

SPECIAL COURT FOR SIERRA LEONE
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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:

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For di People. April 20th 2005 (Wednesday).

-Special Court told

ANSWERING TO questions from defense counsel Turay under cross-examination, prosecution witness who was captured at the age of 14 told the Special Court that he could not recall the name of the RUF combatant who removed the foetus from a pregnant woman.

by SU THORONKA

He said no action was taken against the perpetrators of the dastardly act. "When the officers saw the incident, they themselves admired the act," the witness said.

Although Morris Kallon was not present when the act was committed, the witness informed the court that he (Kallon) and one Colonel Ghadafi arrived at the scene of the incident three minutes later.

This incident, the witness said, took place at Tombodu in the Kono District. The witness however disagreed with the defense counsel that Morris Kallon was not with the re-enforcement team that went to Makeni.

He said before this incident, Ghadafi was a Captain. He told the court that the screening of abductees did not take place in Baoma but in Kailahun town.

He said G1 was responsible for the recruitment of personnel, G2 was responsible for intelligence, G3 for operations, G4 for arms and ammunition and G5 was responsible for RUF relationship with the civilians.

He agreed with defense counsel that G5 was separate from the RUF security command. The witness said his first encounter with Gbao was in Kailahun where he was head of the G5. The office of the G5 the witness said was located in the central of Kailahun town. the screening that took place in Kailahun was to ascertain whether there were no enemies amongst the group of civilians.

After the screening, those that were fit for military training were turned over to the G1 and that he was amongst those sent to Bunumbu at Camp 'Lion' for military training.

Continuing answering to questions put forward by defense counsel, the witness said, the G5 was also responsible for the recruitment of civilians

Continued Back Page

PREGNANT WOMAN

From Page 2

into forced manual labour. Some, he said, were engaged in farming activities, and others in domestic chores etc. During the screening process, the witness said no enemy was detected to the time he was screened but could not however tell whether an enemy was detected after he had been screened because he was not the last man to be screened.

He said Akim, an SLA soldier usually visited Colonel Gbao. When asked to tell the court who was Akim, the witness said he was a soldier who took oath that he was no more a soldier but an RUF combatant.

The witness said a meeting was convened at Banya's compound and that the following people were present: Gbao, Boekarie, Akim, GVK, Porvay and many others.

SIERRA LEONE

In 1991 rebel troops invaded Sierra Leone from neighbouring Liberia, marking the start of a 10 year civil war that would see over 60,000 people killed, 2m displaced and 20,000 abducted. In the course of the conflict over 4,000 people had their hands or arms amputated with machetes, the horrific trade mark of the war. After a series of failed peace accords, coups and counter-coups, peace was finally imposed in 2001 by the United Nations Mission in Sierra Leone (UNAMSIL), the largest ever UN peacekeeping operation. As part of the peace process, the UN disarmed nearly 7,000 child soldiers. A truth and reconciliation commission was set up to hear evidence and establish a record of events over the ten year war, and in 2001 President Kabbah of Sierra Leone wrote to Kofi Annan asking the United Nations to set up an international war crimes court to try those responsible for violations of the laws of war.

The Security Council, stung by the complications and costs of the *ad hoc* tribunals for Rwanda and the former Yugoslavia ('the ICTs') balked at the establishment of a third tribunal. And so a different method was chosen for Sierra Leone – the creation of a 'Special Court for Sierra Leone (SCSL). It would be a 'hybrid' tribunal, mixing domestic law with international standards, national and international lawyers and judges, and it would be based in the country where the crimes were alleged to have been committed. To avoid the delays of the other tribunals, it would only try 'those who bear the greatest responsibility' for war crimes, and it would have a fixed time limit of three years in which to try the defendants and conclude their appeals. Funding was limited to \$60m for the entire project – which included building a prison, a court and offices for several hundred staff.

The structure is one that has been to some extent tried before. In East Timor, there were special tribunals set up by the UN Transitional Administration for East Timor



A SPECIAL KIND of JUSTICE

Is there equality of arms for the defence at the Special Court for Sierra Leone? Rupert Skillbeck writes from first hand experience.


