

**SPECIAL COURT FOR SIERRA LEONE**  
PRESS AND PUBLIC AFFAIRS OFFICE

**PRESS CLIPPINGS**

**Enclosed are clippings of the latest local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office as of:**

Wednesday, March 30, 2005

The press clips are produced Monday to Friday.  
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# Can the Special Court deliver on its promise to end the culture of impunity in Sierra Leone?

By Henry Mbuwa Jr., Assistant Programme Officer, Human Rights Dept., Campaign for Good Governance.  
Culled from HDR Watch, Vol.2, Issue 1, January 2005.

In July 1999, the Lome Peace Accord was signed between the Government and the Revolutionary United Front, which officially ended the eight-year war then, and provided for the establishment of the Truth and Reconciliation process.

Soon after, following the aftermath of renewed fighting in May 2000, the government with the assistance of the United Nations set up a special tribunal to try the most culpable violators of international humanitarian law and the laws of the country.

This paper considers the growing debates surrounding the mandate and operation of the Special Court, three years later and raises very pertinent questions hinging on whether the court can fulfill its avowed mission of ending the culture of impunity in post war Sierra Leone.

Transitional Justice Mechanism have become one of the recent judicial instruments in the 20th century in mankind's ardent quest for seeking justice, order and stability especially in post conflict societies.

The fact that they are set up with a defined timeliness soon after a conflict has ended and soon disappears after administering some form of justice to specific targeted individuals with war crime records, have led to an increased focus for investigation and

research in recent times.

One of the major advantages attributed to transitional justice mechanisms is their propensity to address the culture of impunity, promote justice and reconciliation.

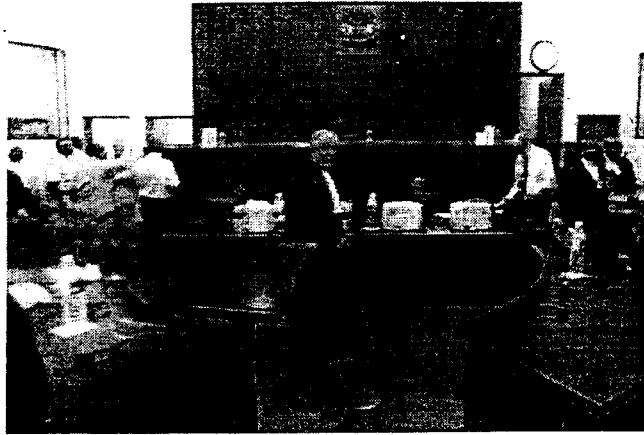
On the other hand, they have been criticized for being too expensive and time consuming in its effort to dispense adequate justice to war crimes culprits.

Sierra Leone's Special Court is one such example.

Unlike other tribunals such as the Arusha one in Tanzania to try crimes suspects of the Rwanda genocide, the Special Court for Sierra Leone was created by an agreement between the Government of Sierra Leone and the United Nations to bring to justice persons who bear the "Greatest Responsibility" for serious violations of international humanitarian law and Sierra Leonean law committed in Sierra Leone, starting from 30 November 1996.

Its limited mandate means that it was not created to try all those who committed crimes during the decade old civil war. Furthermore, it has a limited timeframe that does not take into account events covering the life cycle of the conflict.

After three years of the creation of the SCSL, it has been confronted with a myriad of unanswered questions, amongst which is its actual relevance in the first place in



Special Courts Sierra Leone, seen from the inside

the context of promoting justice and reconciliation.

Many reasons may be advanced for this.

While most Sierra Leoneans have criticized its creation, due to its ill-timed coincidence with the establishment of the Truth and Reconciliation Commission, the completion of the work of the TRC has left the SCSL even more prone to criticism and reassessment of its mission.

Even more interesting is the rising level of frustration among Sierra Leoneans with the snail pace of post-war socio-economic recovery situation and its general consequences on the activities of the Special Court.

Most disenchanted Sierra Leoneans it would appear, tend to relegate the importance of the issue of human rights, justice and reconciliation, which the Court seeks to address, by criticizing it as too expensive and creating more tension and security threat rather than administering justice and addressing the question of impunity.

Many are of the view that the money being spent on running the Court should have served a better purpose instead such as providing shelter, medical health centers, schools and other assistance to amputees and other victims.

