

**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:**

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# International Justice T R I B U N E

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## MINUTES

## Special Court for Sierra Leone

by THIERRY CRUVEILLER AND KELVEN LEWIS

# "Heroes" trial opens in dramatic style

Freetown, 3 June 2004. All the signs pointed to a smooth opening day in the trial of Sam Hinga Norman, national coordinator of the Civil Defence Forces (CDF), his number two, Moinina Fofana, and Allieu Kondewa, responsible for initiation ceremonies for the pro-government militia.

The judges took their seats in the impressive but unfinished courtroom, and listened attentively to prosecutor David Crane who read out his charges against the three defendants. "On this solemn occasion, mankind is once again assembled before an international tribunal to begin the sober and steady climb upwards toward the towering summit of justice," he began. The American prosecutor has a penchant for lyricism. His forty-minute opening statement was peppered with his familiar rhetorical flourishes. "Horrors beyond the imagination will slide into this hallowed hall as this trek upwards comes to a most certain and just conclusion," continued Crane, in stony-faced solemnity.

After more preliminary remarks about "the valley of death", the "jackals of destruction", and "the light of truth" that will cast the "beast of impunity" into darkness, the prosecutor tackled the facts of the case. The three men are accused of "tragically failing" in their "duty to defend and protect the people of Sierra Leone", by "being unable to push the other organized armed factions out." "In their frustration [they] turned on their own – their fellow citizens – the Mende people, whom they declared to be collaborators of the RUF [Revolutionary United Front] or the AFRC [the military junta in power from 1997 to 1998]," he declared.

Then turning to Sam Hinga Norman, who wore a sarcastic smile on his face, Crane ended with the words: "the just cause of a Civil Defence Force in Sierra Leone, set up to defend a nation, became perverted and was twisted beyond measure." For the prosecutor, the leaders in the dock "were really offenders of the nation looking out for their own self interests". [...]

### Green light to prosecute Charles Taylor

On 31 May, the Appeals Chamber of the Sierra Leone tribunal ruled that it has jurisdiction to try the former President of Liberia Charles Taylor. The defence had argued that the court had no legal right to try Taylor as he was protected by diplomatic immunity as a head of state at the time of his indictment. Immediately after the decision, in which the court reaffirmed its international status, prosecutor David Crane called on the Nigerian government to hand the defendant over to the court. In August 2003, Nigeria granted the Liberian leader political exile in an attempt to end the fighting in Monrovia. Since then, this key member of the Special Court, which is also a member state of its management committee, has been under pressure to send the ex-president to the Freetown court.

### Chile

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### Canada

Passive dissuasion p. 4

### Charges allowed for enlistment of child soldiers

The three defendants from the Civil Defence Force (CDF) may not be prosecuted for sexual crimes. After a two-to-one vote on 1 June, the Special Court ruled that the prosecutor's late application to include the counts in the case would jeopardise the defendants' right to a swift and fair trial. The prosecutor intends to appeal.

However, the Appeals Chamber ruled in the prosecution's favour on the subject of the forced enlistment of child soldiers in the case of the three CDF leaders. As they will probably do with defendants from other armed rebel groups, the judges decided on 31 May that this form of recruitment was already recognised as a crime in customary law in 1996, the year the court's jurisdiction took effect. Judge Robertson dissented, arguing that in his view the forced conscription of child soldiers was not clearly enshrined in international criminal law until the creation of the International Criminal Court in 1998.

### **New president elected amid squabbles**

*On 26 May, judges elected May Emmanuel Ayaala as President of the Special Court for Sierra Leone and the Sri-Lankan Raja Fernando to the post of vice-President. The Nigerian judge replaces the Austrian Renate Winter, who briefly succeeded the Australian Geoffrey Robertson two months ago. Winter and Robertson have been locked in an internal squabble since February, which culminated in documents filed to the court in May. The registrar swiftly classified Winter's seven-page document as confidential in a bid to avoid publicising the serious personal dispute between the two appeal court judges. In it, Judge Winter asserts that Judge Robertson accused her of being part of a "conspiracy" against him and "called [her] names". "It was very trying experience for me, confirming his actual bias vis-à-vis me," wrote Judge Winter.*

#### ► FRANCE CAN HOST ICTR CONVICTS

France has become the first non-African state to allow convicted prisoners of the International Criminal Tribunal for Rwanda (ICTR) to serve their sentences in its jails. On 27 May the French Senate ratified the prison agreement of 14 March 2003 between France and the United Nations. The single-article text, adopted by French deputies on 6 January, was voted without modification. Similar agreements have been signed with Sweden and Italy, but have not yet been ratified.

#### ► MILOSEVIC TRIAL POSTPONED AGAIN

The presentation of evidence in the trial of former Serb president Slobodan Milosevic, which was postponed until 22 June, has been further delayed until 5 July. The International Criminal Tribunal for the former Yugoslavia (ICTY) announced on 27 May that the new postponement was due to the defendant's ill health. Trial dates were announced as follows: 5-7, 19-21 and 27-29 July. Milosevic, 62, has chosen to represent himself and plans to call 1631 defence witnesses.