(UNTAET) that heard trials for war crimes, with international judges and international prosecutors. In Kosovo, courts known as 'section 65 panels' hear allegations of violations of war crimes law, with international judges and prosecutors working alongside locals. Cambodia, Iraq and Bosnia are all developing similar courts where there is a mixture of domestic and international judges and lawyers. Lessons can be learnt from the experiences of the others.



The Special Court is wholly based in a common law environment. Sierra Leone relies heavily on the law of England and Wales for its criminal jurisdiction, and the local lawyers and judges appear keen to maintain

that link. Judges are referred to as 'their Lordships'. The levels of courtroom courtesy would seem old-fashioned to many English criminal practitioners. The Judges prefer to adopt common law rules, such as excluding hearsay evidence, to gasps of astonishment from international prosecutors who have worked in international tribunals, where such evidence is routinely admissible.

Whilst the prosecution in international tribunals is normally staffed with expert investigators, police officers, translators and lawyers, paid on a very healthy UN pay scale, the defence has often been forgotten about, left to the last minute and deprived of resources.



There is a long history of this difference in treatment between the defence and the prosecution. At Nuremberg, German defence lawyers were shunned by the international judges and prosecutors who refused them entry to the hotel where they were all staying. In a unique move, the Bar of England and Wales prohibited barristers from acting for the defence, and some German bar associations disciplined members for pursuing too vigorous a defence. In setting up the tribunals for Rwanda and Yugoslavia, virtually no thought was given to the role of the defence until the trials had commenced. Defence lawyers had to fight for the right to have more than one lawyer, and for the courts to pay for investigators to assist them. Both of the ICTs have small scale defence offices mainly dealing with the payment of fees. In East Timor and Kosovo, recently qualified local lawyers were put up against experienced international prosecutors, and despite the valiant efforts of NGOs working to support the defence, they were clearly outgunned. Tragically, the International Criminal Court (ICC) contains virtually no provision in the Statute and the Rules for proper de-

fence, save for the normal promises based on human rights law. Whilst the Prosecutor at the ICC now has a large staff, with academic links, visiting fellows, spokesmen, investigators and hordes of lawyers, the defence office is still in the consultancy stage.

In Sierra Leone, the decision was made to attempt to create some form of 'equality of arms' between the prosecution and the defence. Whilst in any legal system there will always be an imbalance between the resources that a government prosecutor's department is able to deploy and the abilities of lawyers in private practice to counter that, efforts must be made to correct the distortion. The Office of the Principal Defender (OPD) is headed by a senior lawyer with experience in international and criminal law. She is assisted by legal advisers, support staff, interns, and by 'duty counsel', who are Sierra Leonean nationals who act for defendants in the initial arrest stage, and then provide ongoing support through the trials.

The Principal Defender is able to act as a counterbalance to the importance and prominence given to the

Prosecutor. However, there are significant differences. The Prosecutor enjoys diplomatic immunity, a UN status equivalent to the Judges and in fact wears the same red robes as the judiciary. Due to the limited budget of the SCSL, the Rules require that staff are only recruited at the point when they become relevant in the criminal justice process. Consequently, the Principal Defender was only recruited in 2004, over 12 months into the life of the Court and well after the preliminary arguments had commenced. Whilst individuals in an acting capacity had worked invaluable to provide for a proper defence, the lack of a permanent counter-balance to the Prosecutor gave a disastrous impression, not least to the defendants.

One of the main jobs of the OPD is to recruit lawyers to act for the defence in the trials. The SCSL has adopted a system requiring mixed teams of national and international lawyers, with legal assistants and investigators. There have been a number of UK solicitors and barristers recruited to the defence, together with lawyers from Ghana, South Africa, Canada, Australia, the Netherlands and the United States. The official language of the Court is English, and the virtual direct application of the common law means that lawyers from a similar background have an instant advantage.

