

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, December 15, 2004

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GLOBALIZATION OF JUSTICE AND THE SPECIAL COURT FOR SIERRA LEONE'S WAR CRIMES

Nsongurua J. Udombana*

[I]t is not a question of victors punishing the vanquished, or of anyone losing or saving face, but of joint responsibility undertaken by all [nations] to affirm norms and standards of accountability People in positions of power, now and in the future, must know that they will be held accountable for abuses of the law and violations of human rights not only by history but by the agencies of the law.¹

INTRODUCTION

The Government of Sierra Leone officially requested the assistance of the United Nations (U.N.) in June 2000 to try those responsible for "crimes against the people of Sierra Leone and for the taking of United Nations peacekeepers as hostages."² In August 2000, the U.N. Security Council charged the Secretary-General with negotiating and concluding an agreement with the Government of Sierra Leone for the establishment of an independent Special Court "to prosecute persons who bear the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under

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¹ *Amnesty for the South African Government*, in LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER LAW 7 (1992), cited in Lynn Berat, *Prosecuting Human Rights Violations from a Predecessor Regime: Guidelines for a Transformed South Africa*, 13 B.C. THIRD WORLD L.J. 199, 228 (1993).

² See Letter from the President of Sierra Leone to the U.N. Secretary-General, U.N. Doc. S/2000/786, Annex, available at <http://www.sc-sl.org>, under Basic Documents, Official UN Documents on the Special Court (naming specifically Foday Sankoh and other senior members of the RUF).

relevant Sierra Leonean law committed within the territory of Sierra Leone.”³

The Security Council adopted a resolution on August 14, 2000 to establish a hybrid international-domestic Special Court for Sierra Leone to prosecute those allegedly responsible for atrocities in the Sierra Leone civil war.⁵ It expressed deep concern “at the very serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone and United Nations and associated personnel and at the prevailing situation of impunity.”⁶ It reaffirmed “the importance of compliance with international humanitarian law . . . [and] that persons who commit or authorize serious violations of international humanitarian law are individually responsible and accountable for those violations.”⁷ It notes further “the international community will exert every effort to bring those responsible to justice in accordance with international standards of justice, fairness and due process of law.”⁸ The Secretary-General then transmitted to the Security Council the text of an Agreement between the Government of Sierra Leone and the U.N. establishing the Special Court for Sierra Leone on October 4, 2000.⁹ The Statute of the Special Court¹⁰ is an integral part of the Agreement.

³ *Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone*, ¶ 1, U.N. Doc. S/2000/915 (2000) [hereinafter *Rep. of the Sec.-Gen.*]. For the series of negotiations leading to the Agreement on the Statute of the Special Court, see *id.* ¶ 5-7.

⁵ See S.C. Res./1315, U.N. SCOR, 4186th mtg., U.N. Doc. S/RES/1315 (2000) [hereinafter Res. 1315].

⁶ See *id.* pmb. ¶ 1.

⁷ *Id.* pmb. ¶ 6.

⁸ *Id.*

⁹ *Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, Annex to *Rep. of the Sec.-Gen.*, *supra* note 3 [hereinafter *Agreement*].

¹⁰ See *id.* art. 1, ¶ 2 [hereinafter *Statute of the Special Court*].

This Article considers international criminal responsibility in the context of the Special Court for Sierra Leone's war crimes. It is concerned with the proclamation and enforcement of basic premises of the rule of law in the area of international criminal law. In doing so, this Article examines the nature of the Court to see whether it falls within the mainstream of tribunals similarly established by the Security Council in recent years. Part I discusses the concept of globalization, particularly as it relates to international criminal law, highlighting how the international community is expanding the norms of international criminal law while simultaneously and increasingly engaging international criminal institutions.

Part II looks at Sierra Leone, considering the many forces that led to the Armageddon. It further discusses several peace agreements, pointing out why they failed to bring peace in the crisis-infested country. Part III examines the Special Court, its establishment, composition, mandate and other incidental matters. It does so in a comparative perspective with the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Rome Statute of the International Criminal Court (ICC). Part IV revisits the debate on the most appropriate route to take in transitional justice for a country emerging from conflicts. It also raises some practical matters of concern concerning the Special Court and attempts to suggest ways toward addressing them.

