

DRAKE LAW REVIEW

THE COMPACT MODEL IN
INTERNATIONAL CRIMINAL JUSTICE:
THE SPECIAL COURT FOR
SIERRA LEONE

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I. INTRODUCTION

A. *The Conflict in Sierra Leone*

Like the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) that I discussed in an address and law review article last year,¹ the Special Court

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1. Stephen J. Rapp, *Achieving Accountability for the Greatest Crimes—The*

for Sierra Leone (SCSL) is an institution established to try violations of international humanitarian law committed at a specific place and during a specific period of time. It was created because atrocities were committed during the course of the civil war fought in Sierra Leone between 1991 and 2002—atrocities that our judges recently described as being “some of the most heinous, brutal and atrocious crimes ever recorded in human history.”² The SCSL’s territorial jurisdiction is bounded by the borders of the Republic of Sierra Leone, and its temporal jurisdiction is bounded by the span between November 30, 1996, the date of the failed Abidjan peace accord, and January 16, 2002, the date when active hostilities ended.³

According to all independent observers, the greatest atrocities were committed by a group known as the Revolutionary United Front (RUF).⁴ It was led by former Sierra Leone Army Corporal Foday Saybanah Sankoh, who claimed the group was fighting to establish a government that would serve the interests of all citizens of Sierra Leone.⁵ In March 1991, when the RUF launched its revolution with an attack across the border from Liberia, there was no doubt that Sierra Leone had suffered under a series of postcolonial governments that were ostensibly democratic but served successively narrower groups within the population.⁶ These governments neglected infrastructure and public services and exploited the country’s abundant natural resources, particularly the famous diamond fields, for their own corrupt ends.⁷ Within a year of the beginning of the civil war, the elected government was overthrown by junior military officers who promised to battle corruption while continuing to fight the RUF rebellion.⁸

Legacy of the International Tribunals, 55 DRAKE L. REV. 259 (2007).

2. Prosecutor v. Brima, Case No. SCSL-2004-16-T, Sentencing Judgement, ¶ 34 (July 19, 2007).

3. Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, U.N.-Sierra Leone, art. 1(1), Jan. 16, 2002, 2178 U.N.T.S. 138 [hereinafter U.N.-Sierra Leone Agreement].

4. See, e.g., LANSANA GBERIE, *A DIRTY WAR IN WEST AFRICA: THE RUF AND THE DESTRUCTION OF SIERRA LEONE* 6 (2005) (describing the RUF as “spearheading [the] destruction” during the Sierra Leonean civil war); JOHN L. HIRSCH, *SIERRA LEONE: DIAMONDS AND THE STRUGGLE FOR DEMOCRACY* 13 (2001) (“The brutal violence that the Revolutionary United Front (RUF) inflicted on a defenseless population has sent a chilling reminder that the battle to defeat evil is never over.”).

5. GBERIE, *supra* note 4, at 6.

6. See HIRSCH, *supra* note 4, at 28–31 (summarizing the governance of Sierra Leone from the 1960s to the 1990s).

7. See *id.*

8. Paul Richards, *War and Peace in Sierra Leone*, 25 FLETCHER F. WORLD

Sankoh and the other leaders of the RUF criticized the antidemocratic nature of the new military government, but after elections were arranged, they did everything they could to obstruct the democratic process.⁹ In fact, they began committing one of the most famous crimes of the Sierra Leone conflict—chopping off the hands and arms of civilians.¹⁰ Innocent victims would be captured in villages and sometimes cynically offered the choice of “short sleeves or long sleeves”—amputation above or below the elbow.¹¹ This was a symbolic way for the RUF to respond to elections in which it did not want to participate.¹² It was thought that people needed hands to vote, and the winning presidential candidate, Dr. Abdul Tejan Kabbah, had campaigned on the slogan of “let’s put hands together to create a new future.”¹³ As the perpetrators often told their weeping victims, “For those who survive, Kabbah will give you hands.”¹⁴ It was also part of the method by which the war was fought. The public had not rallied to the cause of the RUF; instead, winning was to be achieved through a campaign of terror, with RUF members committing acts so awful against persons so innocent that all would cower and submit to an RUF victory.

B. *A Campaign of Terror*

The Sierra Leone conflict must be understood in context. This civil war was not the only one of its kind and it was not started solely by those from Sierra Leone. According to the evidence that had been presented during trials in the Special Court—including the trial of Charles Taylor in The Hague—Foday Sankoh of Sierra Leone, Charles Taylor of Liberia, and rebel leaders from The Gambia had prepared for civil wars in training camps in Libya in the late 1980s.¹⁵ In these camps, the rebels developed plans to overthrow governments in each of their countries, one after the other, in order to exploit the natural resources of these countries for their

AFF. 41, 42 (2001).

9. HIRSCH, *supra* note 4, at 43–45.

10. *Id.*

11. 3A SIERRA LEONE TRUTH & RECONCILIATION COMM’N, WITNESS TO TRUTH: REPORT OF THE SIERRA LEONE TRUTH & RECONCILIATION COMMISSION 476 (2004), available at <http://www.trcsierraleone.org/pdf/FINAL%20VOLUME%20THREE/VOLUME%203%20A.pdf>.

12. Such acts were part of the RUF’s “Operation Stop Elections” campaign. *Id.* at 473.

13. *Id.* at 476.

14. *Id.*

15. GBERIE, *supra* note 4, at 51–52.

mutual benefit.¹⁶

They decided the first attack would occur in Liberia, where a 1980 coup had brought to power a government that had become increasingly unpopular.¹⁷ Accordingly, in December 1989, Charles Taylor launched an attack in northern Liberia led by his own National Patriotic Front of Liberia (NPFL), but with the participation of Sierra Leoneans and Gambians.¹⁸ This began a brutal civil war that featured some of the same kinds of atrocities later committed in Sierra Leone. In response to this attack, West African nations deployed a regional peacekeeping force known as the Economic Community of West African States Monitoring Group (ECOMOG).¹⁹ Taylor did not want any peace that did not bring him to power; thus, his forces soon came into conflict with ECOMOG.²⁰ ECOMOG made use of bases provided by the government of Sierra Leone from which it carried out attacks on Taylor's forces in Liberia in late 1990.²¹ This angered Taylor and appeared to have accelerated Taylor's plans to carry the conflict into Sierra Leone.²² As he told an international journalist in November 1990, Sierra Leone would soon "taste the bitterness of war."²³

True to his word, in March 1991, Taylor sent his and Foday Sankoh's RUF forces into Sierra Leone and began a civil war that would last eleven years.²⁴ As noted earlier, the RUF's conduct of civil war was characterized by a campaign of terror. The targets were not military bases, enemy soldiers, or even sections vital to government infrastructure. The targets were civilians, and their homes and villages, and the acts included murder, mutilation, rape, and the gruesome display of dismembered corpses—acts with no benefit to the perpetrators other than to spread fear far and wide.²⁵ They included the enslavement or conscription of human beings as sex slaves or bush wives, as supply carriers or diamond diggers, and in some

16. *Id.* at 52, 54.

17. *See id.* at 53 (describing the 1980 coup and its key figures).

18. *Id.* at 54.

19. *Id.* at 56.

20. *Id.* at 56–57.

21. HIRSCH, *supra* note 4, at 32.

22. *See id.* (discussing Taylor's arming of the RUF in retaliation for the Sierra Leone government's assistance to ECOMOG forces).

23. 2 SIERRA LEONE TRUTH & RECONCILIATION COMM'N, *supra* note 11, at 4 n.1.

24. Richards, *supra* note 8, at 41.

25. Prosecutor v. Brima, Case No. SCSL-04-16-PT, Indictment, ¶ 39 (Feb. 18, 2005).

cases—particularly with young victims—as combatants.²⁶ These acts yielded benefits to the perpetrators, but their commission also resulted in fear and intimidation.

Because of these actions, the indictments at the Special Court have included charges for the war crime of “acts of terrorism.”²⁷ At a time when world leaders speak of a “war on terror,” this is a historic development. In the past, many infamous crimes have constituted acts of terrorism. In the former Yugoslavia, ethnic cleansing—attacks on members of an ethnic or religious group to cause them to leave their town, abandon their property, or surrender their land to members of another group—was accomplished through a campaign of terror involving the murder and rape of a relative few as a means of driving out the many.²⁸ There has also been the kind of terrorism practiced by al-Qaeda—the mass killings of civilians intended to force America and its allies to withdraw their presence from Muslim lands, particularly Saudi Arabia, the site of their holy places. Finally, there has been the kind of terrorism practiced by some liberation movements—the launching of widespread attacks on civilian targets in order to bring forth an oppressive overreaction by government authorities in the hope of building support for the insurrection. In each of its forms, terrorism involves intentional attacks on the innocent to accomplish a military or political objective. It was the hallmark of the conflict in Sierra Leone, it was the cause of unimaginable suffering, and its prohibition in international law has been given force by the Special Court.

C. Child Soldiers and Blood Diamonds

Two particular crimes that were part of the campaign of terror were committed on a historic scale. These crimes included the recruitment and use of children as soldiers to fight the war and the pillaging of the diamond resources of Sierra Leone in order to provide the means to continue the conflict and enrich the leadership.

The creation of environments in which civilians were in mortal fear of the attackers made it possible for the attackers to kidnap and recruit the children for use as soldiers.²⁹ In recent history, there have been examples

26. *Id.* at ¶ 40.

27. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) art. 4(2)(d), June 8, 1977, 1125 U.N.T.S. 609.

28. *See Rapp, supra* note 1, at 267–68.

