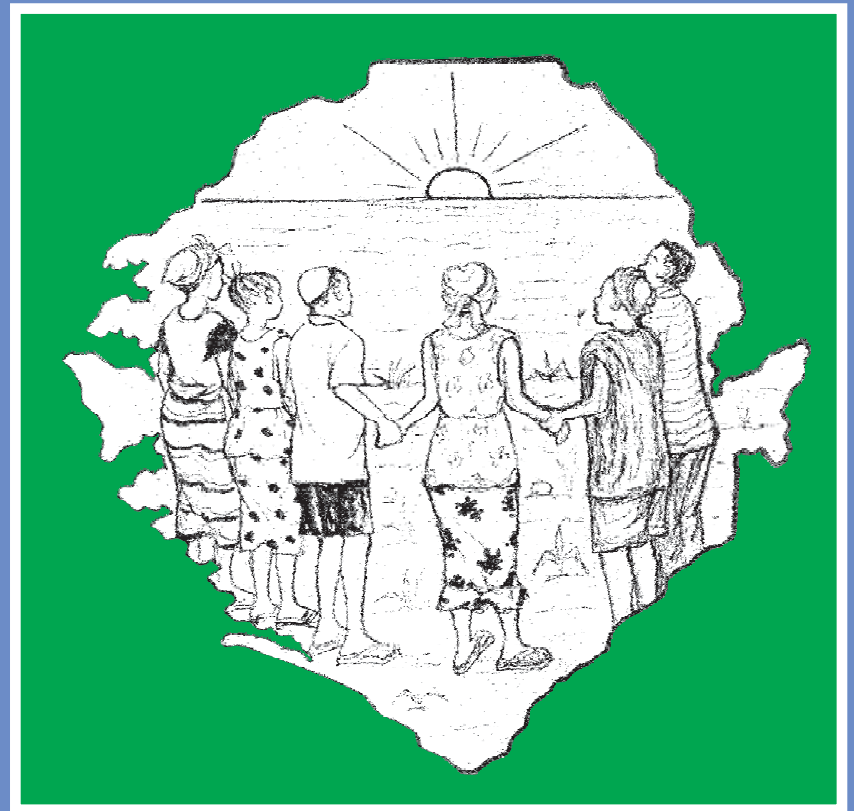


Wetin Na Di Speshal Kot?

The Special Court Made Simple
Second Edition

A Special Court for Sierra Leone Publication
October 2011

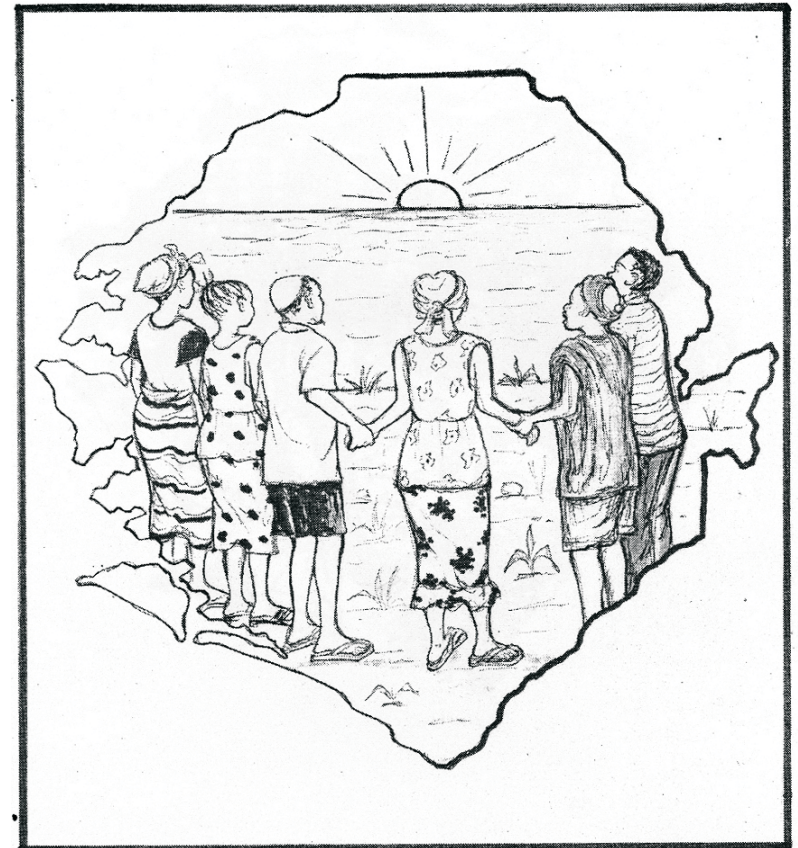


Special Court for Sierra Leone
Outreach and Public Affairs Section

Wetin Na Di Speshal Kot?

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Special Court for Sierra Leone
Outreach and Public Affairs Section

- Outreach Section-** Outreach and Public Affairs is a section in the Special Court responsible for enhancing the relationship between the entire Court and the people of Sierra Leone, as well as creating a comprehensive understanding of the activities and mandate of the Court.
- Prosecutor's Office -** The office charged with the responsibility for bringing people suspected of committing crimes to justice.
- Sentence** - The punishment imposed on an accused person once he is found guilty.
- Statute** - The official document setting the structure, scope and authority of the Special Court. It is an annex to the Agreement.
- Subpoena** - An order of the Court that a person should appear before the court to give evidence, subject to penalty for failing to do so.
- Suspect** - A person, not yet charged, about whom the Prosecutor has information showing that he or she may have committed a crime under the jurisdiction of the Special Court.

Glossary

- Accused** - A person against whom one or more counts in an indictment have been confirmed by the Judge.
- Acquittal** - The legal certification that an accused person is not guilty of the charges made against them in court.
- Agreement** - The accord between the United Nations and the Government of Sierra Leone which established the powers and organization of the Court.
- Chambers** - The offices of the Judges and their staff.
- Charge** - To accuse a person of criminal conduct.
- Counts** - The part of an indictment charging an accused with commission of a specific crime.
- Defence Office** - The office responsible for ensuring that the rights of suspects and accused persons before and during trials are upheld. The office, in conjunction with the office of the Registrar, ensures that all accused persons have competent legal representation.
- Detention** - The act of holding a suspect or accused in custody before and during the trial.
- Indictment** - Formal written statement charging a person with committing a crime. It is drawn up by the Prosecutor of the Special Court.
- Investigations** - Activities undertaken by the Prosecutor and Defence in collection of information and evidence for trials.

Wetin Na Di Speshal Kot?

The Special Court Made Simple

Second Edition



*Krio phrase for “What is the Special Court?”

Outreach Mission Statement

The Special Court for Sierra Leone was created to try those who bear the greatest responsibility for crimes committed in the territory of Sierra Leone from 30 November 1996 – the date of the failed Abidjan Peace Accord between the Government of Sierra Leone and the Revolutionary United Front rebels – until the end of the conflict.

The Special Court's Outreach Section was established to link the people of Sierra Leone and the sub-region with the Special Court. Outreach's mission is to promote understanding of the Special Court and respect for human rights and the rule of law.