I. GLOBALIZATION OF JUSTICE

A. *A Globalized World*

One of the major developments in international law in contemporary times has been the gradual "withering away" of state sovereignty. This trend is due to the integration of

states in international or supranational regimes or organizations and through the expansion of human rights and the international instruments to enforce them.¹¹ Globalization, with its emphasis on interdependence, has limited the exclusivity of statehood. Human rights law, in turn, has torn the veil of reserve domain and emancipated individuals from the regime of the states with all the consequences of becoming an independent player in international relations.

Globalization refers to the compression of the world and the intensification of consciousness of the world as a whole. It is the catchword for a shrinking world in which interactions and linkages between peoples, economies, environmental conditions, and cultures increasingly permeate the borders of the nation-state.¹² It is common to identify globalization with cultural uniformity and to contrast it with cultural diversity.¹³ Others, however, link it to the proliferation of intergovernmental organizations and transnational interest groups concerned with human rights, the environment, or economic issues, and to the emergence of a new normative framework, distinct from classical international law, for "global civil society" and "cosmopolitan democracy."¹⁴ What is important is that globalization is not just an esoteric phenomenon: "it refers not only to the emergence of large-scale world systems, but

¹¹ See, e.g., H. LAUTERPACHT, *INTERNATIONAL LAW AND HUMAN RIGHTS* (1950).

¹² See generally Nsongurua Udombana, *How Should We Then Live? Globalization and the New Partnership for Africa's Development*, 20 *BOSTON UNIV. INT'L L.J.* 293 (2002) (examining the phenomena of globalization calling on the international community to respond positively to Africa's new initiative and for an equitable implementation of normative standards that govern the various aspects of globalization).

¹³ See, e.g., THOMAS L. FRIEDMAN, *THE LEXUS AND THE OLIVE TREE* (1999); UNDERSTANDING GLOBALIZATION (2000); BENJAMIN R. BARBER, *JIHAD VS. MCWORLD* (1995).

¹⁴ See, e.g., RE-IMAGINING POLITICAL COMMUNITY: STUDIES IN COSMOPOLITAN DEMOCRACY (Daniele Archibugi et al. eds., 1998); TOWARD A GLOBAL CIVIL SOCIETY (Michael Walzer ed., 1995); Terry Nardin, *International Pluralism and the Rule of Law*, 26 *REV. INT'L STUD.* 95 (2000).



ABC Online

Key witness missing from Australian's Sierra Leone trial. 15/12/2004. ABC News Online

[This is the print version of story <http://www.abc.net.au/news/newsitems/200412/s1265299.htm>]

Last Update: Wednesday, December 15, 2004. 7:01am (AEDT)

Key witness missing from Australian's Sierra Leone trial

By Africa correspondent Sally Sara

The prosecution has closed its case against an Australian police officer accused of sexual assault in Sierra Leone.

Prosecutors closed their case after they were unable to find the victim of the alleged sexual assault.

The teenage girl failed to give further evidence.

Former Victorian homicide chief Peter Halloran is accused of sexually assaulting a girl in the Sierra Leone capital, Freetown.

Halloran was working as an investigator with the United Nations-backed war crimes court in Sierra Leone.

He denies the charges against him.

The girl previously told police that Halloran's flatmate, Mandy Cordwell, promised her gifts if she was prepared to testify against him.

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Herald Sun (Melbourne, Australia) December 15, 2004 Wednesday

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Herald Sun (Melbourne, Australia)

December 15, 2004 Wednesday

SECTION: NEWS; Pg. 13

LENGTH: 369 words

HEADLINE: Police in push to help officer facing charges

BYLINE: Keith Moor

BODY:

THE Police Association will appeal to Foreign Affairs Minister Alexander Downer to intervene in the trial of Victoria Police Superintendent Peter Halloran.

The association wants Mr Downer to pressure West African authorities to speed up Supt Halloran's trial and ensure international rules of justice apply.

Supt Halloran, 56, has been charged with allegedly sexually assaulting 13-year-old Kadia Kabia in war-torn **Sierra Leone**.