Whilst there have been some problems with changes in defence teams, the general pattern is that counsel for the defence are much more senior and more experienced in trial advocacy than the prosecutors. Lawyers for the OTP are on fixed term contracts, meaning that they may leave the court at the conclusion of the contract rather than at the conclusion of the case. This means that the team may change several times during the course of the trial. The prosecution have on frequent occasions used junior lawyers from civil jurisdictions to adduce the evidence of significant witnesses, with inevitable effects on their ability to put their case.

The OPD provides practical assistance as well. There are offices for defence teams, although partly due to the late arrival of the defence at the court this was in the form of shared offices until late 2004, with up to three different trial teams in one room. This was in stark contrast to the large facilities of the OTP, with approximately 5 or 6 times the office accommodation.

In the tribunals for Rwanda and Yugoslavia there has been criticism of the fact that the people who were the victims of the wars feel very little connection to the 'justice' that is being done in their name. There is also a need for the staff of the Court – national and international – to be educated as to the importance of defence rights, in an attempt to counter the attitude that 'they must be guilty' and questions such as 'how can you defend war criminals?'

The SCSL has taken advantage of the fact that it is 'in country' to have a department devoted to 'outreach', explaining the work of the Court to the people of Sierra Leone. However, a problem with the late arrival of the defence meant that the Prosecution had a massive advantage in terms of profile, which was added to by some rather unfortunate statements by the Prosecutor that the defendants 'would never see the light of day'. This has left the defence investigators with great difficulties in trying to locate witnesses who are prepared to give evidence on behalf of the defence, or who are prepared to speak to them at all. The OPD has been able to promote a programme of *defence* outreach events, explaining to the people of the country that all defendants are presumed innocent, that they will have a proper trial, and that people can give evidence on behalf of the defence.

The OPD has also been able to become involved in a series of events aimed at building capacity in the legal profession, with training programmes and seminars with local lawyers and law students at the University of Sierra Leone. In particular, a number of events have been held

explaining why the Special Court does not have the death penalty for 'those who bear the greatest responsibility', in contrast to domestic law which retains capital punishment for murder.

The Prosecutor is limited by the mandate of the Court only to prosecute 'those who bear the greatest responsibility', and that initial decision has on occasion been controversial. He has indicted 3 members of the Civil Defence Force (CDF) including the Minister of the Interior, arrested at his desk. The CDF were seen by many in Sierra Leone as having saved the country from the ravages of the rebel troops, and a significant proportion of the population were not interested in allegations against them. However, the Prosecutor decided that all would be prosecuted.

He also chose to indict Charles Taylor, at the time of his Indictment the President of neighbouring Liberia. The indictment was made public and a request to arrest him made whilst he was attending peace talks in a neighbouring country. The host government declined to arrest him, and he is now living under asylum in Nigeria. Foday Sankoh, the leader of the Rebel United Front, and considered by many as the most important defendant, died in custody, with no third country willing to accept him for medical treatment unavailable in Sierra Leone.

As in any new tribunal, there have been a number of challenges to the jurisdiction of the Court which have led to some interesting decisions. As part of the various peace agreements signed in order to end the war, Rebels had been promised immunity from prosecution, which they later sought to rely upon as a plea in bar. However, the Court decided that there can be no immunity from Crimes Against Humanity, a decision which will resonate through many peace negotiations in the years to come.

The Court also decided against

Charles Taylor in his argument that he could not be tried for any acts committed whilst he was head of State. And the SCSL has decided that the offence of recruitment of child soldiers is one that it has jurisdiction to try, as being a crime against customary international law, now crystallised in the Rome Statute for the International Criminal Court.

Judicial bias has also been a significant issue before the Court, which had to consider the fact that the President of the Court, Justice Geoffrey Robertson, had made statements in his book 'Crimes Against Humanity' that the RUF were guilty of war crimes, and that they would have no defence. He declined to withdraw, and his brother judges decided that there was an appearance of actual bias, such that he should not be allowed to remain in judgement on cases involving the RUF.

The Special Court for Sierra Leone is the first time that an international tribunal has operated in the country where the conflict occurred, which makes it particularly important that the justice that is delivered is fairly and effectively applied. The limited life-span and mandate of the Court means that many will feel that justice has been denied them, until the individual person who committed offences against them and their family has been brought before a Court.