Through diverse programmes that disseminate information and encourage dialogue, Outreach fosters an environment of two-way communication between the people and the Special Court. Outreach facilitates the participation of Sierra Leoneans and others in the judicial process of the Special Court.

Outreach works with all branches of the Special Court. Its relations with both Prosecution and Defence are based on the fundamental principles of impartiality and independence.

- | | |
|-------------|--|
| 2006 | On 29 March, Charles Taylor was transferred to the jurisdiction of the Special Court. On 3 April he pleaded not guilty to all counts. On 20 June 2006 he was sent to The Hague. |
| 2007 | The Taylor trial opened on 4 June. On 20 June, Trial Chamber II delivered its judgement in the AFRC trial. In August, Trial Chamber I handed down judgement in the CDF trial. |
| 2008 | In February the Appeals Chamber delivered its judgement in the AFRC case, and in May it handed down its judgement in the CDF case. |
| 2009 | In February 2009, Trial Chamber I delivered judgement in the RUF trial. The Appeals Chamber ruled on the RUF appeal in October 2009 |
| 2011 | Closing arguments in the Taylor trial concluded on 11 March. At the time of this writing, the Trial Chamber is considering its judgement.

In July 2011, the Court took pleas from five persons charged with contempt for allegedly interfering with witnesses. One Accused pleaded guilty at his initial appearance, and the other four (including two convicted prisoners) pleaded not guilty. |

Timeline of the Court

- 2000** In June, the Government of Sierra Leone wrote to then-UN Secretary General Kofi Annan requesting assistance in setting up a war crimes tribunal. In August the UN Security Council passed Resolution 1315 authorising the Secretary-General to establish the Special Court for Sierra Leone.
- 2002** In January, the UN and the Government of Sierra Leone signed an Agreement to establish the Special Court. The Agreement was ratified by Sierra Leone's Parliament in March. In April, the UN Secretary-General appointed the first Registrar and Prosecutor. The appointment of the first eight Judges was announced in August; they were sworn-in in December.
- 2003** The first indictments were issued in March. Between March and September, 13 persons were indicted. In June, the Prosecutor unsealed the indictment against former Liberian President Charles Taylor. In December the indictments against Foday Sankoh and Sam Bockarie were withdrawn because the two men had died.
- In October and November the Appeals Chamber heard oral arguments on Defence preliminary motions challenging the jurisdiction of the Special Court. All were eventually dismissed. Two significant decisions held that the use of child soldiers was recognized as a crime during the period under the Court's jurisdiction, and that Charles Taylor did not have immunity from prosecution because he had been President of Liberia.
- 2004** The CDF trial opened on 5 June and the RUF trial began a month later, on 3 July.
- 2005** Trial Chamber II was established in February to hear the AFRC (and later the Taylor) trial. The AFRC trial opened on 7 March.

Acknowledgements

This booklet was produced by the Outreach and Public Affairs Section of the Special Court. We would like to thank all sections of the Special Court which contributed, especially the Office of the Prosecutor, the Office of the Principal Defender, and the Registrar's Office.

Foreword

This second edition of “The Special Court Made Simple” is produced by the Outreach and Public Affairs Section of the Special Court for Sierra Leone. Its aim is to make our mission and procedures more accessible to all readers, especially those in the rural areas remote from the Special Court.

After the Special Court completes its work and closes, this booklet will serve to remind readers of the Court's role in addressing crimes committed during the war, and its work to end impunity and help re-establish the rule of law.

As in the first edition, this booklet explains key concepts in non-legal language, accompanied by illustrations which communicate the same message. These illustrations are not meant to be exact representations, but are meant to communicate concepts which are often quite abstract and complex. In addition, this booklet looks at the accomplishments of the Special Court.

This booklet is one of Outreach's many initiatives to provide information about the Special Court.

Binta Mansaray

*Registrar, Special Court for Sierra Leone
October 2011*

return, he could be tried by Special Court Judges, or he could face trial in a country where the law allows trials on international charges. The decision would be made by the Residual Special Court.

Why were the people convicted by the Special Court imprisoned in Rwanda?

The wing of Rwanda's Mpanga Prison which houses the SCSL prisoners was originally built to house prisoners of the ICTR, and it meets the international standards for security and the treatment of prisoners which is required of international courts. At present, there is no prison in Sierra Leone which meets these required standards.

Can the Special Court address other crimes, such as political violence?

No. The Special Court's mandate is to try those who bear the greatest responsibility for serious crimes committed during Sierra Leone's civil war. Political violence and other crimes fall under the jurisdiction of the national courts.

What will happen to the Special Court site after the Court closes?

The Court site, along with the courthouse and other buildings built by the Special Court, will be handed over to Government for the people of Sierra Leone. It is for Government to decide how the buildings will be used, but some of those decisions have already been made. The courthouse will be handed over to the Sierra Leone judiciary, and will house the Supreme Court. The security building is being transformed into a Peace Museum, which will house the archives of the Special Court, the TRC, and other institutions, and will include artefacts of the war and a memorial to the victims of the conflict. Already, the detention area has been handed over to the Sierra Leone Prison Service, and the Sierra Leone Law School is occupying part of the former Registry compound.

QUESTIONS ABOUT THE SPECIAL COURT ANSWERED

These are some of the questions that have been asked in community town hall meetings

Why were certain persons tried and not others?

The Special Court's mandate was to try those “bearing the greatest responsibility” for serious crimes committed during the war. Before a Prosecutor can indict anyone, he must have a strong case against that person. It is not enough to show that a person held a high political or military position during the war. He must also show that the person was responsible for the crimes committed.

Where did the Court get its money?

The Court is supported voluntary contributions from over 30 governments from all over the world who want to help Sierra Leone and pay for the Special Court to operate. That money was not part of Sierra Leone's development aid, and was given only to support the Court. This means it could not be used for any other purpose.

The Court has also received subventions from the United Nations. The Government of Sierra Leone provided the land where the Special Court is located.

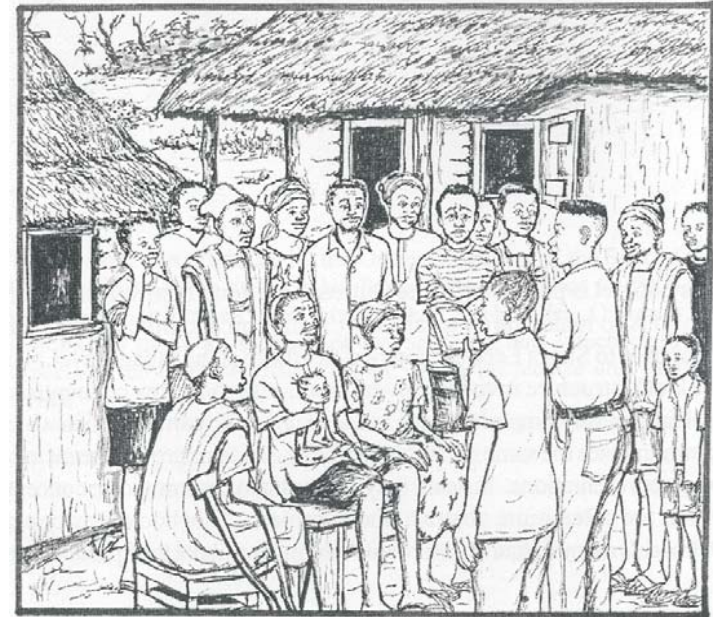
Will witnesses still be protected after the Special Court closes?