His High Court trial started on September 10, but has sat for a total of only 309 minutes in 21 appearances to last week.

It resumed yesterday and the prosecution announced it was closing its case without offering any further evidence.

The defence is due to open its case on Monday and is expected to call for the charges to be withdrawn, arguing there is no case to answer.

The alleged victim gave evidence in court that Supt Halloran didn't assault her.

There is no physical evidence that an assault took place and no witnesses to say they saw the girl and Supt Halloran alone together.

Police Association secretary Paul Mullett said if Supt Halloran had been on trial in Victoria the case would have been dropped -- and probably never started.

"By now there would have been an instruction by a judge to a jury to acquit him," Sen-Sgt Mullett said.

"Talk about justice delayed being justice denied -- five hours of evidence in three months is just ridiculous.

"Nor is Supt Halloran getting access to the evidence against him -- which he would in Victoria -- making it even harder to defend himself."

Sen-Sgt Mullett said the association had been in touch with Mr Downer's office to see if he was prepared to personally intervene to ensure Supt Halloran got a fair and speedy trial.

"We will be seeking a face to face meeting with Mr Downer as we feel very strongly that Supt Halloran is being denied natural justice," Sen-Sgt Mullett said.

Supt Halloran, who took 12 months' leave from Victoria Police to work as commander of war crimes investigations with the UN-backed **Special Court** in **Sierra Leone**, has denied the charge.

He was charged in August after former Tasmanian police officer Mandy Cordwell claimed that Kadia told her about the alleged abuse.

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'Women suffered most during Liberia's war'

By Jonathan Paye-Layleh

Monrovia - Two-thirds of Liberia's population may have been sexually abused during the West African nation's 1999-2003 civil war, with women and girls the main targets but men and boys also falling prey, a human rights group said on Tuesday.

Fighters, often drugged by their commanders, used sexual violence to shame and subjugate communities in Liberia, where rape carries a deep stigma, and Amnesty International estimated that 60 to 70 percent of the country's three million people were sexually abused during the war.

"Women and girls have described being repeatedly raped during the same incident. Others have been raped on several different occasions during Liberia's successive - and almost continuous - armed conflicts since December 1989," Amnesty said in a report. Also, "findings indicated that some men and boys had also been subjected to sexual violence" in the latest round of fighting, but the group didn't provide any figures.

'It has been pervasive throughout the conflict'

Rebels battled former president Charles Taylor's forces from 1999 until 2003, when an insurgent siege of this capital city and international pressure forced Taylor from office and paved the way for a peace deal.

"While it is impossible to establish with any degree of accuracy the exact numbers of women and girls - of all ages - who have been affected by sexual violence, it has been pervasive throughout the conflict," Amnesty said.

Taylor first launched Liberia into conflict in 1989, leading an insurgency that resulted in his 1997 election as president. But civil war broke out again in 1999 when rebels took up arms against him.

A peace deal was signed following Taylor's departure in August 2003, and 15 000 United Nations troops now secure the peace.

A government led by popular businessman Gyude Bryant is governing before elections next October.

- This article was originally published on page 9 of [The Cape Times](#) on December 15, 2004

CAPE TIMES

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TACY LTD. DIAMOND INDUSTRY CONSULTANTS[About us](#) [Expertise](#) [Research Materials](#) [Publications](#) [Link](#)**RESEARCH MATERIALS****REPORT CALLS FOR MAINTENANCE OF LIBERIAN DIAMOND SANCTIONS****December 13, 2004**

Brussels-based think tank, the International Crisis Group, has released a report warning that Liberia and Sierra Leone risk tipping back into conflict if the international community does not commit for the next 15 to 25 years with a fresh approach to restore security and civil freedoms.

"The interventions in Liberia and Sierra Leone are failing to produce states that will be stable. A fresh strategy is needed if both are not to remain shadow states, vulnerable to new fighting and state failure," says the report, entitled 'Rebuilding Failed States'.

The report calls for the United Nations to maintain timber and diamond sanctions on Liberia until after the 2005 elections, then subordinate these sectors to the new revenue collection mechanism, and calls upon the Government of Sierra Leone to establish effective control over diamond resources, applying Kimberley process procedures. The report also calls for action to be taken by the British and American governments, international donors, and politicians and citizens in both West African countries to consolidate a real and meaningful peace.