29. It is impossible to determine the precise number of children employed as soldiers during the Sierra Leone civil war, but estimates by non-governmental and

of child soldiers being used elsewhere—most notably in Mozambique—but the scale of their use in Sierra Leone and Liberia was unprecedented. Indeed, Taylor and Sankoh institutionalized this use within their forces as small boy units (SBUs) and small girl units (SGUs).³⁰

The employment of children as combatants was born out of the recognition that, while it is hard to compel an adult—who is more experienced in life—to commit great crimes, it is much easier to train a child whose moral development is not complete—particularly one in the range of ten to fifteen years—to commit atrocious acts. Brutalized if they resisted, rewarded if they cooperated, provided with drugs and guns, and given the power of life and death, these young people could even be convinced to attack members of their own families.³¹ In the process, the ties binding them to anyone but their leaders were torn, leading the children to commit acts of unspeakable horror without qualm or question.³² The children were of critical value as manpower for a fighting force that was not motivated by the traditional interests of nation, race, ethnicity, or religion, but by the desire of its leadership for power necessary to exploit resources.

The diamonds of Sierra Leone were the most valuable resource for such exploitation. They were—and continue to be—stones of the greatest quality in the world.³³ Sierra Leone diamonds are mined from alluvial deposits near the surface. They do not require the industrial methods used to bring diamonds forth from the deep kimberlite pipes of South Africa or Namibia.³⁴ The diamonds of Sierra Leone instead are brought forth by low-tech means: back-breaking human labor, digging through soil and stone, and sluicing and searching for the glint of an often tiny gem.

There is a debate about whether the diamonds caused the war or merely facilitated its continuation.³⁵ Related to this discussion is whether

intergovernmental organizations place the number between 5,000 and 10,000 children under the age of eighteen. 3B SIERRA LEONE TRUTH & RECONCILIATION COMM'N, *supra* note 11, at 235.

30. *Id.* at 260.

31. *Id.* at 263–64.

32. The final report of the Sierra Leone Truth & Reconciliation Commission describes the acts and experiences of child soldiers in great detail. *See id.* at 258–306.

33. IAN SMILLIE ET AL., *THE HEART OF THE MATTER: SIERRA LEONE, DIAMONDS, & HUMAN SECURITY* 4 (2000).

34. *See id.* at 1 (summarizing the two geological sources of diamonds and the means of extracting each from the earth).

35. *See generally* GBERIE, *supra* note 4, at 180–96 (discussing the role of diamonds in the Sierra Leone conflict and the various scholarly interpretations of their

the proceeds from exploited diamonds were exhausted in buying weapons and supplies from abroad, or whether some of the resulting wealth was diverted for other use. The evidence that the prosecution has uncovered tends to show that, from the beginning, Taylor and Sankoh saw the diamonds as a benefit of the conflict, but that taking, holding, and exploiting diamond fields became even more important as the war continued.³⁶ The evidence also shows that thousands of diamonds were smuggled from Sierra Leone through Liberia, which has only limited diamond resources of much lower quality.³⁷ These diamonds provided critical finance for the supply and armament of the RUF, but the evidence also shows that the majority of the profits went to Taylor for “safekeeping.”³⁸ This exploitation, itself the war crime of pillage, also involved the commission of the crime against humanity of enslavement and the war crime of slavery, the victims of which included hundreds of civilians who worked under conditions of great deprivation and cruelty.³⁹

D. *The Course of the Conflict*

After Kabbah was elected President of Sierra Leone in 1996, the central government remained weak.⁴⁰ The soldiers that had been recruited by the military governments from 1992 through 1996 had been poorly trained and were not fundamentally loyal to the government.⁴¹ It was said that many were “sobels”—soldiers by day and rebels by night.⁴² A private South African security force known as Executive Outcomes was employed to defend the government with some effectiveness,⁴³ but its presence was unpopular with other African leaders because it was a mercenary force that included some persons who had fought for the South African apartheid

importance in commencing and sustaining the RUF’s campaigns of violence).

36. See *id.* at 190; HIRSCH, *supra* note 4, at 15.

37. See HIRSCH, *supra* note 4, at 15; see also SMILLIE et al., *supra* note 33, at 2–3 (describing the operations of De Beers in—either knowingly or unknowingly—importing Sierra Leonean diamonds into Liberia and selling them as “Liberian” in the world market).

38. See GBERIE, *supra* note 4, at 184.

39. See *id.* at 183–84 (“The miners worked in conditions of servitude—indeed often at gunpoint.”).

40. See HIRSCH, *supra* note 4, at 44–47 (summarizing the events surrounding the 1996 elections).

41. *Id.* at 32, 36.

42. *Id.* at 32.

43. Prosecutor v. Brima, Case No. SCSL-2004-16-T, Judgement, ¶ 160 (June 20, 2007).

regime.⁴⁴ Eventually the Kabbah government was forced to send the mercenary forces away as part of a peace settlement with the RUF, which was negotiated at Abidjan, Cote d'Ivoire, in November of 1996.⁴⁵ This peace agreement was soon broken, and with the withdrawal of Executive Outcomes, the elected government was almost defenseless.⁴⁶

In May 1997, a group of non-commissioned Sierra Leone military officers overthrew the Kabbah government in a coup d'état.⁴⁷ Styling themselves as the Armed Forces Revolutionary Council (AFRC), they invited the RUF to Freetown, the capital of Sierra Leone, to join them in governing the country.⁴⁸ In one sense, this could have been viewed as an effort to end the civil war and to reconcile former adversaries. However, the RUF had committed horrendous atrocities against civilians and had no program other than exploitation. This partnership, known as the junta, proved itself to be what Sierra Leoneans now commonly call the "worst government ever." Its period of rule was characterized by brutality, chaos, and a lack of recognition by foreign states other than Liberia following Charles Taylor's inauguration as President in August 1997.⁴⁹ It was opposed by a new movement, the Civil Defense Force (CDF), established by the Kabbah government from its exile in nearby Conakry, Guinea,⁵⁰ and based on the "Kamajors," the societies of traditional hunters that existed in many villages of southern and eastern Sierra Leone.⁵¹ It was also opposed by the West African peacekeepers of ECOMOG.⁵² Together they forced the junta from power in Freetown in February 1998.⁵³

This event initiated the most brutal phase of the war. The AFRC and

44. HIRSCH, *supra* note 4, at 38.

45. *Brima*, Judgement at ¶ 162.

46. See Richards, *supra* note 8, at 45 (describing the breakdown of the Abidjan agreement).

47. *Brima*, Judgement at ¶ 164.

48. *Id.*

49. HIRSCH, *supra* note 4, at 62.

50. Prosecutor v. Fofana, Case No. SCSL-2004-14-T, Judgement, ¶ 80 (Aug. 2, 2007).

51. See *id.* ¶ 60 ("The term 'Kamajor' was originally used to refer to 'a Mende' male who possessed specialised knowledge of the forest and was an expert in the use of medicines associated with the bush[.]. Kamajors were responsible 'not simply for procuring meat but for protecting communities from both natural and supernatural threats said to reside beyond the village boundaries'." (footnotes omitted)).

52. See *id.* ¶¶ 82-86 (summarizing ECOMOG's contributions to the CDF, which included arms, vehicles, food, cash, and logistical support).

53. *Brima*, Judgement at ¶ 175; Richards, *supra* note 8, at 45.

the RUF continued their alliance in the bush⁵⁴ and proclaimed operations with names such as “Operation Pay Yourself” and “Spare No Soul.”⁵⁵ The first operation was an open invitation for their forces to pillage from the civilian population.⁵⁶ The second was an order to kill all those who opposed them, and it led to operations in designated civilian zones where thousands of human beings were killed, mutilated, raped, or enslaved.⁵⁷

According to the evidence gathered by the Special Court prosecution, this AFRC-RUF alliance was under the effective control of Charles Taylor, who directed the force to take and hold the diamond fields at Kono and provided the shipments of arms and ammunition that enabled the alliance to eventually retake Freetown in the famous attack of January 6, 1999.⁵⁸ The invasion involved the killings, rapes, and abductions of thousands of urban residents.⁵⁹ As this force was pushed out of Freetown in mid-January, the greatest wave of mutilations of the entire conflict took place, primarily by the former government soldiers of the AFRC.⁶⁰

Eventually, there was a peace agreement reached in Lomé, Togo, in July 1999, when it was decided—in part because of the success of the rebels—that there would be amnesty for all of the crimes that had been committed.⁶¹ It was also agreed that RUF leader Foday Sankoh, who had fought a war to get his hands on the diamonds, would become head of the government commission that controlled the mining industry.⁶² The peace agreement was quickly dishonored by the rebels. They took hundreds of United Nations (U.N.) and West African peacekeepers hostage and resumed attacks on civilians, including the perpetration of rapes on a wide scale.⁶³ In May 2000, Sankoh’s bodyguards attacked and killed citizens who were demonstrating peacefully in front of his home in Freetown.⁶⁴

54. Richards, *supra* note 8, at 45.

55. *Brima*, Judgement at ¶ 238.

56. *Id.*

57. *Id.*

58. See GBERIE, *supra* note 4, at 123–25.

59. *Id.* at 126–31 (recounting this “regime of horror . . . so intense and bizarre that it almost defies description”).

60. 3A SIERRA LEONE TRUTH & RECONCILIATION COMM’N, *supra* note 11, at 473.

61. Abdul Tejan-Cole, *The Special Court for Sierra Leone: Conceptual Concerns and Alternatives*, 1 AFR. HUM. RTS. L.J. 107, 107 (2001). The text of the Lomé Agreement is reprinted in HIRSCH, *supra* note 4, at 135–57.