Yes. The Residual Special Court, which will replace the Special Court, will be responsible for witness protection. Anyone who interferes with, threatens or otherwise tampers with witnesses will be arrested and tried for contempt of court. A person convicted of contempt could face a prison sentence of up to seven years. The Residual Special Court will also make decisions regarding convicted prisoners who are serving their sentences, and will oversee the Court's archives.

If Johnny Paul Koroma turns up after the Special Court closes, can he still be tried?

Yes. The indictment will remain in force. If Johnny Paul Koroma were to

Who is this book for?



Sierra Leoneans read this book and learn about the Special Court.

This book is for you. It explains in clear language and pictures how the Special Court works, why it was created, and what it has achieved. Not all of your questions can be answered by this book. We hope that you find it interesting and that it will help you to understand more about the Special Court.

Who did the Special Court try?

The Accused

The Special Court indicted thirteen persons for war crimes, crimes against humanity, and other serious violations of international humanitarian law. Five of them were leaders of the Revolutionary United Front (RUF) rebels: Foday Saybana Sankoh, Sam Bockarie, Issa Sesay, Morris Kallon and Augustine Gbao; four of them were leaders of the Armed Forces Revolutionary Council (AFRC): Johnny Paul Koroma, Alex Tamba Brima, Ibrahim Bazy Kamara and Santigie Borbor Kanu; and three of them were leaders of the Civil Defence Forces (CDF): Sam Hinga Norman, Moinina Fofana and Allieu Kondewa. The Court is also trying former Liberian President Charles Taylor. They were not tried because they were leaders of those groups. They were tried for crimes for which they were responsible.

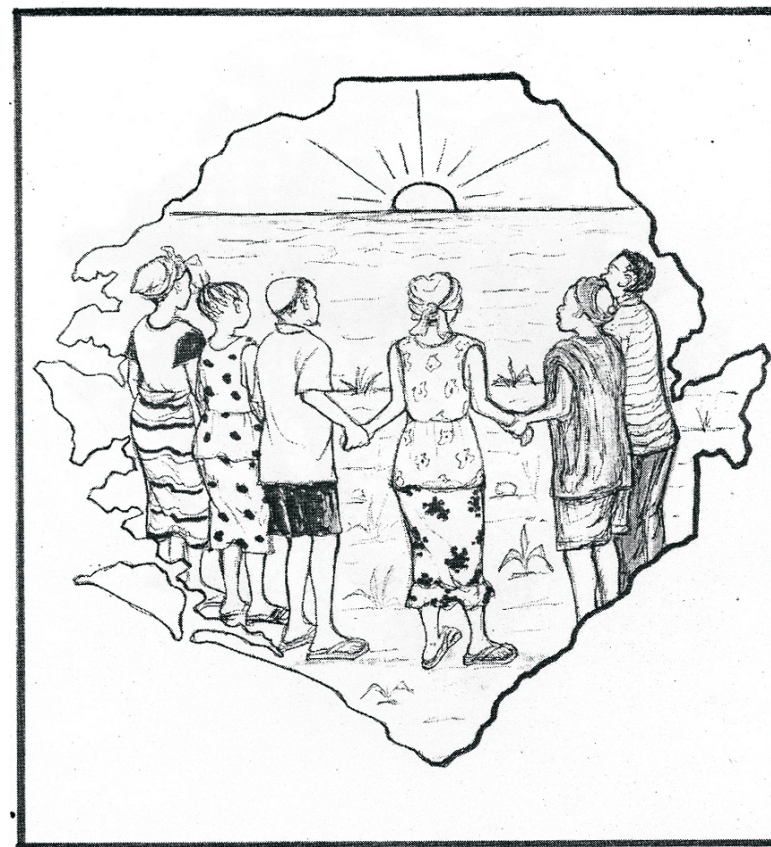
Eight persons have been found guilty of various crimes, and they received sentences ranging from 15 years to 52 years.

Revolutionary United Front (RUF): Issa Hassan Sesay, the RUF Interim Leader, and Morris Kallon, a senior RUF commander, and Augustine Gbao, the RUF's Chief of Security, were tried and convicted for extermination, collective punishments, rape, sexual slavery, forced marriage, mutilation and enslavement (crimes against humanity); murder, outrages on personal dignity, cruel treatment and looting and burning (war crimes), and attacks against a peacekeeping mission. In addition, Sesay and Kallon were convicted of using child soldiers and for the murder of UN peacekeepers.

Armed Forces Revolutionary Council (AFRC): Alex Tamba Brima (aka: "Gullit"), Ibrahim Bazy Kamara and Santigie Borbor Kanu (aka: "Five-Five", all senior members of the AFRC, were convicted for extermination, murder, rape and enslavement (crimes against humanity); acts of terrorism, collective punishments, murder, outrages upon personal dignity, cruel treatment and pillage (war crimes), and for the use of child soldiers.

Sierra Leone After the Court

Soon the Special Court will finish its work. By then, the people who caused so much suffering will be serving their prison sentences. The Court hopes that in the future, leaders everywhere will be afraid to order people to commit serious crimes. This will help to create respect for human rights and respect for the rule of law. The Court asks all people to join it in supporting peace and justice in Sierra Leone and the sub-region.



Together the Special Court and the people of Sierra Leone will move towards peace and justice.

Punishment

If the Judges decide that an Accused is guilty, that person will be sent to prison. Those persons convicted by the Special Court are serving their sentences in Rwanda, to ensure both adequate security and international standards of detention.

The Court can also look at the guilty person's property, and it can even take the guilty person's property and money if this property and money was acquitted unlawfully. The Special Court can order the guilty person to give the property or money to its rightful owners, or if they cannot be found, to Sierra Leone, which must use it for the benefit of victims of the war.



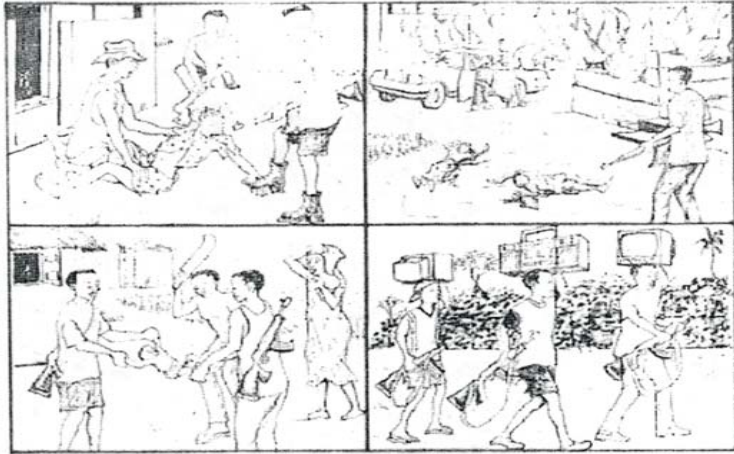
**If found guilty, a defendant will be sentenced to prison.
No one will be sentenced to death.**

Civil Defence Forces (CDF): Moinina Fofana, the CDF's Director of War, and Allieu Kondewa, the CDF's Initiator/High Priest, were convicted for murder and inhumane acts (crimes against humanity) and for murder and pillage (war crimes).