With significant influence over the operation of the Court by virtue of its ability to fund a large proportion of the budget, the United States has a particular interest in ensuring that this system of international justice – as a direct alternative to the International Criminal Court – is a success. Alternative systems of domestic tribunals with international support are envisaged in the Rome Statute of the ICC, and the comparison between the two systems is one that is yet to be effectively made.

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Ivory Coast government, rebels confirm heavy weapons withdrawal

Source: Agence France-Presse English Wire Date: April 19, 2005

DAOUKRO, Ivory Coast, April 19 (AFP) - The Ivory Coast government and rebel forces confirmed Tuesday that they would start withdrawing their heavy weapons from frontline areas later this week in line with an agreement reached earlier this month.

Meeting at the town of Daoukro, 250 kilometres (miles) northeast of Abidjan under the auspices of United Nations and French peacekeepers, the two sides issued a joint statement saying the withdrawal would start Thursday and continue until Sunday.

The rebel New Forces have held the north of the country since an unsuccessful attempt to oust President Laurent Gbagbo in 2002. The two sides are kept apart by French and United Nations troops. The withdrawal of heavy weapons will be the first concrete step to implement an agreement reached in Pretoria on April 6.

It was signed by Ivorian President Laurent and rebel and opposition leaders in Pretoria under the mediation of South African President Thabo Mbeki. It calls for the immediate disarmament and the dismantling of militias.

It also aims to resolve problems arising from disarmament, settle a dispute over the eligibility of presidential candidates and provide for the rebels to return to the transitional government they quit over fears for their safety.

During the meeting at Daoukro, situated in a zone controlled by loyalists, the parties agreed that the weapons to be pulled back would be "horizontal fire weapons with a calibre equal or superior to 20 mm" and "high angle weapons with a calibre equal or superior to 60 mm" (mortars and cannon.) .

Anti-tank weapons such as rocket-propelled grenades are not considered to be heavy weapons, the statement said.

UN and French forces will oversee the stockpiling of heavy weapons at various centres in zones controlled by the two sides, and inspections will be carried out from April 25 to 28.

All parties will then gather at the rebel stronghold of Bouake in the centre of the country on April 30 to assess progress.

04/19/2005 10:42:05

Ivory Coast army

Ivory Coast army, rebels discuss withdrawal of heavy arms from front

By SERME LASSINA

DAOUKRO, Ivory Coast (AP) _ Ivory Coast's army chief and rebel

commanders met Tuesday for the third time in a week to discuss pulling heavy weapons back from front lines in bid to end this West African nation's 2 1/2-year-old civil war.

The meeting in government-held Daoukro, 190 kilometers (120 miles) north of the commercial capital Abidjan, follows negotiations held last week behind rebel lines in which all sides agreed to withdraw heavy arms from the front starting April 21.

The delegations _ led by army chief Col. Philippe Mangou and rebel forces chief of staff Col. Soumaila Bakayoko _ met behind closed doors. They were expected to issue a statement afterward outlining how the pullback would be accomplished.

Rebels have controlled the northern half of Ivory Coast since a failed coup attempt in September 2002 sparked a civil war.

Despite peace agreements, deep differences between the two sides have simmered ever since, delaying the start of disarmament several times.

Following South African President Thabo Mbeki's recent peace initiative, warring parties agreed April 4 to end hostilities and begin disarmament soon.

On Saturday, both sides met in rebel-held Bouake and said they would examine a proposal to disarm from May 14 to July 31.

Tuesday's talks come as President Laurent Gbagbo met with women's groups in Abidjan to discuss the peace deal, continuing a series of talks with key groups due to end May 3.

On Monday, up to 3,000 young patriots, a pro-government movement, crammed into the presidential palace to voice their support of Gbagbo. Gbagbo is expected to state his position on the new accord and a proposal by Mbeki to allow all candidates, including Gbagbo's main rival, to run in the presidential polls.

A buffer zone, separating warring factions, is patrolled by 6,000 U.N. troops and 4,000 French peacekeepers whom Gbagbo's party and pro-government militias have been demanding quit the country.