[...] The Sierra Leonean deputy prosecutor Joseph Kamara was the next to address the court. Kamara spent the best part of an hour enumerating the occasions when Norman allegedly accepted responsibility for the hideous crimes committed by the CDF in the town of Koribundo. He alleged that Norman had told the Kamajors – the traditional Mende fighters and main component of the CDF – that he was disappointed they had not killed every living thing in sight. Kamara spiced his presentation with accusations of cannibalism, in which victims allegedly had their intestines removed and roasted, then eaten with boiled manioc.

But just when the court was preparing to call its first witness, Sam Hinga Norman was sending a letter to the court president. In it, he declared that he was firing his entire defence team and would be conducting his own defence. The decision apparently stupefied not only the defence team but even members of Norman's own family. Since then, speculation has been rife over the reasons behind this dramatic coup de théâtre. The hearing was immediately adjourned by the court president Benjamin Itoe pending a decision on 8 June. Itoe

noted the gravity of the request, stating that it was akin to Slobodan Milosevic's strategy before the tribunal for the Former Yugoslavia at The Hague. Norman's actions have at the very least highlighted the particular importance that Sierra Leoneans attach to the trial.

#### *Who was Norman?*

Until now, many people saw Sam Hinga Norman as a national hero. Notwithstanding the terrifying portrait painted by the prosecution, it seems that Sierra Leoneans need time to pause and think whether Norman is what they believed he was.

## CHILE

## Santiago Appeal Court

by INGRID SEYMAN

# New legal chapter opens in Pinochet case

On 28 May 2004, the Santiago court of appeal stripped former military leader Augusto Pinochet of his immunity from prosecution. If the Chilean Supreme Court confirms this ruling, the 88-year old ex-dictator could stand trial for his part in Operation Condor, a coordinated campaign in the 1970s by several Latin American military dictatorships to assassinate hundreds of suspected opponents.

When the Santiago Supreme Court ruled on 1 July 2002 that Augusto Pinochet's health was too frail for him to appear in court, the chances of ever seeing the former dictator stand trial in Chile looked minuscule. Indeed, over the last two years, the appeal court rejected two separate requests to strip Augusto Pinochet of his immunity, on the grounds that the Supreme Court had already ruled on the case. Pinochet's "mild dementia", diagnosed in 2002, seemed to be



## Horror Tales of Taylor's Revolution

**The Analyst** (Monrovia)

NEWS

June 7, 2004

Posted to the web June 7, 2004

*"After Amputating Me, The Rebels Set Me On Fire"; Nigerian Federal High Court Sets To Review Taylor's Asylum*

The stay of Liberia's controversial rebel and civilian leader for more than a decade, now exiled in Nigeria, Charles G. Taylor, has been the bone of contention since last November when the UN-backed Special War Crime Tribunal in Sierra Leone demanded his extradition to face criminal charges for his role in the Sierra Leonean civil war that spanned well over a decade. The circumstances of Taylor departure from Liberia on August 14, 2003 has made it difficult for host Nigeria, some members of the international community including the US and UK, and the special court to arraign Mr. Taylor.

First there are arguments that under the gentleman agreement between the international community and the government of Nigeria, Taylor's stay in Nigeria is part of the unanimously approved Liberian peace plan and therefore to extradite Taylor for trial is a violation of the plan. Then there is the argument that the Sierra Leonean special court has no jurisdiction over a sitting president in Liberia. (Taylor was indicted by the Special Court on June 4, 2004 while he was still president of Liberia.) But now the asylum armor, and along with it the resolve of the Obasanjo administration to protect Taylor comes what may, is cracking under the weight of intense international pressure as the horror tales of Taylor's military adventurism dubbed "The Revolution: popular people's uprising" filter into the legal system of Nigeria and rend many stony hearts. Our Lagos Correspondent has been looking at the new developments as adapted from This Day (Lagos).

"The rebels isolated Nigerians from the other captives and began amputating their forearms. I witnessed the amputation of tens of persons. Only Emmanuel and I survived. After amputating me, the rebels set me on fire and told me to go deliver their message to the Nigerian Government." These were the words of a Nigerian businessman, David Anyaele, as he began the horror tales, last week, before the Federal High Court of Nigeria in Abuja convened to hear petitioner's request for the review of Taylor's asylum status in Nigeria and the protective shield built around it by the Obasanjo administration.

Anyaele is reportedly one of two Nigerian businessmen who escaped death at the hands of the notorious butcher militias of Foday Sankoh's Revolutionary United Front of Sierra Leone or RUF in the late 1990s.

The Special War Crime Court in Sierra Leone is holding Mr. Taylor responsible as the architect of the RUF mayhem of which Anyaele, an amputated victim and rare survivor, testifies.