RUF leader Foday Saybana Sankoh and RUF Battlefield Commander Sam Bockarie died before they could be brought to trial, and CDF Coordinator Sam Hinga Norman died before the judgement could be delivered. The fate and whereabouts of former AFRC leader Johnny Paul Koroma is unknown.

As of this writing, the Trial Chamber is considering its judgement in the case of former Liberian President Charles Taylor. He has pleaded not guilty to 11 counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law.

What crimes did the Court look at?



The Special Court's mandate is to try “those who bear the greatest responsibility” for crimes against humanity, war crimes, other serious violations of international humanitarian law, and for certain crimes under Sierra Leonean law.

A crime against humanity is committed when the crime is part of a widespread or systematic attack on a civilian population. A war crime is one in which an armed force commits crimes against “protected persons,” such as prisoners of war, wounded soldiers, non-combatants, or persons who had ceased to be combatants.

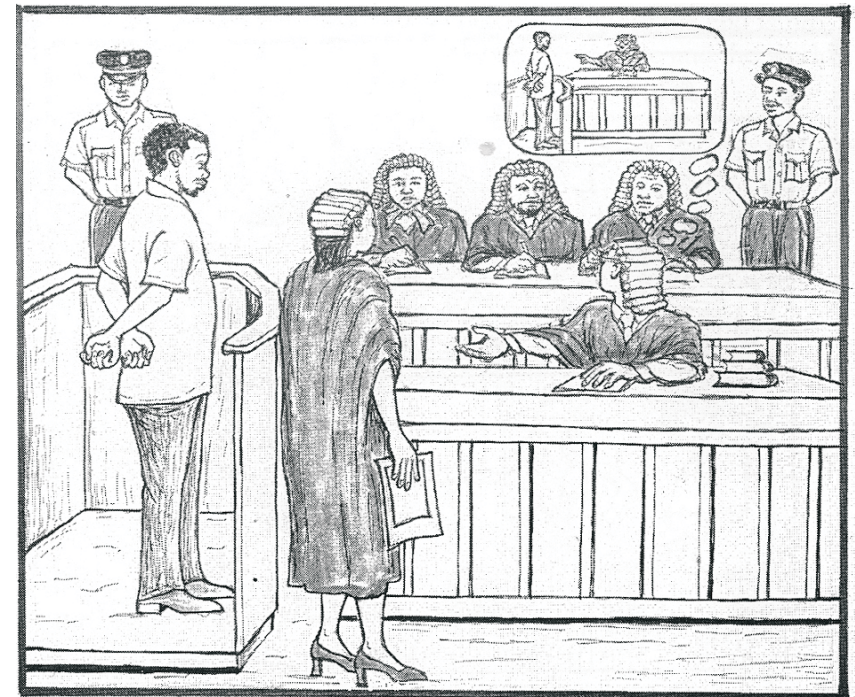
Other serious violations of international humanitarian law include attacks directed at civilians, the use of child soldiers, and attacks against United Nations peacekeepers.

During the war, many terrible crimes were committed; many innocent civilians were killed, tortured, raped, mutilated and enslaved. Men, women and children suffered terrible abuse. Houses were burnt, possessions were looted, and entire villages were destroyed. Under the law, these are crimes against humanity and war crimes. These crimes happened to many people in many places – they were widespread or systematic. The Special Court could only try crimes committed after 30th of November 1996.

After the Trial

Appeals

Once the Trial Chamber has decided that someone is guilty or not guilty, both the convicted person and the Prosecutor can appeal the Judgement. That means that the Judges of the Appeals Chamber will review the judgement, and decide whether the judgement was reached fairly and the trial was held in accordance with the law and the rules of the Court. Once the Appeals Judges have reviewed the Trial Chamber’s Judgement, any punishment decided will be carried out.

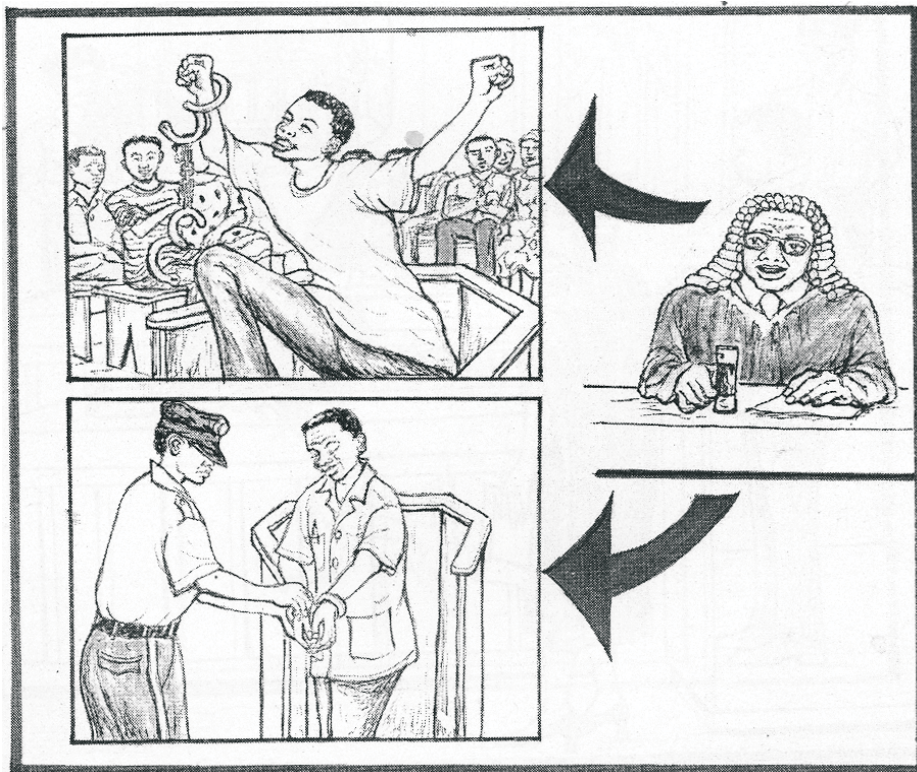


The Appeals Chamber reviews the initial judgement at the request of either the Prosecution or the Defence.