One other argument advanced against the Court is its limited jurisdiction with respect to the '30 November 1996' timeframe. Why 30 November 1996? Does that mean that the crimes committed since March 1991 were insignificant to warrant a trial?

Undoubtedly, these issues formed the core topical debates in a recently complete workshop with Civil Society Organizations in Freetown on the topic "Perception of Justice-Criteria for the evaluation of the Special Court for Sierra Leone".

As earlier raised, one of the key issues discussed among many others was the general lack of understanding among the people of the operations and mandate of the Court.

In particular those that have to do with the issue 'Greatest Responsibility' were criticized.

Most Sierra Leoneans think that bringing to justice few individuals because they were in collective command position is unfair to the victims.

This issue received wider discourse against the backdrop of the paucity of indictments and the critical need for second and third levels of indictments in the interest of ensuring distributional justice and national healing.

Another argument points to the fact that a good number of the notorious perpetrators still live outside the country

and were known to have committed very heinous crimes that would more or less qualify them for second and third levels of indictment. Those middle level commanders who were actually directing, and commanding in the battlefield and who masterminded the carnage and amputations must also be brought to justice. Personally, while some Sierra Leoneans may wish to have such levels of indictments, most people would prefer to put behind their backs these taunting memories of the war and push forward instead with the effect to promote socio-economic development.

Another very salient issue that came out in the workshop was the issue of reparation and compensation for victims. With particular reference to the thousands to amputees and their dependants, it is believed that the concept of justice and reconciliation is not complete if the victims are not given adequate attention and compensation.

Another question in the minds of many people is the matter of whether to try and make indictments on few war crimes or to address the grievances of victims.

The question could be asked; "should be the priority concern to the reconciliation and justice processes in the nation"?

But the follow up questions remain: who is responsible for reparation and

compensation? Who should cater for the victims? Is the Truth and Reconciliation Commission report going to be thrown under the carpet?

It should be noted that the defense and promotion of human rights has gone beyond the concept of merely administering justice, and it entails the need to cater for victims as well as confronting the problems that created the conflict in the first place.

Notwithstanding the above concerns, there are fine things we hope to benefit from the Court in the long run.

In addition to the fact that the Court creates employment and empowers Sierra Leoneans, vis a vis Lawyers and Judges, its establishment has also emphasized the concept of the rule of law and has helped to institutionalize the culture of human rights in post war Sierra Leone.

Another important legacy of the Court is the death penalty, which it is not going to be handed down to those found guilty of war crimes.

This is a positive sign, which indicates that the death penalty will soon be obsolete and must be removed from the law books of Sierra Leone.

In cognizance of national concerns regarding its usefulness in the country, the SCSL has therefore embarked on a deliberate drive to absolve itself from the growing level of misunderstanding and confusion surrounding its operation and mandate.

This attempt is manifested in its current drive to organize a Victims Reparations Conference in order to address the issue of

reparation especially so when it forms the crux of the recommendation of the TRC.

In the same vein, a series of conferences have been concluded in the provinces to gather diverse opinions for a national Victims Reparation Conference to be held in Freetown in February 2005.

While many eyebrows have been raised to the question of bringing the erstwhile leader of Liberia, now living in exile in Nigeria, to face the Special Court, many observers and analysts have also found it difficult to explain the lackluster attitude of Civil Society Organizations in Sierra Leone in calling on the Nigeria Government to hand over Charles Taylor to the Special Court for Sierra Leone.

Knowing fully the role of Taylor in the Sierra Leone conflict, speaking sotto voce about him will not solve the problem.

What is urgently needed now is for Human Rights Organizations, Human Rights Activists and the Government of Sierra Leone to work out appropriate strategies and collaborate more effectively with Civil Society Organizations in Nigeria and the sub-region to facilitate the speedy handover of Charles Taylor to the Special Court to face justice.

Whether or not this will happen in the foreseeable future remains a fundamental question.

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## UN: Arrest Spotlights Resource Abuse in West Africa

By Jeff Miller

Posted: 3/29/2005 5:23 PM

(Rapaport...March 29, 2005) The prosecutor of the Special Court for Sierra Leone welcomed an arrest of a Dutch businessman on charges of committing war crimes against Liberians and violating a United Nations arms embargo as "a major blow against Western profiteers who enrich themselves on the suffering of Africans."