The report notes that though there has been slight improvement since 2003, it is estimated that the Sierra Leone government for years collected customs duties on only 5 percent of diamonds exported from its territory. Neither young artisanal diamond diggers (many of them ex-combatants) nor the government have seen much of the nation's diamond wealth, explains the report.

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Iraq War Crimes Trials to Begin Next Week

Tuesday December 14, 2004 9:31 PM

AP Photo BAG105

By SLOBODAN LEKIC

Associated Press Writer

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BAGHDAD, Iraq (AP) - A suicide car bomber killed seven people at a Green Zone checkpoint early Tuesday. Meanwhile, trials against the top figures in Saddam Hussein's ousted regime will begin next week, interim Prime Minister Ayad Allawi said, but Saddam will not be among them.

The suicide attack was the second in two days near the same gate into the district that houses Iraq's interim government and the U.S. Embassy, officials said.

Elsewhere in Baghdad, the chairman of the Joint Chiefs of Staff announced the U.S. military will have a record-high 150,000 troops in Iraq through the Jan. 30 elections and "a little bit after."

Tuesday's blast at the Green Zone checkpoint killed seven people and wounded at least 13 people, said Dr. Hassan AbdelSatar from Baghdad's Yarmouk Hospital.

Police Lt. Rafid Abid said the attack was carried out by a suicide car bomber.

A mushroom-shaped cloud of black smoke rose from the site of the attack, which was near where a bomber struck Monday, killing 13 and injuring 15 people. The location is near the Harthiyah gate on the western edge of the zone, which has been repeatedly targeted by bombings and mortar and missile attacks since it became the headquarters of the occupation authorities in May 2003.

No U.S. troops were injured in either blast.

The U.S. Embassy and several other missions are located inside the zone, which occupies an area of four square miles on the west bank of the Tigris River. The area, comprising Saddam's palace and other administrative buildings, is a virtual

Course for Mideast
Peace
7:46 am

fortress encircled by miles of 12-foot-high barricades, its gates guarded by U.S. Bradley fighting vehicles. The complex is off-limits to the public.

Violence in Haiti
Leaves Four Dead
7:46 am

Several of Baghdad's main arteries dead-end straight into it, cut off by a triple layered sprawl of concertina wire, impassable concrete blast walls and sandbagged guard towers.

From the Associated Press

In other violence, the U.S. military said two U.S. Marines from the 1st Marine Expeditionary Force based in western Iraq died in combat in Baghdad province Monday, bringing the number of Marines killed to 10 in three days.



Seven other Marines died in action Sunday in Anbar, a vast province west of Baghdad including the battleground cities of Fallujah and Ramadi, and a 10th was killed Saturday. The military provided no details on their deaths, which brought to nearly 1,300 the number of American troops killed in Iraq since the invasion in March 2003.

Gen. Richard Myers, the chairman of the Joint Chiefs of Staff, said U.S. troop numbers will rise from 138,000 to 150,000 before next month's elections, which many Iraqis fear could be targeted by militants opposed to the occupation and bent on derailing the political process.

"Our troop levels will be at 150,000 for the elections and a little bit after," Myers said.

Asked when exactly the troops would pull out, he responded: "That will be determined by events on the ground."

The previous high for the U.S. force in Iraq was 148,000 on May 1, 2003, when President Bush declared that major combat operations were over and most soldiers thought the war had been won. The initial invasion force included thousands of sailors on ships in the Persian Gulf and other waters, plus tens of thousands of troops in Kuwait and other surrounding countries.

Poland said Tuesday it will cut its troop strength in Iraq by nearly a third in the month following the vote, as part of long-standing plans to reduce its presence. Poland's current 2,400-member contingent will be cut to 1,700 from mid-February, with 700 soldiers remaining in Poland on standby, Defense Minister Jerzy Szmajdzinski told a news conference in Warsaw.

Myers predicted that last month's U.S.-led offensive to retake the western militant stronghold of Fallujah would undercut the insurgency by denying guerrillas a sanctuary from which they could launch attacks with relative impunity.