Judgement

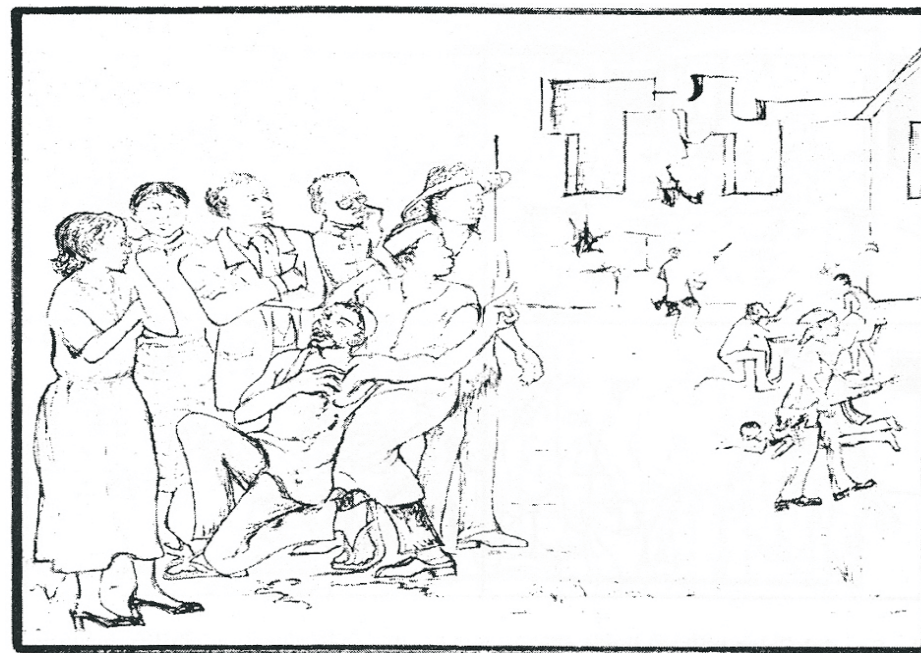
After listening to all sides, and considering all the evidence, the Judges decide if the accused is guilty or not guilty. If the Accused is found not guilty, and the Appeals Chamber agrees, then the Accused is acquitted of the charges and set free.

If the Accused is found guilty beyond a reasonable doubt, the Judges will give him a prison sentence. The Judges will give a punishment that is just, taking into account all the facts. The Judges must give a sentence of a term of years, and cannot impose the death penalty or give a life sentence.



At the end of the trial, the Judges decide on the basis of the evidence presented whether or not the Accused is guilty.

Why was the Special Court for Sierra Leone created?



The people of Sierra Leone asked the international community to intervene.

The Special Court started because Sierra Leoneans asked the world to help them try those people who bear the greatest responsibility for crimes that occurred during the country's civil war. The international community answered that call because they believed that only by holding people accountable will Sierra Leone truly know lasting peace.

Greatest responsibility

The Special Court for Sierra Leone was created to try people who committed terrible crimes during the country's civil war – but it was not meant to try everybody who committed a crime. The Special Court could only try the people who bear the greatest responsibility for those crimes. That means that the Special Court did not try simple foot soldiers, rank and file combatants, or mid-level commanders. Also, because children cannot be held responsible in the same way that adults can, no children were tried.

The Special Court was established to try those leaders who were the most powerful during the war and where the evidence showed that they directed and organised the crimes. The Special Court ensures that those who are found guilty of these crimes do not walk away free.

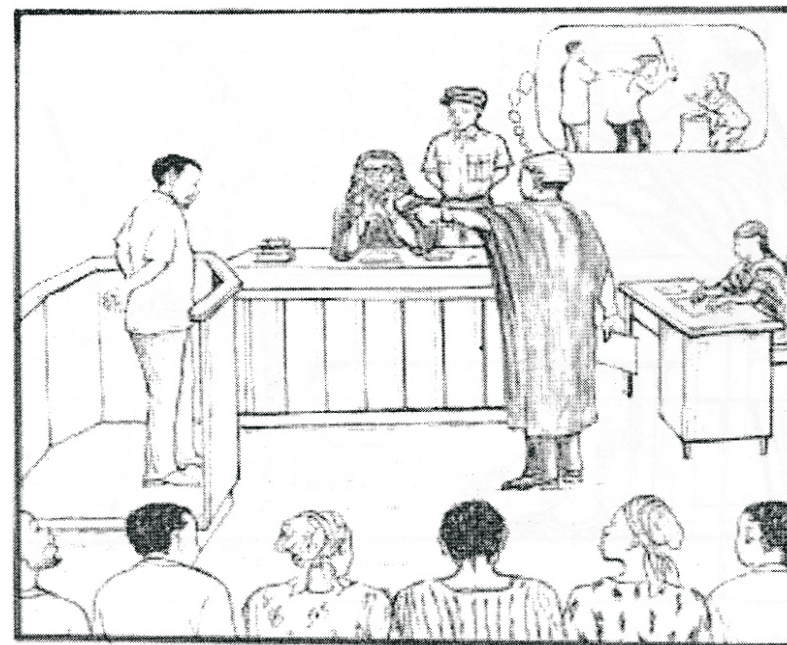


The Special Court tries those deemed to bear the greatest responsibility.

The Trial

Trial

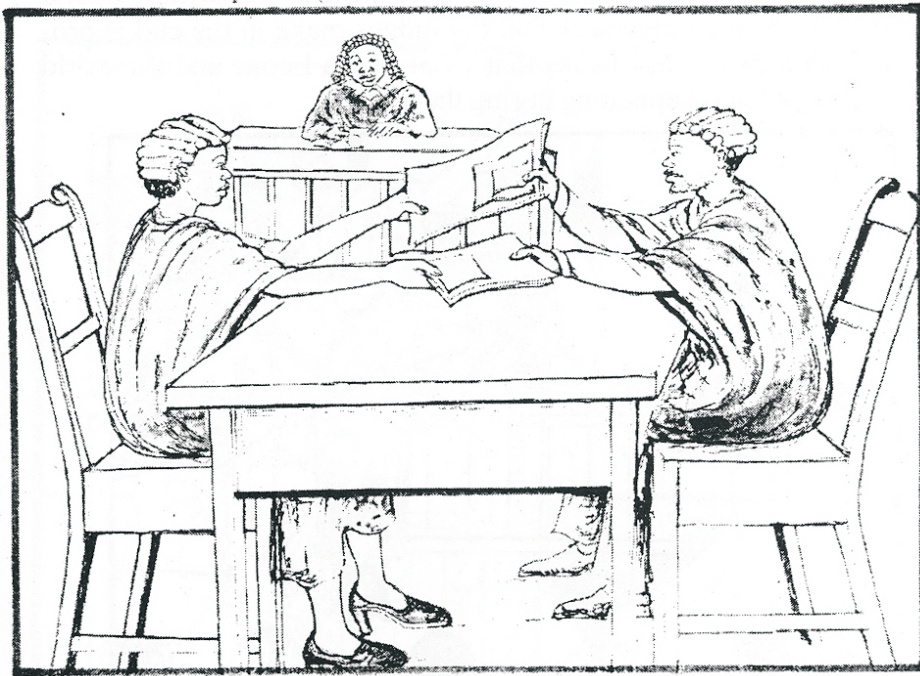
During the trial, the Prosecutor and the Defence will tell the Judges their own version of the facts. The Prosecutor will accuse the indictees of crimes and give all his evidence to the Judges. The indictees will answer the charges with the help of Defence lawyers. Both sides can ask questions and make objections. Both sides are allowed to call witnesses and present evidence. Both sides will try to convince the Judges that they are right. Almost all the testimony is held in public. Trial sessions are closed to the public only when the Judges believe that it is necessary for the security and the safety of witnesses and victims. The judgement that the Judges make in the end is pronounced in public. This means that everyone can find out what is happening during the trials.



At the trial the Prosecution and Defence present arguments as to whether or not the Accused is guilty.

Disclosure

In order to make sure that everything is fair and transparent, the Prosecutor and Defence must share statements, books, pictures, and objects that they plan to use at trial. This means that no one can hide important evidence. It also means that each side can check what the other side is planning to say, to make sure that it is true.