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640 years for Argentine in Spain

By CNN's Madrid Bureau Chief Al Goodman

MADRID, Spain (CNN) -- A Spanish court has convicted a former Argentine naval officer of crimes against humanity, terrorism and torture under the former Argentine military government and sentenced him to 640 years in prison -- effectively jailing him for the rest of his life.

Human rights organizations hailed the case against Adolfo Scilingo, 58, the former officer, as a triumph for "universal justice," in which Spain, for the first time, tried and convicted a defendant for crimes against humanity committed in another country.

Scilingo showed no reaction as the 209-page verdict was read by the presiding judge of the three-judge panel at Spain's National Court in Madrid.

Scilingo can file an appeal to the Supreme Court of Spain. Under Spanish law, he would only serve 30 years in prison despite the length of the sentence.

Observers, including the relatives of many of the Argentine victims, packed courtroom in central Madrid.

"I'm happy," said Malou Cerutti, whose husband and father were taken from her home in the Mendoza province of Argentina and were never seen again. "I'm content it was Spain. This starts a new era of universal justice."

In 1997, Scilingo came voluntarily to Spain -- where Judge Baltasar Garzon was investigating abuses of the Argentine regime -- and testified under oath that he participated in two so-called death flights, during which about 30 leftist political opponents of the junta were thrown alive from airplanes to their deaths below in the sea.

After the testimony, Garzon ordered his arrest on suspicion of human rights abuses.

Scilingo was sentenced to 21 years for each of the 30 victims of the death flights in addition to five years for kidnapping and five years for torture.

The court found that he was aware of the overall plan by Argentine military officials to abduct and kill political opponents. They further found he had participated in the campaign.

In 1995, Scilingo had also told Time magazine that he helped "disappear" suspected leftists by throwing them from planes into the ocean.

"They were unconscious. We stripped them, and when the flight commander gave the order, we opened the door and threw them out, naked, one by one," the magazine reported.

"That is the story, and nobody can deny it."

But Scilingo recanted that story long before the trial began last January. During the two-month proceedings, he again professed innocence.

However, the judge said the court was able to verify his initial claims by other evidence and that his convictions were based principally on his own statements.

At the outset of the trial Scilingo was uncooperative, slumping in his chair on the first day and refusing to answer the presiding judge's questions. But as the trial wore on, he began speaking vigorously to defend his innocence. He said he not taken part in the death flights, even as the taped 1997 testimony was played out in open court.

He also denied working at a notorious torture center in Buenos Aires, the Naval Mechanical School, during dates when atrocities were committed there against political opponents of the regime.

But witnesses during the trial identified Scilingo and incriminated him in the crimes.

The Argentine truth commission's 1984 report named 8,961 people who "disappeared" under the military rule.

But human rights groups estimate up to 30,000 people were killed or "disappeared" in the Argentine military's war against leftist guerrillas and their sympathizers. Many were tortured, drugged and thrown from aircraft into the River Plate or the Atlantic Ocean.

Although some high-level officials were criminally prosecuted in Argentina in the 1980s for these abuses, the country's amnesty laws protected most of the military. Those who were convicted were pardoned by then-President Carlos Menem in 1989 and 1990.

Judge Garzon was not the trial judge for Scilingo and was not present in court on Tuesday. He is currently on leave from the court, and is in New York to study and research terrorism.

As part of Garzon's broad-ranging human rights investigations in South America, he also unsuccessfully sought extradition to Spain of Gen. Augusto Pinochet, after ordering Pinochet's arrest in London in 1998. Pinochet eluded Spanish justice but is still facing legal challenges back home in Chile.

Spain took on the case against Scilingo -- and the South American human rights investigations -- because Spaniards were among the victims of the Argentinian military rule.

Garzon has indicted about 40 other former Argentine officers for their alleged roles in the abuses, but only one other besides Scilingo is currently in Spanish custody. He is Ricardo Miguel Cavallo, who was extradited from Mexico to Spain in 2003 and is also awaiting trial for human rights abuses.

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