"They will try to move to other locations but I don't think they are going to find any location as satisfactory as Fallujah was for their operational planning and facilitation of what they were doing."

Despite repeated forecasts in the past that successes on the battlefield and the arrests of most of Saddam's top aides would weaken the insurgency, the number of attacks on U.S. troops and the interim government's security forces has not

decreased.

About 550 U.S. soldiers died in the first year after the invasion was launched; almost 750 troops have died in the nine months that followed.

Myers is in Iraq for a morale-boosting holiday visit to the troops with celebrities including actor Robin Williams, former Denver Broncos quarterback John Elway and sportscaster and model Leeann Tweeden. The VIPs were greeted at Camp Liberty west of Baghdad by the cheers of soldiers representing units including the 1st Cavalry Division based Germany, the 256th Brigade of the Louisiana National Guard and the 2nd Brigade of the 10th Mountain Division out of Fort Drum, N.Y.

The announcement by Allawi on proceedings against figures from the former regime was the latest in several conflicting accounts from officials about when the trials before the Iraqi Special Tribunal would begin. They have also said that Saddam might not be the first to be tried.

Many members of the former regime have been in jail for more than a year, and so far, few have been able to meet with counsel. Saddam's Jordan-based lawyers say they have not seen the former dictator, arrested a year ago Monday.

"I can now tell you clearly and precisely that, God willing, next week the trials of the symbols of the former regime will start, one by one so that justice can take its path in Iraq," Allawi told the interim National Council, without saying who would be tried.

Saddam and his 11 top lieutenants have been held for months in an undisclosed location, believed to be near the Baghdad International Airport, west of the capital. They appeared before the special tribunal in July to face preliminary charges from the former regime.

Also in Baghdad, unidentified gunmen shot to death Mousa Jabar, a commander in the al-Mahdi army of firebrand anti-U.S. cleric Muqtada al-Sadr, officials said. Jabar was killed in a drive-by shooting in Baghdad's Sadr City, a stronghold of the militia group.

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Chemical Ali 'faces trial soon'

One of Saddam Hussein's aides, Ali Hassan al-Majid, will be among the first top officials from the old Iraqi regime to be tried, Iraq officials say.

His trial could start next week or in mid-January, Defence Minister Hazim al-Shalaan said.

Mr al-Majid, widely known as "Chemical Ali", is accused of some of the worst crimes committed by the regime, including the gassing of Iraqi Kurds.

There is still no indication of when Saddam Hussein will face trial.

On Tuesday, Iraq's interim Prime Minister Iyad Allawi announced that leaders in Saddam Hussein's regime would be going trial for crimes against humanity and war crimes as early as next week.

Observers say the timing of his surprise announcement could be linked to the Iraqi elections planned for 30 January.

The Iraqi court will be in violation of the basic rights of the defendant
Defence lawyer

Mr al-Shalaan said on Wednesday that Mr al-Majid would be the first to be tried, Reuters reported.

"In the next few days, we will have the trial of Ali Hassan al-Majid, one of the close followers of Saddam Hussein," he said.

However, he did not specify exactly when, saying only that it would be held "next week, maybe, or in the middle of next month", Reuters reported.

Lawyers representing members of the old regime have said their clients will not recognise the legitimacy of any courts established under US occupation.

No access

Saddam Hussein's Jordan-based lawyers say they have not even seen him.

"The Iraqi court will be in violation of the basic rights of the defendants, which is to have access to legal counsel while being interrogated and indicted," Ziad al-Khasawneh told the Associated Press.

International legal experts have also voiced concern that the conditions have not been created for anything resembling a fair trial.

Mr al-Majid was a top powerbroker in Saddam Hussein's government and the Iraqi president's cousin.

He earned his nickname after leading the chemical attack on Kurds in Halabja during an offensive in 1987.

He is also accused of involvement in the killing of hundreds of thousands in the wake of the big uprisings against Saddam Hussein in 1991 after the first Gulf War.

In April 2003, it was initially thought he had been killed in a coalition air strike in the southern city of Basra, but in August that year he was captured by the US military.

Story from BBC NEWS:

http://news.bbc.co.uk/go/pr/fr/-/2/hi/middle_east/4097155.stm

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