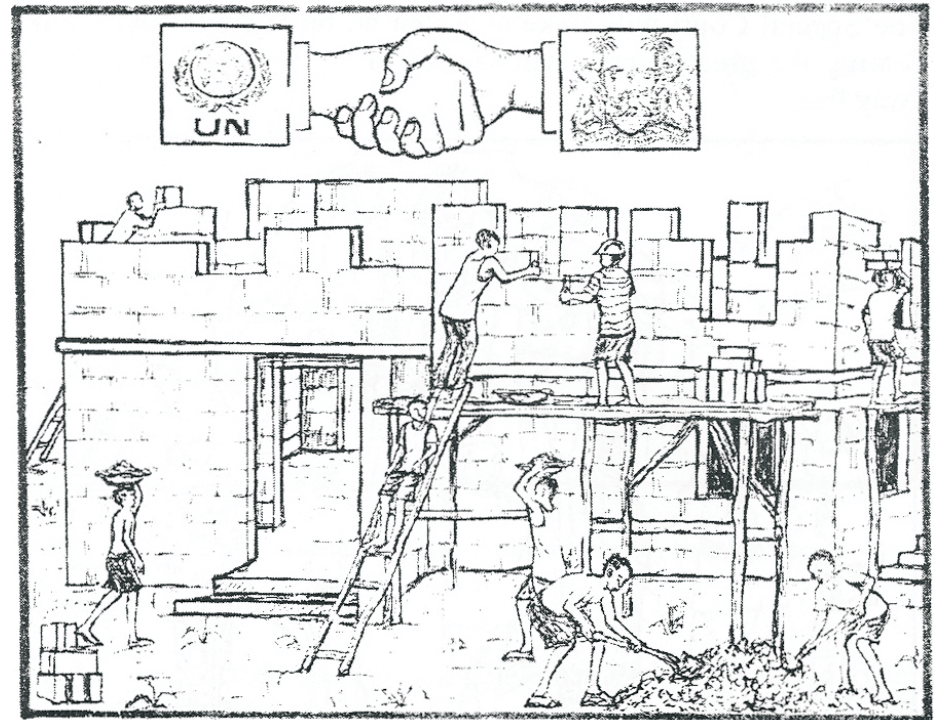


The Prosecution and Defence must exchange information they have collected.

How Does the Special Court Work?

The Creation of the Special Court

The Special Court was created by an agreement between the Government of Sierra Leone and the United Nations. It is judicially independent of those who created it.



The Government of Sierra Leone and the United Nations worked together to create the Special Court.

The Role of the Prosecution

The Office of the Prosecutor (OTP) gathers evidence on crimes committed during the war. The OTP also presents evidence in court to show that the accused are guilty of those crimes. The OTP is led by Prosecutor Brenda Hollis of the United States. Previous Prosecutors came from the US and the UK. Previous Deputy Prosecutors came from the UK, Australia and Sierra Leone.



The Prosecution presents evidence to show the accused is guilty.

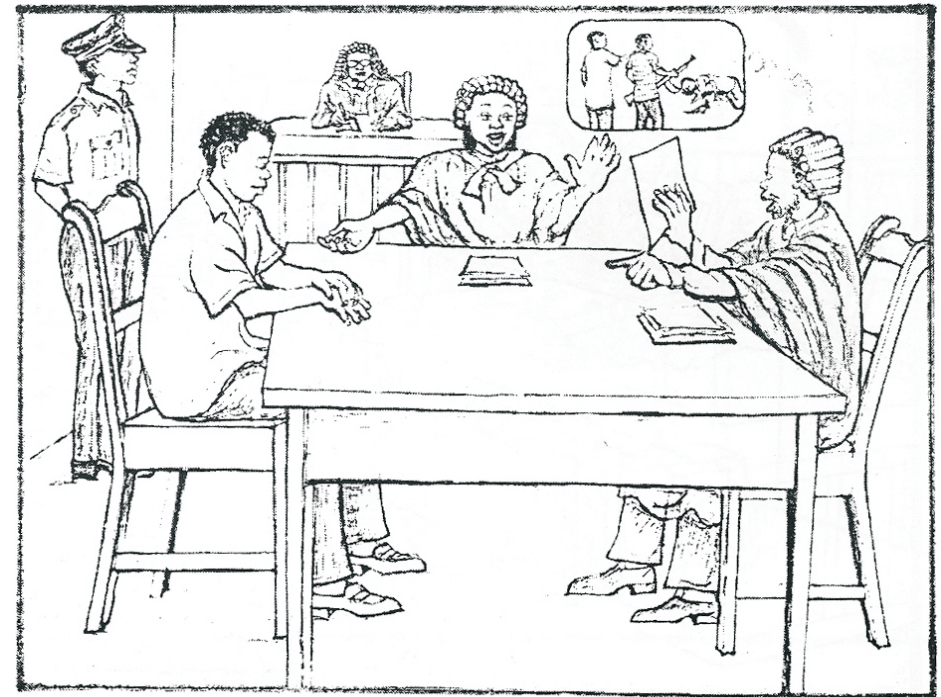
The Role of the Judges

Judges are people who are in charge of the trials. Judges listen to both sides of each case and consider the evidence. They are not biased. They listen to the evidence and witnesses brought by the Prosecution, and also to the evidence and witnesses brought by the Defence. After considering the evidence from both sides, they decide whether the Accused is guilty or not guilty. If an Accused is found guilty, he will be sentenced to a term of imprisonment. Some Judges sat on the two Trial Chambers to decide cases. A Trial Chamber consists of three Judges. There is also an Appeals Chamber of five Judges. The Appeals Chamber reviews decisions and judgements of the Trial Chambers to ensure that they are fair and that they were decided in accordance with the law and the rules of the Special Court. An Alternate Judge was appointed to the Trial Chamber hearing the Taylor trial.

Questioning of the accused and investigations by Defence

After the initial appearance, the Prosecutor cannot question an accused person unless a Defence lawyer is present or the defendant asks to speak to the Prosecutor alone. This means that accused people have someone with them who can make sure that their rights are being respected.