62. GBERIE, *supra* note 4, at 157.

63. Richards, *supra* note 8, at 46.

64. Tejan-Cole, *supra* note 61, at 107–08.

At this point, the public of Sierra Leone began to press for accountability in place of amnesty. On June 12, 2000, President Kabbah wrote to the United Nations Security Council calling for the establishment of a court to try those who had committed crimes during the Sierra Leone civil war that were so grave as to be “of concern to all persons in the world.”⁶⁵ The war was not yet over, and it took a large U.N. peacekeeping presence and a British intervention force to bring the conflict to an end.⁶⁶ As the war was ending, the Sierra Leone government and the United Nations negotiated for the creation of a court. On January 16, 2002, the Sierra Leone government signed an agreement with the United Nations for the establishment of a Special Court for Sierra Leone.⁶⁷ Two days later President Kabbah declared the hostilities to be at an end.⁶⁸ The new court was to be a very different institution from the international tribunals created by the United Nations for the former Yugoslavia and Rwanda.⁶⁹

II. A DIFFERENT APPROACH TO INTERNATIONAL JUSTICE

A. *Rethinking International Criminal Tribunals*

The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) were organs of the United Nations, established by the Security Council under chapter 7 of the United Nations Charter.⁷⁰ By 2002, it was common to hear that the tribunals were too expensive, had prosecuted too many lower level targets, and were encumbered with too much bureaucracy.⁷¹ These

65. Prosecutor v. Kallon, Case No. SCSL-04-15-AR72(E), Decision on Challenge to Jurisdiction: Lomé Accord Amnesty, ¶¶ 8–9 (Mar. 13, 2004) (quoting letter from Ahmad Kabbah, President of Sierra Leone, to Jean-David Levitte, President of the United Nations Security Council (June 12, 2000)).

66. GBERIE, *supra* note 4, at 173–76.

67. U.N.-Sierra Leone Agreement, *supra* note 3.

68. GBERIE, *supra* note 4, at 198.

69. See generally Tejan-Cole, *supra* note 61, at 108–12 (comparing the mandates and structures of the Special Court for Sierra Leone with the international war tribunals for Rwanda and the former Yugoslavia).

70. See S.C. Res. 955, U.N. Doc. S/RES/955 (Nov. 8, 1994), available at <http://69.94.11.53/ENGLISH/Resolutions/955e.htm> (establishing the ICTR); S.C. Res. 827, U.N. Doc. S/RES/827 (May 25, 1993), available at <http://www.un.org/icty/legaldoc-c/basic/statut/827index.htm> (establishing the ICTY).

71. See, e.g., *The U.N. Criminal Tribunals for Yugoslavia and Rwanda: International Justice or Show of Justice?: Hearing Before the H. Comm. on Int'l Relations*, 107th Cong. 20 (2002) (statement of Pierre-Richard Prosper, Ambassador-At-Large for War Crimes Issues, U.S. Dep't of State), available at www.state.gov/s/wci/us_releases/rm/2002/8571.htm.

tribunals were supported by mandatory contributions from all 192 countries of the United Nations, but it seemed that they were not accomplishing enough for what was being expended. Additionally, the tribunals were sited far from the countries where the crimes had been committed—the ICTY in The Hague, The Netherlands, is a thousand miles from Belgrade, Yugoslavia, and the ICTR in Arusha, Tanzania, is five hundred miles from Kigali, Rwanda. As a result, the work they did was not often clearly communicated to the people most affected.

Finally, many of the trials were long and complicated. It became clear that there was no way these international criminal tribunals could possibly try everyone responsible for the crimes. By 2002, there was talk about the need for the tribunals to develop completion strategies under which they would be required to complete all of their trials by a particular date and send any cases they had not prosecuted back to local courts.

B. *The New Model*

In reaction to all of these concerns, a decision was made to try something different for Sierra Leone—a new model that would potentially avoid many of these difficulties. First, rather than being financed by United Nations dues, this Special Court would be supported by voluntary contributions from individual countries.⁷² Those involved with the court would essentially put together a plan and go to world capitals saying, “This is what we want to do. If you think it is important, contribute your tax money to this cause. Here is our budget for this year, next year, and the following year. If you provide us with contributions to meet this budget, you will see this quantity of justice.”

Second, the court would be sited in Sierra Leone rather than away from the scene of the crimes.⁷³ This would facilitate hearing witnesses and make it possible for the people of Sierra Leone to better understand the charges, evidence, and judgments. The public would not need to follow reports from distant locations on the radio or in the newspapers because citizens could actually go to the court building and watch the testimony themselves or at least see coverage of the trials by the local media.

Third, the court would operate with greater flexibility. Because the court would not operate on United Nations dues, it would not have to follow United Nations bureaucratic rules, such as those dealing with procurement and personnel. In the Rwanda tribunal, it would take months

72. U.N.-Sierra Leone Agreement, *supra* note 3, at art. 6.

73. *Id.* at art. 1(10).

to buy equipment and supplies, and sometimes it took more than a year to fill a vacancy. Simpler rules could be established for the Special Court that reflected the true situation on the ground, allowing for decisions to be made more quickly but still by means that were fair and transparent.

Fourth, under the new model, not all judges would need to be in place, earning high salaries, at the same time.⁷⁴ One trial chamber could be installed, and after it had begun one or two trials, another trial chamber could be appointed, if necessary. In addition, an appeals chamber would not need to be in place until there were actually appeals to be heard.⁷⁵ While there could be pretrial issues needing immediate resolution on appeal, the judges could be called into temporary full-time service.⁷⁶ Once the issues were heard, they could go back to their jobs and countries and wait for the day when there would be final judgments in the trial chambers. Only then would the appellate judges go into full-time service in Freetown.⁷⁷

Finally, it was decided that the Special Court for Sierra Leone would have a narrower mandate—a mandate to prosecute fewer people.⁷⁸ The philosophy was that the court would prosecute only individuals in top leadership positions responsible for the commission of the crimes—not mid-level people who might have been responsible for the deaths of hundreds or thousands, but the individuals responsible for the deaths of tens of thousands of people.

Based on these concepts and with the support of Sierra Leone and its government, an agreement was reached on January 16, 2002, between the United Nations and the government of Sierra Leone.⁷⁹ The agreement, ratified by both institutions, established a Special Court that was endorsed by the United Nations, but without chapter 7 powers to mandate arrests or the ability to procure cooperation of states.⁸⁰ The Special Court was

74. See *id.* at art. 19 (outlining the “phased-in approach” to be used by the court in “achieving efficiency and cost-effectiveness” in its start-up and operation).

75. *Id.* at art. 19(4).

76. *Id.* at art. 19(3).

77. *Id.* at art. 19(4).

78. See *id.* at art. 1(1) (establishing that the Special Court would be responsible for “prosecut[ing] persons who bear the *greatest responsibility* for serious violations of international humanitarian law and Sierra Leonean law” (emphasis added)).

79. U.N.-Sierra Leone Agreement, *supra* note 3.

80. *Id.* Indeed, the only compulsory cooperation of states contemplated by the agreement is found in article 17, which requires the government of Sierra Leone to “cooperate with all organs of the Special Court at all stages of the proceedings” and to

directed to prosecute only those people that “[bore] the greatest responsibility” for crimes committed during the civil war.⁸¹ A statute was enacted as part of that agreement⁸²—similar to those statutes enacted for the Rwanda and former Yugoslavia tribunals—listing the crimes against humanity, war crimes, and other international and domestic offenses over which the Special Court would have jurisdiction.⁸³ A management committee of seven member states of the United Nations would approve the budgets, conduct oversight, and help the court officials raise the necessary funds.⁸⁴ Under the statute, the U.N. Secretary-General was to appoint the prosecutor and a simple majority of the judges of the trial chambers and appeals chamber.⁸⁵ The President of Sierra Leone was to appoint the deputy prosecutor and the remaining judges.⁸⁶ With this hybrid constitution, the Special Court began to do its business in the second half of 2002.⁸⁷

C. Launching the Special Court

The first officer active on the ground for the Special Court for Sierra Leone was then-prosecutor David Crane, an American who had been a senior inspector general in the U.S. Department of Defense.⁸⁸ He appointed the investigators who located and interviewed the witnesses and the attorneys who drafted the indictments.⁸⁹ He moved with great speed, and by March 2003, he was ready with indictments against almost all of the individuals who were to be tried by the Special Court.⁹⁰ Eventually, the list included thirteen individuals. Among them were six people—including

“comply . . . with any request for assistance by the Special Court.” *Id.* at art. 17.

81. *Id.* at art. 1(1).

82. Statute of the Special Court for Sierra Leone, Jan. 16, 2002, 2178 U.N.T.S. 145.

83. *Id.* at arts. 2–5.

84. See U.N.-Sierra Leone Agreement, *supra* note 3, at art. 7 (outlining the composition and responsibilities of the management committee).

85. *Id.* at arts. 2(2), 3(1).

86. *Id.* at arts. 2(2), 3(2).

87. GEOFFREY ROBERTSON, FIRST ANNUAL REPORT OF THE PRESIDENT OF THE SPECIAL COURT FOR SIERRA LEONE 5 (2004), available at <http://www.sc-sl.org/Documents/specialcourtannualreport2002-2003.pdf>.

88. For an overview of the Special Court’s first year of operations, see *id.* at 4–6.

89. See *id.* at 14–15 (describing the expedient efforts of the office of the prosecutor in building “a fully functional prosecution office” and in launching the investigations of criminals the prosecutor would pursue).

90. *Id.* at 14.