"I have long been aware of Gus Kouwenhoven's criminal activity, his involvement in (former Liberian President) Charles Taylor's inner circle and direct support for Taylor's war machine," Prosecutor David Crane said.

The United Nations press office reported that the trial in a Netherlands courtroom of Kouwenhoven, who was arrested on March 19, 2005, would spotlight the roles of arms traffickers and international financiers, as well as the abuse of West Africa's resources, he said.

Crane added that he had not collected the evidence to place Kouwenhoven among those bearing "greatest responsibility" for international crimes during Sierra Leone's civil conflict, but he had instructed his Special Court investigators to cooperate with the Dutch authorities.

### Breaking News

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## **ABC Radio Australia**

### **Radio Australia - News - UN court in Sierra Leone terminates contract Australian policeman**

[This is the print version of story <http://www.abc.net.au/ra/news/stories/s1324502.htm>]

Last Updated 16/03/2005, 11:16:07

The United Nations Special Court in Sierra Leone has ended the contract of an Australian police officer convicted of the indecent assault of a local child.

Peter Halloran was on secondment to the court in the West African nation, and was helping investigate war crimes.

However, after his conviction for indecently assaulting a 13-year-old girl, the court has terminated his employment.

Halloran has spent three weeks in jail, but is now out on bail and is appealing the conviction.

Our Africa correspondent, Zoe Daniel, says the UN special court will reconsider the termination of his contract if his appeal succeeds.

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*Canberra Times (Australia) March 30, 2005 Wednesday*

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Canberra Times (Australia)

**March 30, 2005 Wednesday Final Edition**

**SECTION:** A; Pg. 9

**LENGTH:** 712 words

**HEADLINE:** Finally, some action to halt the abuse of kids in war

**BYLINE:** The Canberra Times

**BODY:**

THROUGHOUT human history, children have been the unrecorded, and often unlamented, victims of warfare. They have been traumatised and abused, both as conscripted soldiers and as civilians caught up in the devastation wreaked by war. But now, finally, attention is being paid to their unmerited suffering. An internal United Nation report has been published which describes a pattern of rape and sexual abuse perpetrated by UN peacekeepers in countries where, ironically, they were sent to restore order, including the Democratic Republic of the Congo, East Timor, Cambodia, Bosnia, **Sierra Leone** and Haiti. Many of the victims of this abuse are children, sometimes orphans, who are exchanging sex for small amounts of food, money, or jobs. And, earlier this month, a conference in the Hague brought together the chief prosecutor for the new International Criminal Court; the deputy prosecutor for the International Criminal Tribunal for the former Yugoslavia, and the prosecutor for the **Special Court for Sierra Leone**. The topic of this conference was - astonishingly - International Criminal Accountability and the Rights of Children. One factor that has helped tip the balance towards recognising the abuse of children in war, both as soldiers and non-combatants, has been changing social values. For example, while it was once acceptable to treat young recruits and soldiers extremely harshly - in World War I scores of British soldiers under 18 were shot at dawn for falling asleep on duty or running away - this is no longer the case. At least the British Ministry of Defence has made some progress. Another factor, that is both a cause and a result of the shift in society's attitudes towards children, was the adoption, in 1989, of the UN Convention on the Rights of the Child. This quite comprehensive set of international rules relating to children outlines their various economic, social, cultural, civil and political entitlements - in times of peace and in armed conflict. The convention has been almost universally ratified, the only non-ratifying countries at this point being Somalia (which has not had a functioning government for most of the lifetime of the convention), and the United States (which is a very long story). Interestingly, the convention defines a child, broadly, as anyone aged under 18 - and a substantial proportion of the world's population (and indeed the majority population in some countries) falls into this category. Largely as a result of initiatives under the umbrella of the 1989 convention, the UN has begun to take notice of children in armed conflict. The Security Council now has an annual day of discussion on this issue - and it has recently taken the hitherto unimaginable step of naming countries that use child soldiers and proposing measures both to sanction those countries and to put in place a monitoring system to track the situation of children involved in various armed conflicts, whether as civilians or combatants. The international criminal tribunals also are no longer lagging. The