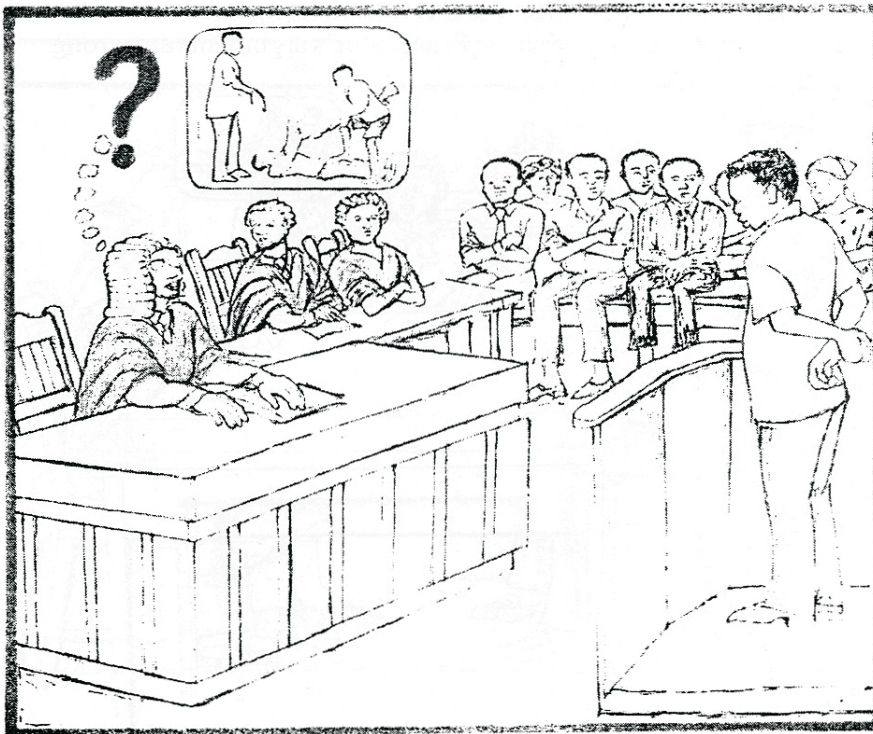
After the initial appearance, the Defence investigators collect evidence to show the Judge that the Prosecutor's arguments are wrong.



The Prosecutor may question the accused only in the presence of a Defence lawyer unless the defendant requests to speak with the Prosecutor alone.

Initial appearance of accused and plea

Once he is at the Special Court, the Accused will have to plead guilty or not guilty. If he pleads guilty, it means that he accepts his guilt and agrees with what the Prosecutor has told the Judge. If he pleads not guilty, it means that he does not agree with the Prosecutor. Before the trial starts, the Court discusses how the trial will work and ensures that the Accused's rights are being respected. The Accused has a right to a fair and public hearing.

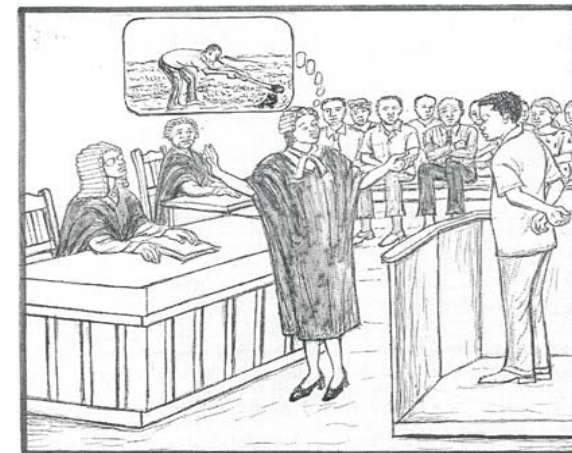


At the initial hearing, the Judge asks the Accused to plead guilty or not guilty.

The Role of the Defence

Each accused person is allowed to choose lawyers to defend him. If the Accused does not have enough money to pay for a lawyer, the Defence Office (also called the Office of the Principal Defender) ensures that the Accused are represented in court by competent counsel, that they understand the charges against them, and that they are treated fairly and in accordance with the law. If the Accused cannot pay for a lawyer, the Special Court will pay for his defence.

The Defence Office is headed by a Principal Defender. The Principal Defender ensures the rights of the Accused, and makes sure that they are defended by competent lawyers. The Principal Defender is Claire Carlton-Hanciles of Sierra Leone. Previous Principal Defenders came from the United States, Nigeria and Uganda.



The Defence presents evidence to show the accused is not guilty.

The Role of the Registry

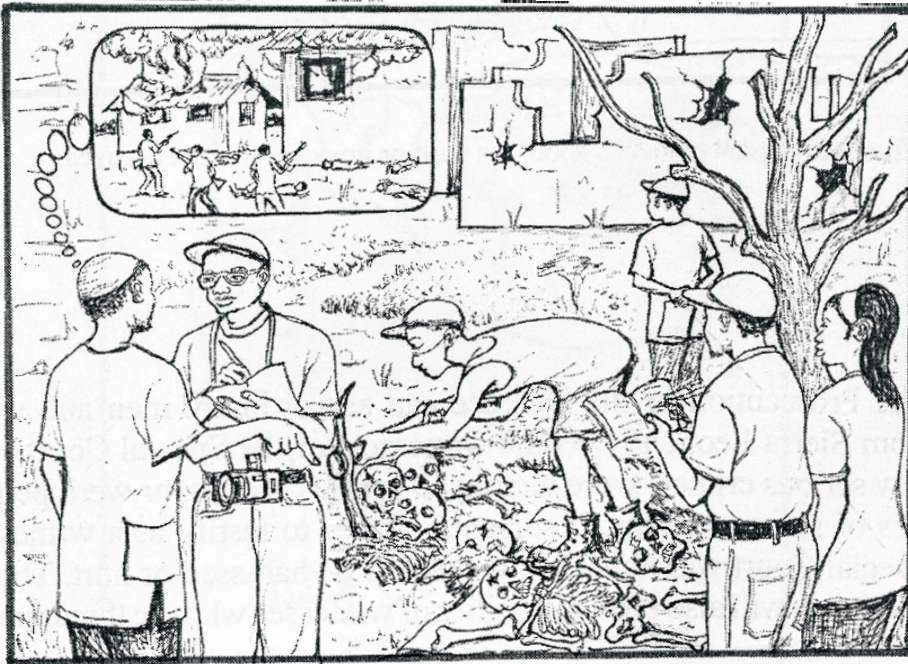
The function of the Registry is to ensure that the trials take place without problems. The Registry is headed by the Registrar, who is responsible for the overall administration of the Special Court. Sections within the Registry are Court Management, the Witness and Victims Section, Finance, Security, and Outreach and Public Affairs, amongst others.

The Registry is led by the Registrar, Binta Mansaray, of Sierra Leone. Previous Registrars came from the UK, Malawi, and the Netherlands.

Before the Trial

Investigations

The Special Court does not try anyone unless the Prosecutor has collected evidence to show that there is a credible case against him. Prosecution investigators interview witnesses, victims and perpetrators, and look at other evidence to find out the facts about the horrible crimes that were committed.



Investigators find evidence about what actually happened during the conflict.