Liberian President Charles Taylor—who were alleged to be leaders of the RUF;⁹¹ four individuals who had allegedly led the AFRC that had allied itself with the RUF during the 1997–1998 junta and in the bush thereafter;⁹² and three persons who had allegedly led the CDF, the organization of traditional hunters that had fought on the side of the elected government.⁹³ Included in this last group was Chief Sam Hinga Norman, a man popular with the Sierra Leonean public and who, at the time of his arrest in March 2003, was a minister in the Kabbah government in charge of the Departments of Defence and Interior.⁹⁴

This last indictment was very courageous indeed because, during the course of the conflict, the CDF had fought to restore democratic government and defeat the RUF rebels and their AFRC allies that were committing mass atrocities against civilians. But in the course of these efforts, it was alleged that elements of the CDF, under the direction and control of Norman and the other defendants, had also committed violations of international humanitarian law, including the employment of child soldiers and the slaughter and cruel treatment of innocent civilians in villages and districts suspected of supporting the AFRC-RUF alliance.⁹⁵

Once these indictments were confirmed and the defendants arrested, the Special Court was able to begin its work. Yet, this work started slowly. Defense attorneys had to be appointed, court personnel employed, and provisions made for the protection of witnesses. At each step, efforts had to be undertaken to ensure that the necessary funds would be available. The first trial chamber was functioning by early 2003 and began its first trial in 2004; a second trial chamber was appointed in 2005.⁹⁶

Legal questions regarding the Special Court's authority also had to be

91. For the most recent version of the Taylor and RUF indictments, see *Prosecutor v. Taylor*, Case No. SCSL-03-01-PT, Prosecution's Second Amended Indictment (May 29, 2007) and *Prosecutor v. Sesay*, Case No. SCSL-2004-15-PT, Corrected Amended Consolidated Indictment (Aug. 2, 2006).

92. For the final version of the AFRC indictment, see *Prosecutor v. Brima*, Case No. SCSL-2004-16-PT, Further Amended Consolidated Indictment (Feb. 18, 2005).

93. For the final version of the CDF indictment, see *Prosecutor v. Norman*, Case No. SCSL-03-14-I, Indictment (Feb. 5, 2004).

94. *Id.*; ROBERTSON, *supra* note 87, at 14.

95. See *Norman*, Indictment at ¶¶ 25–29.

96. EMMANUEL AYoola, SECOND ANNUAL REPORT OF THE PRESIDENT OF THE SPECIAL COURT FOR SIERRA LEONE 5 (2005), available at <http://www.scs-sl.org/Documents/specialcourtannualreport2004-2005.pdf>; ROBERTSON, *supra* note 87, at 14.

resolved. Defendants quickly challenged their indictments on the ground they had been given amnesty under the Lomé Accord.⁹⁷ Those defendants charged under article 4(c) of the statute with the “serious violation[] of international humanitarian law” of “[c]onscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities”⁹⁸ challenged their indictment. They asserted that this “offense” was not a violation of customary international law at the time these children were allegedly so employed.⁹⁹ And Charles Taylor, though not yet arrested, sent lawyers to the Special Court to challenge the right of a court established in one country to investigate or indict the chief of state of another country who was constitutionally immune from prosecution in his home country.¹⁰⁰

An expedited procedure was developed to resolve such preliminary motions involving serious questions of jurisdiction. The motions were referred directly to panels of three judges of the appeals chamber without the need for decisions in the trial chamber.¹⁰¹ In historic rulings filed by the appeals chamber in 2004, each of the questions was decided. The Lomé amnesty was determined to be ineffective to shield persons who were prosecuted for violations of international humanitarian law by an internationalized court.¹⁰² For the first time it was clearly established that both the conscription and use of children under the age of fifteen as soldiers was a violation of international law.¹⁰³ Finally, it was determined that a head of state had no immunity from prosecution for violations of

97. Prosecutor v. Kondewa, Case No. SCSL-2004-14-AR72(E), Decision on Lack of Jurisdiction/Abuse of Process: Amnesty Provided by the Lomé Accord, ¶ 1 (May 25, 2004); Prosecutor v. Kallon, Case No. SCSL-2004-15-AR72(E), Decision on Challenge to Jurisdiction: Lomé Accord Amnesty, ¶¶ 22–31 (Mar. 13, 2004).

98. Statute of the Special Court for Sierra Leone art. 4(c), Jan. 16, 2002, 2178 U.N.T.S. 145.

99. Prosecutor v. Norman, Case No. SCSL-04-14-AR72(E), Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment), ¶¶ 1–3 (May 31, 2004).

100. Prosecutor v. Taylor, Case No. SCSL-2003-01-I, Decision on Immunity from Jurisdiction, ¶ 1 (May 31, 2004).

101. SPECIAL CT. FOR SIERRA LEONE R. P. & EVID. 72(E) (amended May 29, 2004), available at <http://www.sc-sl.org/Documents/rulesofprocedureandevidence.pdf>; ROBERTSON, *supra* note 87, at 13.

102. Kallon, Decision on Challenge to Jurisdiction: Lomé Accord Amnesty at ¶ 88; *see also* Kondewa, Decision on Lack of Jurisdiction/Abuse of Process: Amnesty Provided by the Lomé Accord at ¶¶ 1–2 (extending the previous amnesty decision).

103. Norman, Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment) at ¶¶ 8–22.

international humanitarian law by an internationalized court.¹⁰⁴

D. Arresting and Trying Charles Taylor

The most famous indictment brought by the Special Court was that against former Liberian President Charles Taylor. He was charged with seventeen counts of crimes against humanity and war crimes in a sealed indictment confirmed in March 2003.¹⁰⁵ At that time, Taylor was still the President of Liberia and was facing a domestic rebellion that would eventually topple him from power.¹⁰⁶ In June 2003, he attended a conference in Accra, Ghana, sponsored by several African heads of state in order to attempt a negotiated peace with the Liberian rebels who were seeking Taylor's overthrow.¹⁰⁷ During this time, former prosecutor David Crane transmitted a warrant for Taylor's arrest to the Ghanaian government.¹⁰⁸ The Ghanaian authorities did not cooperate and provided transportation for Taylor to return to Liberia.¹⁰⁹

Because the Special Court lacked the power to mandate state cooperation—a power granted to the ICTY and ICTR by the United Nations Security Council under chapter 7 of the U.N. Charter—Crane was without a legal remedy. Nevertheless, upon Taylor's return to Liberia, the rebellion against him continued.¹¹⁰ By August, the capital, Monrovia, was under siege and thousands of citizens were without food and medical supplies.¹¹¹ Three American warships sailed near the coast and speculation existed that they would be deployed to seize Taylor and establish order.¹¹² But dislodging Taylor from his presidential residence, whether by rebels or

104. *Taylor*, Decision on Immunity from Jurisdiction at ¶¶ 52–53.

105. *Taylor*, Indictment at ¶¶ 32–59. The indictment was amended in March 2006 to reduce the counts to eleven. For the final version of the Taylor indictment, see *Prosecutor v. Taylor*, Case No. SCSL-03-01-PT, Prosecution's Second Amended Indictment (May 29, 2007).

106. *See Arrest Warrant for Liberian Leader*, BBC NEWS, June 4, 2003, <http://news.bbc.co.uk/2/hi/africa/2961390.stm> (discussing Taylor's involvement in Ghanaian peace talks).

107. *Id.*

108. *Id.*

109. *Liberia Chaos As Leader Returns*, BBC NEWS, June 5, 2003, <http://news.bbc.co.uk/2/hi/africa/2964098.stm>.

110. *See Liberians Flee Before Rebel Push*, BBC NEWS, June 10, 2003, <http://news.bbc.co.uk/2/hi/africa/2976992.stm>.

111. *Bitter Taylor Bids Liberia Farewell*, BBC NEWS, Aug. 10, 2003, <http://news.bbc.co.uk/2/hi/africa/3138837.stm>.

112. Somini Sengupta, *Leader of Liberia Surrenders Power and Enters Exile*, N.Y. TIMES, Aug. 12, 2003, at A1.

U.S. Marines, would not have been easy and would have cost lives. Instead, negotiations began for the conventional solution: the surrender of power followed by a comfortable exile. The United States and Great Britain prevailed on Nigeria to accept Taylor, with the terms that there would be no prosecution provided he ended involvement in the affairs of Liberia and other regional states.¹¹³ Facing eventual but certain overthrow, Taylor accepted the terms, resigned the Liberian presidency, and went into exile in Calabar, Nigeria, in August 2003.¹¹⁴ President Obasanjo of Nigeria said Taylor could remain there unless a democratically elected Liberian president demanded his return.¹¹⁵

The prosecutor of Sierra Leone's Special Court did not accept these terms. He launched an intense international effort to force Nigeria to surrender Taylor to the Special Court. The efforts of Prosecutor Crane and his successor, the English barrister Desmond de Silva, received unanimous support from international human rights groups and nongovernmental organizations.¹¹⁶ While initially opposed by the U.S. government, they found support in the U.S. Congress from Democrats and Republicans alike who sponsored and adopted a resolution seeking the arrest and transfer of Taylor.¹¹⁷ A similar resolution was resoundingly approved by the European Parliament.¹¹⁸ Finally, with the election of Ellen Johnson Sirleaf as President of Liberia, and her subsequent request for the return of Taylor to Liberia for onward transfer to Sierra Leone, a way was found to bring Taylor to justice.¹¹⁹ In March 2006, in response to President Johnson Sirleaf's request, Nigerian President Obasanjo agreed that Nigerian authorities would arrest Taylor.¹²⁰

Upon hearing this announcement, Taylor attempted to escape but

113. *Nigeria Would Shield Taylor from Trial*, CNN, July 10, 2003, <http://www.cnn.com/2003/WORLD/africa/07/09/liberia/>.

114. *Taylor's New Nigerian Home*, BBC NEWS, Aug. 11, 2003, <http://news.bbc.co.uk/2/hi/africa/3142101.stm>.