International Criminal Court has selected, as the subject of its first investigations, two armed conflicts that are characterised by massive violations committed against children: those in Northern Uganda and in the Congo. At the recent conference in The Hague, chief prosecutor Luis Moreno-Ocampo emphasised that in his current cases child soldiers are a big issue. He also talked about the measures the court is taking to encourage the participation of child witnesses and to protect them before and after giving evidence. **Special Court for Sierra Leone** prosecutor David Crane was even more unequivocal, saying one of the guiding principles of his work has been: "If you go after women and children, you will pay the price." And, indeed, he has put this principle into practice in **Sierra Leone** and been responsible for some ground-breaking cases against those who seemed, not very long ago, to be completely beyond the reach of international law. It is encouraging to find that the endless meetings in international organisations such as the UN do sometimes bear fruit. Jenny Kuper's book, *Military Training and Children in Armed Conflict: Law, Policy and Practice*, is published in Europe this month by Martinus Nijhoff



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Niko Kyriakou

**U.N. member states have pledged the lion's share of funding needed to launch an international tribunal to prosecute a small number of surviving leaders of the Khmer Rouge, the infamous communist regime responsible for the massacre of an estimated three million civilians -- or one quarter of the Cambodian population in the late 1970s.**

**UNITED NATIONS, Mar 29 (IPS)** - Countries attending Monday's fundraising conference here pledged 38.4 million dollars, about five million short of the sum the U.N. has agreed to raise.

But U.N. Secretary-General Kofi Annan told donor countries the amount exceeded his expectations, and voiced confidence that the U.N. would be able to raise the balance.

"The crimes committed under the Khmer Rouge were of a character and a scale that it is still almost impossible to comprehend," he said. "The victims of those horrific crimes have waited too long for justice."

"By your generous contributions today you can send a message that, however late, and however imperfect, impunity will not remain unchallenged."

Annan explained that court proceedings scheduled for mid-2005 could not start until the U.N.'s full 43-million-dollar portion had either been pledged or contributed. He especially thanked Japan, whose pledge of 21.6 million dollars -- already paid in cash -- is just over half of the U.N. target.

France made the second largest pledge of 4.8 million dollars, followed by the United Kingdom's 2.8 million and Australia's 2.3 million. Sean Visoth, who spoke for the Cambodian delegation, told IPS that the announcement of pledges totaling 38 million dollars was "encouraging".

But in a written statement, Sok An, chairman of the Royal Government Task Force for the Khmer Rouge Trials, asked the international community to also help the Cambodian government cover half of its 13.3-million-dollar obligation, meaning that about 12 million in pledges is still needed before work to set up the court can begin.

The United States refused to donate, saying it had already given seven million dollars to Cambodia over the last decade for documentation and research for the crimes committed there.

The U.S. has been criticised for indirectly fueling Pol Pot's rise to power through its bombing of Cambodia in the early 1970's and for providing CIA support for the Khmer Rouge in the 1980s to fight the Cambodian puppet government installed by North Vietnam at the time. In the 1980s, the U.S. also successfully exerted pressure on the United Nations to give aid to the Khmer Rouge.

Since 1997, the Cambodian government has sought the U.N.'s help to create an international tribunal to bring about a dozen living suspects, most in their early seventies, to justice. Pol Pot, Brother Number One of the Democratic Kampuchea (the Khmer Rouge's name for Cambodia), died in 1998, and the opportunity to try those who planned, directed or carried out serious crimes is slipping away.

Surveys by the Centre for Social Development in 2002, the Asia Foundation in 2004 and the Khmer Rouge Institute for Democracy in 2005 found that the majority of Cambodians want to see trials of Khmer Rouge leaders, provided the trials

conform to international standards.

A Cambodian tribunal was initially set up in 1979 that found both Pol Pot and another Khmer Rouge leader, Ieng Sary, guilty of genocide, but it lacked the muscle to apply those sentences. Until 1998, civil war prevented the establishment of other tribunals.

Talks between Cambodia and the U.N. lasted six years, from 1998 until 2003, before an agreement to set up a tribunal under Cambodian law was finally reached. Only late last year did Cambodia ratify the agreement and establish a budget estimate for the project.

One cause of this delay may have been a lack of political will to have the trials, particularly in the party of Prime Minister Hun Sen, according to Dinah PoKempner, a lawyer with Human Rights Watch (HRW).

"One reason there was foot-dragging is that political deals were brokered," PoKempner told IPS. "The civil war was won partly through co-opting the Khmer Rouge and allowing them positions in government and the military. There are people who come under explicit terms of amnesty."