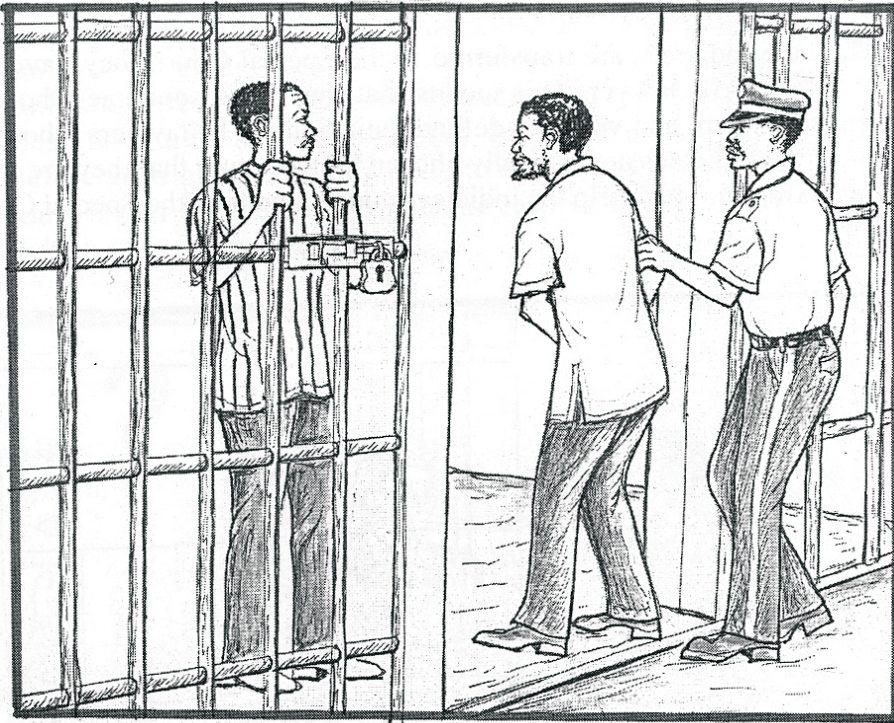
Rights of the Accused

When the Indictees are transferred to the Special Court, they have the right to have a lawyer. This means that they have someone who can represent them in court, and who can defend them against the Prosecution's charges. The lawyers who represent the Indictes are carefully chosen to make sure that they are well qualified. They help the Indictes to understand how the Special Court works.



The Defence lawyer explains and defends the rights of the Accused.

Arrest: Part II

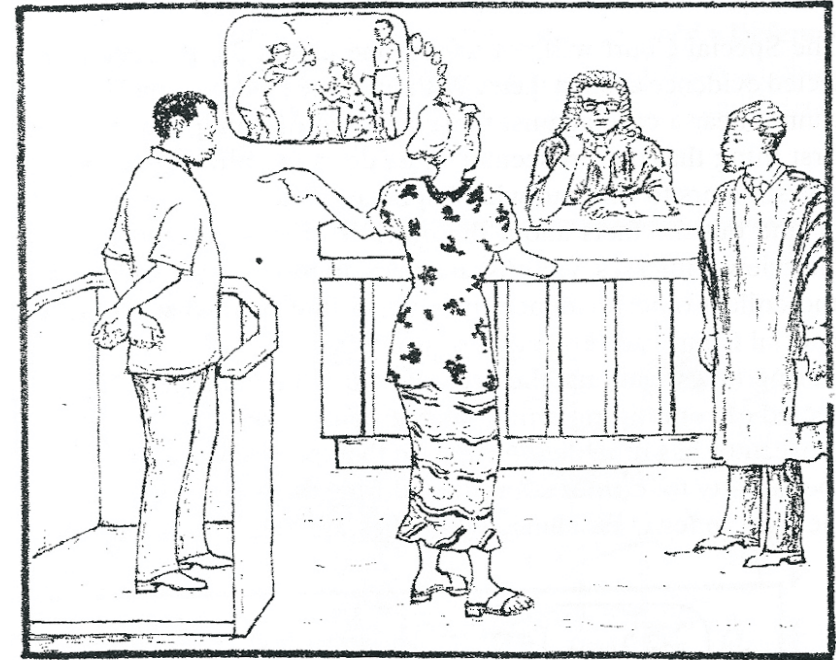


...and put into detention

An arrest or indictment does not mean that the Accused is guilty. That can only be decided by the Judges after a fair trial.

When they are arrested, Accused are brought to the Court so that the Judges can hear the evidence of both the Prosecution and the Defence. The Judges may not judge a person without hearing evidence from both sides. When someone is arrested, he can be detained. No one is mistreated, abused, or tortured when he is arrested or when he is held in detention.

Witnesses



Witnesses present evidence about the guilt or otherwise of the accused.

Both the Prosecution and the Defence may ask people to appear as witnesses if they have information which can help the Judges to decide if an Accused is guilty or not guilty. Some of the witnesses were victims who testified about the crimes that were committed. Others were people who witnessed crimes, or even committed crimes themselves.

If a person agrees to testify before the Court, the Special Court will not allow him to be harassed or hurt. The Special Court will also protect the families of witnesses who are threatened, and will prosecute anyone who threatens or interferes with witnesses.

Indictment

When Prosecutors find evidence that someone may bear the greatest responsibility for crimes that were committed, the Special Court Judges may approve the indictment. An indictment is an official document prepared by the Prosecutor and approved by the Judges which lists the charges against an Accused.

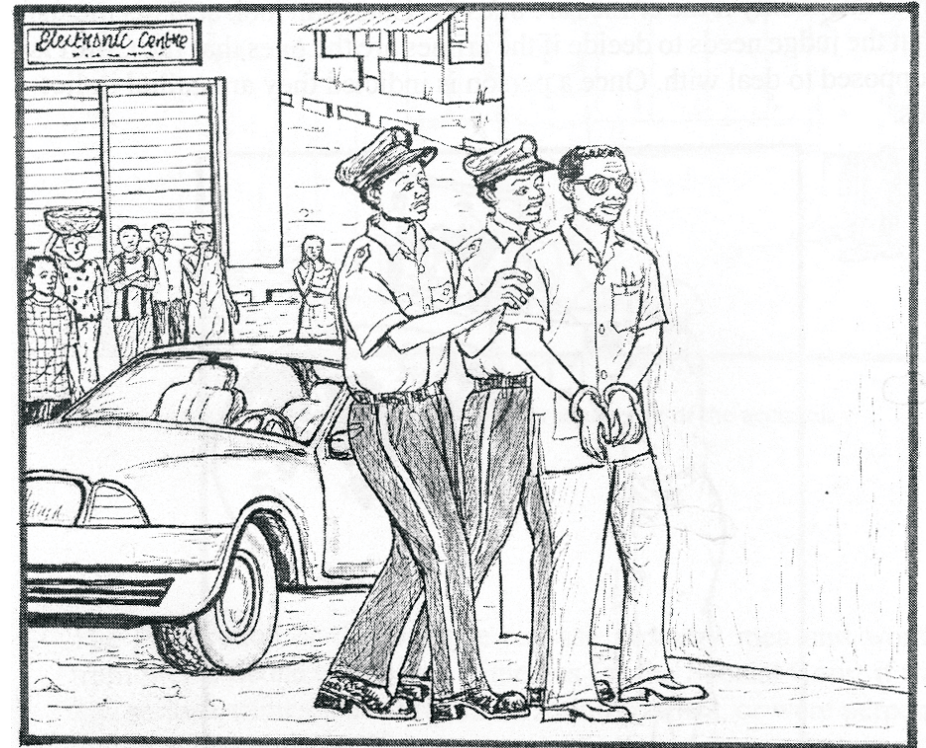
In the indictment, the Prosecutor summarises the evidence he is bringing against the person who is charged. A Judge approves the indictment only if the crimes are ones the Court can look at. Once a person is indicted he is known as an *Accused*, or an *Indictee*.



The international community and the Government of Sierra Leone are asked to arrest the person named on the indictment.

Arrest: Part I

When the Judge approves the indictment, he will issue a warrant for the arrest of the Accused. This means that the Court asks the Government of Sierra Leone, or any other government, to arrest the Accused and bring him to the Special Court so that he can be tried.



After an indictment an accused person is arrested...