115. *Taylor Meets Obasanjo in Nigeria*, BBC NEWS, Feb. 27, 2006, <http://news.bbc.co.uk/2/hi/africa/4754982.stm>.

116. See, e.g., AMNESTY INTERNATIONAL, LIBERIA: VIOLENCE, DISCRIMINATION AND IMPUNITY, Sept. 19, 2005, <http://www.amnesty.org/en/library/info/AFR34/003/2005> (follow "PDF").

117. H.R. Con. Res. 127, 109th Cong. (2005) (enacted).

118. European Parliament Resolution on the Special Court for Sierra Leone: The Case of Charles Taylor, No. P6_TA(2005)0059, 2005 O.J. (C 304E) 408.

119. *Liberia Seeks End to Taylor Exile*, BBC NEWS, Mar. 17, 2006, <http://news.bbc.co.uk/2/hi/africa/4817106.stm>.

120. *Nigeria to Give up Charles Taylor*, BBC NEWS, Mar. 25, 2006, <http://news.bbc.co.uk/2/hi/africa/4845088.stm>.

was caught trying to cross into Cameroon with a large suitcase of money.¹²¹ He was then flown to Monrovia, Liberia, where after only minutes on the airport tarmac he was transferred into a U.N. helicopter headed for the detention center of the Special Court for Sierra Leone.¹²² As the sun was setting on March 29, 2006, the helicopter carrying Charles Taylor arrived at the Special Court.¹²³ It was a day that few Sierra Leoneans thought they would ever witness. However, Taylor would not be tried in Freetown.

Part of the arrangement for his surrender involved honoring a request by West African leaders that he not be tried in the region because of the danger that his trial would be disruptive—i.e., that it might induce further rebellions or the taking of hostages.¹²⁴ While efforts were made to find a venue in another part of Africa, it soon became apparent that the only suitable and available facility was the courtroom of the newly established International Criminal Court (ICC) in The Hague, the Netherlands.¹²⁵ After three months of negotiations, the ICC agreed to make its courtroom available as the venue for Taylor's trial by judges of the Special Court for Sierra Leone.¹²⁶ The Netherlands agreed to accept Taylor in the ICC detention unit of a Dutch prison, the same one used by the Yugoslavia tribunal in The Hague.¹²⁷ But as the Netherlands would not accept Taylor as a permanent prisoner and would not allow him in the Netherlands unless another state agreed, the arrangement was only concluded when the government of the United Kingdom announced that it would host Taylor in one of its prisons if he was convicted.¹²⁸ Finally, after the adoption of a Security Council resolution under chapter 7 of the U.N. Charter that confirmed all these arrangements and overrode any domestic laws to the contrary,¹²⁹ on June 20, 2006, Charles Taylor was flown to The Hague.¹³⁰

121. Lydia Polgreen, *Liberian Seized to Stand Trial on War Crimes*, N.Y. TIMES, Mar. 30, 2006, at A1.

122. *Id.*

123. *Id.*

124. See *Taylor Trial 'May Move to Hague'*, BBC NEWS, Mar. 30, 2006, <http://news.bbc.co.uk/2/hi/africa/4860976.stm>.

125. *Id.*

126. Marlise Simons, *Former Liberian President in The Hague for Trial*, N.Y. TIMES, June 21, 2006, at A6.

127. *Id.*

128. *Id.*

129. S.C. Res. 1688, U.N. DOC. S/RES/1688 (June 16, 2006), available at http://www.un.org/Docs/sc/unsc_resolutions06.htm (follow "S/RES/1688").

130. *Taylor Flies in for Hague Trial*, BBC NEWS, June 20, 2006, <http://news.bbc.co.uk/2/hi/africa/5098070.stm>.

Taylor's trial commenced in The Hague with the opening statement of the prosecutor on June 4, 2007.¹³¹ The Special Court had determined that Taylor was "partially indigent"—despite reports that he had secreted tens of millions of dollars in misappropriated funds—and qualified him for legal aid worth about \$70,000 per month for representation and investigation.¹³² He was unhappy with this level of assistance, particularly because it had been insufficient to interest any English barrister at the Queen's Counsel (Q.C.) level from undertaking the leadership of his defense team. Taylor decided to boycott the opening day and sent a communication to the court that he was representing himself.¹³³ His then-lead counsel withdrew from the courtroom, arguing that he was no longer representing Taylor.¹³⁴ Of course, Taylor was not representing himself because he had not come to court, and the trial chamber could have denied leave for his lead counsel to withdraw and compelled him to continue with the representation, with or without Taylor's presence. However, the judges decided that it was important for Taylor to have an effective legal defense, and they directed the Special Court's registrar to augment the legal aid package. Eventually, at least \$100,000 per month was made available, making it possible for Taylor to obtain the services of a defense team led by Courtney Griffiths, Q.C., a Jamaica-born English barrister of great experience.¹³⁵

The new team sought and obtained a delay in the commencement of the prosecution's evidence to permit the defense time to familiarize itself with the case. The first witness was called on January 7, 2008, and the case thereafter proceeded at a rapid pace for an international trial of a national leader.¹³⁶ One critic of other international justice institutions observed the

131. See *Ex-Liberia Leader Boycotts Trial*, BBC NEWS, June 4, 2007, <http://news.bbc.co.uk/2/hi/africa/6717485.stm>.

132. Prosecutor v. Taylor, Case No. SCSL-2003-03-I, Principal Defender's Decision to Provisionally Assign Counsel to Charles Ghankay Taylor (Apr. 5, 2006). See also Marlise Simons, *Life Shrinks for a Former Leader Now on Trial*, N.Y. TIMES, July 15, 2007, available at <http://www.nytimes.com/2007/07/15/world/africa/15hague.html>; Lydia Polgreen & Marlise Simons, *Panel Says Liberian Ex-Leader's Wealth Hasn't Vanished*, N.Y. TIMES, June 14, 2007, available at <http://www.nytimes.com/2007/06/14/world/africa/14taylor.html>.

133. Marlise Simons & Graham Bowley, *Charles Taylor Dismisses Lawyer at War Crimes Trial*, INT'L HERALD TRIB., June 4, 2007, available at <http://www.iht.com/articles/2007/06/04/africa/04taylor.php>.

134. *Id.*

135. Associated Press, *Court Clears Way for Charles Taylor's War Crimes Trial to Resume*, Dec. 11, 2007, <http://www.iht.com/articles/ap/2007/12/11/europe/EU-GEN-War-Crimes-Charles-Taylor.php>.

136. Associated Press, *War Crimes Trial Resumes for Former Leader of*

opening weeks of witness testimony and praised the Special Court's conduct as a model for other courts to follow:

Prepared, conscientious prosecutors, tenacious lawyers concentrated on the evidence, a chamber presided over with firmness and competence, pertinent witnesses: the [trial] of former Liberian president Charles Taylor, opened January 7 by a Special Court for Sierra Leone moved to the premises of the ICC at The Hague . . . , has begun with dignity.¹³⁷

By the Easter break in March 2008, twenty-one witnesses had testified, including five experts, five crime victims, and eleven insiders.¹³⁸ The prosecution had projected that it could present its evidence within eight to ten months. The defense told the Special Court's registrar that within a few weeks of the conclusion of the prosecution's case it was expecting to begin a defense case that would last about four months. It appeared that the trial was on track to conclude well before the end of 2009.

E. *Special Court Funding and Operations*

The Taylor trial is being conducted in the shadow of the trial of Yugoslavian President Slobodan Milosevic, which stretched on—in large part because of Milosevic's ill health—for four years and ended with his death before the trial could reach conclusion.¹³⁹

There is no possibility that the Special Court will have four years to complete the Taylor trial, and all of its budget projections have been based on being able to conclude prosecution and defense evidence within eighteen months.¹⁴⁰ Part of the reason for this timeline is the need for the Special Court to obtain the financial support of national governments to maintain its operations. To date, it has been successful at doing so, though at one point the court had to go to the United Nations for a "subvention"

Liberia, N.Y. TIMES, Jan. 8, 2008, at A8.

137. Thierry Cruvellier, *Taylor's Trial Provides a Model at The Hague*, INT'L JUST. TRIB., Jan. 21, 2008, at 1.

138. Transcripts of the Taylor proceedings, including the testimony of these witnesses, may be retrieved from the Special Court's website. The Special Court for Sierra Leone, *The Prosecutor vs. Charles Ghankay Taylor: Transcripts*, <http://www.sc-sl.org/taylor-transcripts.html> (last visited Nov. 5, 2008).

139. See generally International Criminal Tribunal for the Former Yugoslavia, *Case Information Sheet: "Kosovo, Croatia & Bosnia" (IT-02-54) Slobodan Milošević*, <http://www.un.org/icty/cases-e/cis/smilosevic/cis-slobodanmilosevic.pdf> (presenting a timeline of the Milosevic trial culminating with his death).

140. ROBERTSON, *supra* note 87, at 6.

grant, and the member states said, “never again.”¹⁴¹ Fortunately, with the Taylor trial occurring in The Hague and this case being viewed as a test of international justice, there has been support from some countries at greater levels than would have been offered for proceedings in Freetown.

Still, annual budgets in the range of \$23 million to \$36 million must be raised during the years 2008 and 2009,¹⁴² and uncertainties of contributions from national authorities have sometimes left the court within only days of insufficient funding.¹⁴³ If funding were ever to lapse and cause the trials to be interrupted, it might be impossible to continue the detention of the defendants, including Charles Taylor. Under these circumstances, the prosecutor takes it as part of his mission to ensure the necessary resources are available. Since appointment, this has involved visits to ten capitals, meetings with the diplomatic representatives of almost one hundred nations, and scores of public presentations.¹⁴⁴ Record contributions were pledged in early 2008, and there is now reason to believe that the international community will continue to provide adequate support for the Special Court’s operations.¹⁴⁵ Success will require, however, that the Taylor trial reaches judgment before the end of 2009 and that the final appeal is decided by mid-2010.