Another reason negotiations over the court took so long she says, is that the current government's style has been to control the Cambodian courts completely.

"There is not an independent judiciary so having an independent judiciary is a political threat to the government," she said.

The model for the court finally agreed upon, called the Extraordinary Chambers (EC), is an affordable hybrid of the wholly international tribunals held at the Hague. Mixing mostly Cambodian, but also foreign judges, the EC's decisions require a majority vote and must include at least one foreign vote.

HRW has criticised this arrangement as vulnerable to stalemates.

Mike Jendrzeczyk, Washington director of HRW's Asia Division, says that the EC model is susceptible to manipulation because the government can choose from the judges and prosecutors nominated by the U.N., but the U.N. has no say in the appointments made by the Cambodian government.

However, according to a paper by Tara Gutman, a legal consultant for the Cambodian government, there are also drawbacks to moving the court away from Cambodian influence. Cambodian citizens and the Cambodian press would be less likely to attend the trial and most of the public would be unable to understand the language of the proceedings, she says.

Neither the International Criminal Court nor the International Court of Justice are options for Cambodia as the former can only hear cases that took place after its genesis in 2002, and the latter only handles disputes between states.

Gutman says that since the hybrid model relies predominantly on existing institutions and local staff to run the trials, it is not only cheaper but leaves a wake of skilled personnel. Plus, holding the trials in Cambodia improves the public's faith in their country's legal system and Cambodia's reputation as a just society, she says.

In response to questions of whether wider corruption in Cambodia's courts will bleed into the tribunal, Gutman says that some margin of accountability will be established by NGO, press, and public monitors allowed to attend the open, televised hearings.

Cambodia's Khmer Rouge Tribunal (KRT), which will be located in the capital, Phnom Penh, differs from other international tribunals that have been held in Yugoslavia, Rwanda, Kosovo and Iraq in that it is set to try cases for no more than three years at a cost of about 20 million dollars per year.

By comparison, the Yugoslavian tribunal is expected to last 17 years at an estimated cost of 100 million per year, and the Rwandan tribunal 24 million dollars per year for 14 years.

Sierra Leone's Special Court and East Timor's Serious Crimes Panel are more similar to the Cambodian model. Both use mixed tribunals made up of national and international judges, which is much less expensive.

But the KRT is unique even from these examples because 25 years have passed since the atrocities it addresses, while most other tribunals deal with conflicts less than three years old.



This means the KRT has fewer cases to try and far more evidence of crimes, including maps of mass graves sites and a 50,000-page collection of Khmer Rouge-era documents assembled over the past two and a half decades by Yale University's Cambodian Genocide Programme. (END/2005)

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## Money in for Khmer Rouge trials

**Nearly three decades after Cambodia's genocide began, the United Nations hopes that it has raised enough money for trials of Khmer Rouge leaders still alive.**

Nations at a pledging conference promised about \$38 million for the court action, with Japan alone saying it would contribute \$21 million. Cambodia will pay some \$13 million for the court, estimated to cost \$56.3 million over three years.

"We had indicated we needed three years of pledges and one year's contribution paid up for us to start," Secretary-General Kofi Annan told reporters after the conference.

"So I suspect that some of the money would be released very early for us to have a year's contribution in cash and then begin the proceedings," not expected this year, he said.

An estimated 1.7 million people died of starvation, forced labor, disease or execution during the Khmer Rouge "killing fields," from 1975 to 1979.

The Khmer Rouge leader, Pol Pot, died in 1998. Many fear the rest of the aging leaders will die before they can face trial.

But before the trials begin, the United Nations has to certify that the Cambodian court meets international justice standards. The tribunals will have a sprinkling of international judges and prosecutors working alongside their Cambodian colleagues.

Sok An, Cambodia's chief negotiator on the accord, hopes the tribunal will be set up this year to try up to 10 former leaders of the Khmer Rouge regime.

The trials are eagerly awaited by many Cambodians, many of whom are too young to remember the horrors of the 1975-79 regime ousted by a Vietnamese invasion.

Critics have accused Cambodia of foot-dragging over a tribunal, as some current government officials were once members of the Khmer Rouge, including Prime Minister Hun Sen, a former regimental commander.

The Khmer Rouge was overthrown by Vietnam-backed rebels in 1979, who then put Hun Sen in power.

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