, or design was the CDF’s goal to restore democracy to Sierra Leone and protect and defend the country.

In this regard, Dr Hoffman will explain that one of the most fundamental, inviolable rules of the Kamajors was expressed as *baa woteh* (roughly, “do not turn”) the implication of which was that a Kamajor initiate should show no fear or run from combat, but more importantly that he should not turn on his companions or members of the civilian population. Such evidence is relevant in terms of refuting the Prosecution’s theory that the purpose of the CDF was a criminal one.

²⁷ See Indictment, ¶ 17.

²⁸ See Indictment, ¶ 20.

*As Director of War, Mr Fofana, individually or in concert with Messrs. Norman and Kondewa, exercised authority, command and control over all subordinate members of the CDF*²⁹

The issue here is the presence or lack of effective command and control. Again, this allegation assumes vertical command along the lines of a traditional military structure. Dr Hoffman will provide the Chamber with opinions of fact aimed at assisting the Chamber to determine whether the Prosecution's implicit assumption is appropriate, whether command within the CDF operated along an alternative framework (such as the loosely affiliated chiefdom-based centres of power as described by some of the evidence to date), or whether no one in particular was in control of the violence of the movement.

For example, Dr Hoffman's will be able to draw relevant factual conclusions with respect to the mercenary nature of the parties to the conflict (including some of the Kamajors who later went on to fight in Liberia) and the presence of ULIMO combatants fighting alongside the Kamajors in Sierra Leone.

*The Widespread and Systematic Nature of the Attacks*³⁰

Relevant to the issue of the widespread and systematic nature of the alleged attacks is the extent to which the Kamajors' participation in the war in Sierra Leone may have been, in many ways, more simulacra than sustained methodical campaign. That is to say, the Prosecution's position with respect to the scope and character of Kamajor combat may be significantly overstated. For example, the degree to which ambushes were the most common tactic and, the possibility that most CDF "attacks" involved aggressive displays of weaponry and personnel but very little actual fighting, suggest that the alleged violations may not be properly assessed as crimes against humanity. Dr Hoffman will draw factual conclusions relevant to this assessment.

²⁹ See Indictment, ¶ 18.

³⁰ See Indictment, ¶ 10.