As the Taylor trial began in earnest in The Hague, important work was being concluded in Freetown in the other cases. In June 2007, Trial Chamber II delivered its judgment convicting the three defendants in the AFRC case on eleven counts of crimes against humanity and war crimes.¹⁴⁶ The judgment included the first convictions in history for the crimes of conscription or use of child soldiers, sexual slavery as the war crime of outrage against personal dignity, and acts of terror in a civil war.¹⁴⁷ In July 2007, the trial chamber sentenced two of the defendants to fifty years and

141. AYOOLA, *supra* note 96, at 6, 28.

142. See GEORGE GELAGA KING, FIFTH ANNUAL REPORT OF THE PRESIDENT OF THE SPECIAL COURT FOR SIERRA LEONE 44 (2008), *available at* <http://www.sc-sl.org/Documents/specialcourtannualreport2007-2008.pdf> (presenting the court’s estimated budget for the years 2007 through 2010).

143. See *generally* AYOOLA, *supra* note 96, at 27 (noting “continuing challenges . . . to realize the vision of the Special Court amidst continued funding uncertainty”).

144. See KING, *supra* note 142, at 31.

145. *Id.* at 61 (reporting pledges to the court from the international community from January through May of 2008).

146. Prosecutor v. Brima, Case No. SCSL-2004-16-T, Judgement, Disposition, ¶¶ 660–759 (June 20, 2007).

147. *Id.*

the third defendant to forty-five years.¹⁴⁸ The sentences were supported with these words:

34. Brima, Kamara and Kanu have been found responsible for some of the most heinous, brutal and atrocious crimes ever recorded in human history. Innocent civilians—babies, children, men and women of all ages—were murdered by being shot, hacked to death, burned alive, beaten to death. Women and young girls were gang raped to death. Some had their genitals mutilated by the insertion of foreign objects. Sons were forced to rape mothers, brothers were forced to rape sisters. Pregnant women were killed by having their stomachs split open and the foetus removed merely to settle a bet amongst the troops as to the gender of the foetus. Men were disembowelled and their intestines stretched across a road to form a barrier. Human heads were placed on sticks on either side of the road to mark such barriers. Hacking off the limbs of innocent civilians was commonplace. The victims were babies, young children and men and women of all ages. Some had one arm amputated, others lost both arms. For those victims who survived an amputation, life was instantly and forever changed into one of dependence. Most were turned into beggars unable to earn any other living and even today cannot perform even the simplest of tasks without the help of others. Children were forcibly taken away from their families, often drugged and used as child soldiers who were trained to kill and commit other brutal crimes against the civilian population. Those child soldiers who survived the war were robbed of a childhood and most of them lost the chance of an education.

35. The Trial Chamber cannot recall any other conflict in the history of warfare in which innocent civilians were subjected to such savage and inhumane treatment.¹⁴⁹

Both sides appealed the judgment—the defense from the guilty verdicts and sentences and the prosecution from acquittals for forced marriage as another “inhumane act” constituting a crime against humanity and from the trial chamber’s decision that the prosecution had not properly alleged the involvement of the defendants in a “joint criminal enterprise.”¹⁵⁰ On February 22, 2008, the appeals chamber denied the defendants’ appeals and upheld the prosecution’s appeals in significant

148. *Brima*, Sentencing Judgement at ¶ 36.

149. *Id.* at ¶¶ 34–35.

150. *Id.* at ¶¶ 27–33, 175.

part.¹⁵¹ Most notably, the judges found, for the first time, that forced marriage constituted a crime against humanity,¹⁵² opening the way for convictions in future cases. The judges also found that the prosecution had appropriately pleaded joint criminal enterprise in the indictment against the defendants.¹⁵³

In August of 2007, Trial Chamber I convicted the two surviving defendants in the CDF case of various war crimes, including murder, cruel treatment, collective punishments, pillage, and in the case of one defendant, the recruitment of child soldiers.¹⁵⁴ In October 2007, Trial Chamber I pronounced relatively short sentences of six and eight years, citing as mitigation the fact that the defendants had committed their crimes while fighting to restore the legitimate democratic government of Sierra Leone.¹⁵⁵ Yet, the trial chamber had found the defendants responsible for over two hundred murders, as well as certain acts of great cruelty. Under the circumstances, the prosecution filed an appeal from the sentence—as did one of the defendants—and these were heard by the appeals chamber in March 2008.¹⁵⁶ On May 28, 2008, the chamber announced its decision, one which will prove significant for international humanitarian law.¹⁵⁷ In its ruling, the appellate bench rejected the “just cause” mitigation factor on which the trial chamber had relied in mitigating the sentences,¹⁵⁸ and increased the sentences to fifteen and twenty years.¹⁵⁹ In doing so, the court ruled that the alleged justice of a cause cannot mitigate punishment of those convicted of serious violations of international humanitarian law.¹⁶⁰ In addition, the prosecution prevailed in reversing the trial court’s decision to acquit the defendants of Counts I and III, both involving crimes against humanity; thus, the appeals chamber entered guilty verdicts for these crimes.¹⁶¹ At the same time, however, the chamber set aside the defendants’ convictions for collective punishments as a war crime—Count

151. *Id.* at ¶ 105.

152. *Id.* at ¶¶ 197–202.

153. *Id.* at ¶¶ 84–87.

154. Prosecutor v. Fofana, Case No. SCSL-2004-14-T, Judgement, Disposition, 290 (Aug. 2, 2007).

155. *Fofana*, Sentencing Judgement, ¶ 95, Disposition.

156. *Fofana*, Appeals Chamber Judgement, ¶¶ 23–30; The Special Court for Sierra Leone, The Prosecutor vs. Moinina Fofana and Allieu Kondewa, <http://www.scl.org/CDF-Timeline.html> (last visited Nov. 5, 2008).

157. *Fofana*, Appeals Chamber Judgement.

158. *Id.* ¶¶ 530–35.

159. *Id.* ¶ 565.

160. *Id.* ¶¶ 530–34.

161. *Id.* ¶ 322.

VII¹⁶²—and reversed the conviction for recruitment of child soldiers as a war crime—Court VIII—for the one defendant who had been convicted of this crime before the trial chamber.¹⁶³

Finally, the case against the three RUF defendants drew to a close in the first half of 2008.¹⁶⁴ Judgment is expected in December 2008.¹⁶⁵

F. Public Outreach

As the Special Court has conducted its proceedings, it has remained ever cognizant of its responsibility to the persons who were victimized by the crimes or saw them committed in their communities. More than 60% of the court's employees, including some in high positions, are citizens of Sierra Leone, and with the exception of the Taylor case, it has held all of its trials in-country. Each year, the Special Court's outreach program, managed by local Sierra Leoneans, has conducted hundreds of meetings across the country to provide information and answer questions about the Special Court's operations.¹⁶⁶ Many of these meetings have been attended by the prosecutor and other senior officials.

As the Taylor case has proceeded some 3,500 miles away, the outreach program has expanded its efforts so that the people of Sierra Leone, and now also of Liberia, understand what is being done in their name and for justice in the region. Outreach is especially important because the types of crimes committed in the Sierra Leone civil war could be committed again. A message needs to be sent that no matter what the cause or the power or importance of the individual, any person who might be tempted to use child soldiers, engage in acts of terrorism, or otherwise target civilians for murder, rape, and other violence can and will be held to account.

III. CONCLUSION

The establishment of international tribunals may not, at the beginning, have been expected to accomplish a great deal. But what has

162. *Id.* ¶¶ 226–31.

163. *Id.* ¶¶ 139–46.

164. The Special Court for Sierra Leone, *The Prosecutor vs. Issa Hassan Sesay, Morris Kallon and Augustine Gbao*, <http://www.sc-sl.org/RUF-Timeline.html> (last visited Nov. 5, 2008).

165. KING, *supra* note 142, at 5.

166. See The Special Court for Sierra Leone, *Outreach and Public Affairs*, <http://www.sc-sl.org/OPA.html> (last visited Nov. 5, 2008) (describing the purposes and activities of the court's public outreach program).

happened in the Taylor case—his arrest and transfer, despite having been allowed to go into a comfortable exile—indicates that international justice has gained great momentum. An expectation has been created that if there is evidence that a national leader has committed grave international crimes, that official will eventually face justice.

Recently, the U.N. Security Council referred the situation in Darfur to the International Criminal Court.¹⁶⁷ As a result of that referral, the prosecutor of the International Criminal Court, Luis Moreno-Ocampo, obtained arrest warrants against the first two suspects for their involvements in the atrocities committed in Darfur,¹⁶⁸ and has requested that the court issue a warrant for the arrest of the Sudanese president, Omar al-Bashir.¹⁶⁹ Ironically, one of the individuals whose arrest was ordered by the court is the current Minister of Humanitarian Affairs of the government of Sudan.¹⁷⁰ In public statements, he and other officials of the Sudanese government have been dismissive.¹⁷¹ They have called the warrants illegitimate and declared that no Sudanese citizen will have to answer to the International Criminal Court.¹⁷² The history of the Rwanda and Yugoslavia tribunals and of the Special Court for Sierra Leone predict to the contrary. On a day not long in the future, the door of the detention facility in The Hague will close behind that Sudanese minister, as it closed behind President Charles Taylor, and he too will face the world's justice.

167. S.C. Res. 1593, U.N. Doc. S/RES/1593 (Mar. 31, 2005), *available at* http://www.un.org/Docs/sc/unsc_resolutions05.htm (follow “S/RES/1593”).

168. Prosecutor v. Harun & Abd-Al-Rahman, Case No. ICC-02/05-01/07, Warrant of Arrest for Ahmad Harun (Apr. 27, 2007); Prosecutor v. Harun & Abd-Al-Rahman, Case No. ICC-02/05-01/07, Warrant of Arrest for Ali Kushayb (Apr. 27, 2007).

169. Press Release, International Criminal Court, ICC Prosecutor Presents Case Against Sudanese President, Hassan Ahmad Al Bashir, for Genocide, Crimes Against Humanity and War Crimes in Darfur (July 14, 2008), <http://www.icc-cpi.int/press/pressreleases/406.html>.

170. *Darfur War Crimes Suspect Defiant*, BBC NEWS, Feb. 28, 2007, <http://news.bbc.co.uk/2/hi/africa/6404467.stm>.

171. *Id.*

172. *Id.*

APPENDIX: SUMMARY OF CASES BEFORE THE SPECIAL COURT FOR SIERRA LEONE¹⁷³

I. ARMED FORCES REVOLUTIONARY COUNCIL CASE

Trial Dates: March 7, 2005 through December 8, 2006

Decision Date: June 20, 2007

Sentencing Date: July 19, 2007

Appeal Decided: February 22, 2008

A. Overview

In the midst of civil war, in May 1997, the Armed Forces Revolutionary Council (AFRC), led by former officers of the Sierra Leone military, succeeded in overthrowing the ruling regime in a coup d'état. The AFRC quickly allied with the Revolutionary United Front (RUF) to form a government in Freetown that would be characterized by violence and plunder. The Civil Defense Force (CDF), an organization formed by leaders of the deposed Kabbah government and aided by West African peacekeepers, quickly rose against the AFRC-RUF alliance and removed it from power in February 1998. This event pushed the AFRC and RUF forces into the countryside, where they executed a campaign of murder, mutilation, rape, and enslavement against civilian populations. In January 1999, the AFRC recaptured Freetown; while its control of the city lasted only around ten days, it was during its exit that the AFRC carried out its largest mutilation campaign of the civil war period. The group continued to terrorize Sierra Leoneans throughout the remainder of the civil war. For their roles in these crimes, Alex Tamba Brima, Brima Bazzy Kamara, and Santigie Borbor Kanu were tried by Trial Chamber II of the Special Court for Sierra Leone for war crimes, crimes against humanity, and other serious violations of international humanitarian law.

173. The information contained within this appendix is compiled from the information cited within this Article and from the Special Court for Sierra Leone's website. *See generally* The Special Court for Sierra Leone, <http://www.sc-sl.org>.

SUMMARY OF CHARGES

Defendant	Count	Description	Trial Outcome	Sentence (concurrent)	Changes on Appeal
Alex Tamba BRIMA	<i>Terrorizing the civilian population and collective punishments</i>				
	I	Acts of terrorism (war crime)	Guilty	50 years	---
	II	Collective punishments (war crime)	Guilty	50 years	---
	<i>Unlawful killings</i>				
	III	Extermination (crime against humanity)	Guilty	50 years	---
	IV	Murder (crime against humanity)	Guilty	50 years	---
	V	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)	Guilty	50 years	---
	<i>Sexual violence</i>				
	VI	Rape (crime against humanity)	Guilty	50 years	---
	VII	Sexual slavery and any other form of sexual violence (crime against humanity)	No Judgment	---	---
	VIII	Other inhumane acts (crime against humanity)	No Judgment	---	---
	IX	Outrages upon personal dignity (war crime)	Guilty	50 years	---
	<i>Physical violence</i>				
	X	Violence to life, health, and physical or mental well-being of persons, in particular mutilation (war crime)	Guilty	50 years	---
	XI	Other inhumane acts (crime against humanity)	Not Guilty	---	---
	<i>Use of child soldiers</i>				
	XII	Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (other serious violation of international humanitarian law)	Guilty	50 years	---
	<i>Abductions and forced labor</i>				
	XIII	Enslavement (crime against humanity)	Guilty	50 years	---
	<i>Looting and burning</i>				
	XIV	Pillage (war crime)	Guilty	50 years	---

Defendant	Count	Description	Trial Outcome	Sentence (concurrent)	Changes on Appeal
Brima Bazzy KAMARA	<i>Terrorizing the civilian population and collective punishments</i>				
	I	Acts of terrorism (war crime)	Guilty	45 years	---
	II	Collective punishments (war crime)	Guilty	45 years	---
	<i>Unlawful killings</i>				
	III	Extermination (crime against humanity)	Guilty	45 years	---
	IV	Murder (crime against humanity)	Guilty	45 years	---
	V	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)	Guilty	45 years	---
	<i>Sexual violence</i>				
	VI	Rape (crime against humanity)	Guilty	45 years	---
	VII	Sexual slavery and any other form of sexual violence (crime against humanity)	No Judgment	---	---
	VIII	Other inhumane acts (crime against humanity)	No Judgment	---	---
	IX	Outrages upon personal dignity (war crime)	Guilty	45 years	---
	<i>Physical violence</i>				
	X	Violence to life, health, and physical or mental well-being of persons, in particular mutilation (war crime)	Guilty	45 years	---
	XI	Other inhumane acts (crime against humanity)	Not Guilty	---	---
	<i>Use of child soldiers</i>				
	XII	Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (other serious violation of international humanitarian law)	Guilty	45 years	---
	<i>Abductions and forced labor</i>				
	XIII	Enslavement (crime against humanity)	Guilty	45 years	---
	<i>Looting and burning</i>				
	XIV	Pillage (war crime)	Guilty	45 years	---

Defendant	Count	Description	Trial Outcome	Sentence (concurrent)	Changes on Appeal
Santigie Borbor KANU	<i>Terrorizing the civilian population and collective punishments</i>				
	I	Acts of terrorism (war crime)	Guilty	50 years	---
	II	Collective punishments (war crime)	Guilty	50 years	---
	<i>Unlawful killings</i>				
	III	Extermination (crime against humanity)	Guilty	50 years	---
	IV	Murder (crime against humanity)	Guilty	50 years	---
	V	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)	Guilty	50 years	---
	<i>Sexual violence</i>				
	VI	Rape (crime against humanity)	Guilty	50 years	---
	VII	Sexual slavery and any other form of sexual violence (crime against humanity)	No Judgment	---	---
	VIII	Other inhumane act (crime against humanity)	No Judgment	---	---
	IX	Outrages upon personal dignity (war crime)	Guilty	50 years	---
	<i>Physical violence</i>				
	X	Violence to life, health, and physical or mental well-being of persons, in particular mutilation (war crime)	Guilty	50 years	---
	XI	Other inhumane acts (crime against humanity)	No Judgment	---	---
	<i>Use of child soldiers</i>				
	XII	Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (other serious violation of international humanitarian law)	Guilty	50 years	---
	<i>Abductions and forced labor</i>				
	XIII	Enslavement (crime against humanity)	Guilty	50 years	---
	<i>Looting and burning</i>				
	XIV	Pillage (war crime)	Guilty	50 years	---

B. *Excerpt from the Bench*¹⁷⁴

With regard to the crimes committed by the defendants:

34. Brima, Kamara and Kanu have been found responsible for some of the most heinous, brutal and atrocious crimes ever recorded in human history. Innocent civilians—babies, children, men and women of all ages—were murdered by being shot, hacked to death, burned alive, beaten to death. Women and young girls were gang-raped to death. Some had their genitals mutilated by the insertion of foreign objects. Sons were forced to rape mothers, brothers were forced to rape sisters. Pregnant women were killed by having their stomachs split open and the foetus removed merely to settle a bet amongst the troops as to the gender of the foetus. Men were disembowelled and their intestines stretched across a road to form a barrier. Hacking off the limbs of innocent civilians was commonplace. The victims were babies, young children and men and women of all ages. Some had one arm amputated, others lost both arms. For those victims who survived an amputation, life was instantly and forever changed into one of dependence. Most were turned into beggars unable to earn any other living and even today cannot perform even the simplest of tasks without the help of others. Children were forcibly taken away from their families, often drugged and used as child soldiers who were trained to kill and commit other brutal crimes against the civilian population. Those child soldiers who survived the war were robbed of a childhood and most of them lost the chance of an education.

35. The Trial Chamber cannot recall any other conflict in the history of warfare in which innocent civilians were subjected to such savage and inhumane treatment.

174. Prosecutor v. Brima, Case No. SCSL-2004-16-T, Sentencing Judgement, ¶¶ 34–35 (July 19, 2007).

II. CIVIL DEFENSE FORCE CASE

Trial Dates: June 3, 2004 through November 30, 2006

Decision Date: August 2, 2007

Sentencing Date: October 9, 2007

Appeal Decided: May 28, 2008

A. Overview

The Civil Defense Force (CDF) was formed by former Sierra Leone President Kabbah and other top officials, most in exile in Guinea, after their forced removal from power in the May 1997 coup d'état. The militia battled the combined AFRC and RUF forces until it successfully removed them from power in February 1998, aided by the West African peacekeepers of ECOMOG. Though acting to restore the democratically elected government of Sierra Leone, members of the CDF also targeted civilians whom they identified as supporters of the AFRC-RUF alliance, labeling them "collaborators," and carried out campaigns of murder, mutilation, and pillage against them. For their roles as CDF leaders in directing this violence against civilian populations, Moinina Fofana and Allieu Kondewa were tried by Trial Chamber I of the Special Court for Sierra Leone for war crimes, crimes against humanity, and other serious violations of international humanitarian law. The CDF National Coordinator, Samuel Hinga Norman, was also indicted and tried, but charges against Norman were dropped following his death shortly after the trial's conclusion.

SUMMARY OF CHARGES

Defendant	Count	Description	Trial Outcome	Sentence (concurrent)	Changes on Appeal
Moinina FOFANA	<i>Unlawful killings</i>				
	I	Murder (crime against humanity)	Not Guilty	---	Acquittal Reversed → 15 year sentence
	II	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)	Guilty	6 years	15 year sentence
	<i>Physical violence and mental suffering</i>				
	III	Inhumane acts (crime against humanity)	Not Guilty	---	Acquittal Reversed → 15 year sentence
	IV	Violence to life, health, and physical or mental well-being of persons, in particular cruel treatment (war crime)	Guilty	6 years	15 year sentence
	<i>Looting and burning</i>				
	V	Pillage (war crime)	Guilty	3 years	5 year sentence
	<i>Terrorizing the civilian population and collective punishments</i>				
	VI	Acts of terrorism (war crime)	Not Guilty	---	---
	VII	Collective punishments (war crime)	Guilty	4 years	Conviction Reversed
	<i>Use of child soldiers</i>				
	VIII	Enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities (other serious violation of international humanitarian law)	Not Guilty	---	---

Defendant	Count	Description	Trial Outcome	Sentence (concurrent)	Changes on Appeal
Allieu KONDEWA	<i>Unlawful killings</i>				
	I	Murder (crime against humanity)	Not Guilty	—	Acquittal Reversed → 20 year sentence
	II	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)	Guilty	8 years	20 year sentence
	<i>Physical violence and mental suffering</i>				
	III	Inhumane acts (crime against humanity)	Not Guilty	—	Acquittal Reversed → 20 year sentence
	IV	Violence to life, health, and physical or mental well-being of persons, in particular cruel treatment (war crime)	Guilty	8 years	20 year sentence
	<i>Looting and burning</i>				
	V	Pillage (war crime)	Guilty	5 years	7 year sentence
	<i>Terrorizing the civilian population and collective punishments</i>				
	VI	Acts of terrorism (war crime)	Not Guilty	—	—
	VII	Collective punishments (war crime)	Guilty	6 years	Conviction Reversed
	<i>Use of child soldiers</i>				
	VIII	Enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities (other serious violation of international humanitarian law)	Guilty	7 years	Conviction Reversed

B. *Excerpt from the Bench*¹⁷⁵

With regard to “just cause” as a mitigating factor in sentencing for violations of international humanitarian law:

530. International humanitarian law specifically removes a party’s political motive and the “justness” of a party’s cause from consideration. The basic distinction and historical separation between *jus ad bellum* and *jus in bello* underlies the desire of States to see that the protections afforded by *jus in bello* (i.e., international humanitarian law) are “fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflicts.” The political motivations of a combatant do not alter the demands on that combatant to ensure their conduct complies with the law.

531. Any trial chamber considering punishment must weigh its obligations to the individual accused in light of its responsibility to ensure that it is upholding the purposes and principles of international criminal law. Consideration of political motive by a court applying international humanitarian law not only contravenes, but would undermine a bedrock principle of that law.

532. Furthermore, the Appeals Chamber is of the view that any motive taken into consideration as a mitigating factor must be consistent with sentencing purposes. The following have been recognized by the ICTY as legitimate sentencing purposes: (i) individual and general deterrence concerning the accused and, in particular, commanders in similar situations in the future; (ii) individual and general affirmative prevention aimed at influencing the legal awareness of the accused, the victims, their relatives, the witnesses, and the general public in order to reassure them that the legal system is being implemented and enforced; (iii) retribution; (iv) public reprobation and stigmatisation by the international community; and (v) rehabilitation. The primary objectives must be retribution and deterrence.

533. The ICTY Appeals Chamber has held that a convicted person’s motivation of “just cause” contravenes the sentencing purpose of affirmative prevention:

175. Prosecutor v. Fofana, Case No. SCSL-04-14-A, Appeals Chamber Judgement, ¶¶ 530–34 (May 28, 2008) (footnotes omitted).

“The sentencing purpose of affirmative prevention appears to be particularly important in an international criminal tribunal, not the least because of the comparatively short history of international adjudication of serious violations of international humanitarian and human rights law. The unfortunate legacy of wars shows that until today many perpetrators believe that violations of binding international norms can be lawfully committed, because they are fighting for a ‘just cause’. Those people have to understand that international law is applicable to everybody, in particular during times of war. Thus, the sentences rendered by the International Tribunal have to demonstrate the fallacy of the old Roman principle of *inter arma silent leges* (amid the arms of war the laws are silent) in relation to the crimes under the International Tribunal’s jurisdiction.”

534. The Appeals Chamber concurs with this view Allowing mitigation for a convicted person’s political motives, even where they are considered by the Chamber to be meritorious, undermines the purposes of sentencing rather than promotes them. In effect, it provides implicit legitimacy to conduct that unequivocally violates the law—the precise conduct this Special Court was established to punish.

III. REVOLUTIONARY UNITED FRONT CASE

Trial Dates: July 5, 2004 through June 24, 2008

Decision Date: expected December 2008

A. Overview

The Revolutionary United Front (RUF), commanded by former Sierra Leone Army Corporal Foday Sankoh, joined with the forces of former Liberian President Charles Taylor's National Patriotic Front of Liberia (NPFL) to trigger the Sierra Leone Civil War in March of 1991. Despite its criticism of the military government that had risen to power in Sierra Leone as "non-democratic," when democratic elections were arranged, RUF fighters used mutilation tactics—in particular, the amputation of hands and arms—to boycott the election. Lacking any measure of popular support, the RUF engaged in acts of terror to force civilian populations to submit to its authority. After the May 1997 coup d'état in Freetown, the RUF was invited to join with the Armed Forces Revolutionary Council (AFRC) in forming a new government, which did not endure for even a year before being overthrown by the Civil Defense Force (CDF) led by former President Kabbah. The RUF continued to ally with the AFRC outside of the city and intensified its violence against the civilian populations as it sought to regain power. As leaders of the RUF, Issa Hassan Sesay, Morris Kallon, and Augustine Gbao were tried before Trial Chamber I of the Special Court for Sierra Leone for war crimes, crimes against humanity, and other serious violations of international humanitarian law.

Defendants	Count	Description
Issa Hassan SESAY, Morris KALLON, and Augustine GBAO	<i>Terrorizing the civilian population and collective punishments</i>	
	I	Acts of terrorism (war crime)
	II	Collective punishments (war crime)
	<i>Unlawful killings</i>	
	III	Extermination (crime against humanity)
	IV	Murder (crime against humanity)
	V	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)
	<i>Sexual violence</i>	
	VI	Rape (crime against humanity)
	VII	Sexual slavery and any other form of sexual violence (crime against humanity)
	VIII	Other inhumane acts (crime against humanity)
	IX	Outrages upon personal dignity (war crime)
	<i>Physical violence</i>	
	X	Violence to life, health, and physical or mental well-being of persons, in particular mutilation (war crime)
	XI	Other inhumane acts (crime against humanity)
	<i>Use of child soldiers</i>	
	XII	Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (other serious violation of international humanitarian law)
	<i>Abductions and forced labour</i>	
	XIII	Enslavement (crime against humanity)
	<i>Looting and burning</i>	
	XIV	Pillage (war crime)
	<i>Attacks on UNAMSIL personnel</i>	
	XV	Intentionally directing attacks against personnel involved in a humanitarian assistance or peacekeeping mission (other serious violation of international humanitarian law)
	XVI	Murder (crime against humanity)
	XVII	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)
	XVIII	Taking of hostages (war crime)

IV. CHARLES TAYLOR CASE

Trial Dates: June 4, 2007 through Present

A. Overview

Charles Ghankay Taylor served as President of the Republic of Liberia from August 1997 to August 2003. In December 1989, before becoming President, Taylor directed attacks that sparked civil war in Liberia as commander of the National Patriotic Front of Liberia (NPFL). To contain the violence in the northern areas of the country, the Economic Community of West African States Monitoring Group (ECOMOG) sent peacekeeping troops into Liberia, which Taylor sought to expel through attacks against these foreign forces. The government of Sierra Leone hosted the ECOMOG troops, prompting Taylor to declare that he would avenge this support against his militia. In 1991, Taylor led his NPFL forces, along with those of the RUF, into Sierra Leone and triggered a civil war that did not end until early 2002. Former President Taylor is accused of war crimes, crimes against humanity, and other serious violations of international humanitarian law committed in the course of his involvement in Sierra Leone. He is being tried before Trial Chamber II of the Special Court for Sierra Leone, though his trial was moved to The Hague due to security concerns in West Africa.

Defendant	Count	Description
Charles Ghankay TAYLOR		<i>Terrorizing the civilian population</i>
	I	Acts of terrorism (war crime)
		<i>Unlawful killings</i>
	II	Murder (crime against humanity)
	III	Violence to life, health, and physical or mental well-being of persons, in particular murder (war crime)
		<i>Sexual violence</i>
	IV	Rape (crime against humanity)
	V	Sexual slavery (crime against humanity)
	VI	Outrages upon personal dignity (war crime)
		<i>Physical violence</i>
	VII	Violence to life, health, and physical or mental well-being of persons, in particular cruel treatment (war crime)
	VIII	Other inhumane acts (crime against humanity)
		<i>Child soldiers</i>
	IX	Conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities (other serious violation of international humanitarian law)
		<i>Abductions and forced labour</i>
	X	Enslavement (crime against humanity)
		<i>Looting</i>
	XI	Pillage (war crime)