The UN Special Court indicted Taylor for providing financial support, military training, personnel, arms and ammunition to the Revolutionary United Front (RUF), the rebel movement that attempted to take control of Sierra Leone.

Another victim, Emmanuel Egbunna, explained in an affidavit delivered to the high court not only the abuse he suffered, but also the murder of his brother.

"They cut off the hands of my younger brother, Benedict, from beneath the elbow. They dumped him at the cemetery behind the house. He bled to death in front of me and his pregnant wife. I was next. The machete cut through the flesh and the bones of my hands but did not entirely sever them. With my hands dangling from my arms, the rebels also dumped me at the cemetery." The testimonies of the Nigerian businessmen lent weights to a request by the Nigeria Coalition on the International Criminal Court (NCICC) seeking Taylor's extradition to Sierra Leone to face war crime charges.

Also supporting the suit are the Open Society Justice Initiative, the Open Society Initiative for West Africa (OSIWA), and the Amputees Rehabilitation Foundation, an organization founded by survivors of the Liberia and Sierra Leone conflicts.

The NCICC challenged Taylor's asylum on behalf of two Nigerian businessmen who were tortured in 1999 by rebel groups in Sierra Leone.

The two businessmen, David Anyaele and Emmanuel Egbunna, in an affidavit supporting the action recounted the brutal treatment against them and other Nigerians by rebels from the Revolutionary United Front (RUF) and Armed Forces Ruling Council (AFRC).

On the strengthen of the testimonies, a Federal High Court in Abuja on June 4, 2004 exactly one year after the indictment of Mr. Taylor by the special court, accepted to review the asylum status of former Liberian President Charles Taylor currently residing in Nigeria.

The ruling of the Federal High Court presided over by Mr. Justice Steven Adah held that "the court had a primary responsibility to hear the case." Speaking to reporters following the court's decision, the Senior Legal Officer of the Open Society Justice Initiative, one of the groups that supported the suit, noted: "This decision vindicates the courage and efforts to seek justice of two survivors of a brutal civil war largely engineered and financed by Charles Taylor."

The National Secretary of NCICC, Mohammed Ibrahim, said in the same optimistic note: "The law is on our side, justice is on our side, truth is on our side. In fair proceedings, we expect the outcome to bring [us] closer the day when Taylor will face an impartial international trial." Taylor was offered asylum by President Olusegun Obasanjo in August last year. He lives in Calabar.

Taylor's appeal to the Special Court, early last week, to stop the trial on grounds of lack of jurisdiction failed as the court maintains its stance.

The former Liberian president, the court ruled, has a case to answer.

If nothing before the court action by a number of high profile Nigerian and international human rights advocacy organizations has touched the soft spot of the Nigerian government, observers say the horror tales of the Nigerian businessmen and the special court's insistence that it has trial jurisdiction over Mr. Taylor are bound to be magnetically reawakening and reinvigorating.

Last week, a coalition of human rights defenders in Liberia, for the first time since the battle to extradite Taylor began, petitioned the National Transitional Legislative Assembly (NTLA) to cause the Bryant administration to request the Nigerian government to turn over Mr. Taylor for trial in Sierra Leone.

The action of the Liberian coalition was reportedly designed to coincide with the federal court hearing in Nigeria.

Even though no word of the petition has come from the NTLA, analysts say its mere presentation to the coalition parliament is a significant sign to the Obasanjo administration that has been arguing that it will only turn Mr. Taylor over to an elected government in Liberia that indeed Liberians are on the side of world opinion on the trial and punishment of crimes against humanity in the name of revolutions irrespective of who is involved.

They say it is a significant step, but how significant is another question that will be answered only when the Federal High Court of Abuja ends the review of Mr. Taylor's stay in Nigeria and rule in favor of his extradition to Sierra Leone to face his accusers.

Until that happens, the whole scenario cannot be said to be anything more or less than a show of the titans.



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## A Editorial

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### Khmer Rouge in the dock

These days suspected war criminals – from Rwanda to Serbia to Sierra Leone – are in the dock. Dozens are still on the run, but hope remains that they, too, will face justice. But this is not true of the perpetrators of the Cambodian genocide of the 1970s. They remain free, and nobody is looking for them.

A quarter of Cambodia's population of eight million was executed, starved to death, or succumbed to disease during the Khmer Rouge's rule from 1975-79. There has been no real trial, no truth commission, and no official acknowledgement of one of the most heinous crimes in human history.

As a result, many Cambodians born since 1979 do not understand the scope and gravity of the atrocities. Meanwhile, the anguish and sorrow of survivors – almost all of whom lost loved ones – have not found redress.

This may be about to change. A year ago, the United Nations and the Royal Government of Cambodia agreed in principle to establish "Extraordinary Chambers" composed of Cambodian and international prosecutors and judges to investigate and try the "senior leaders of Democratic Kampuchea and those who were most responsible for crimes" under Khmer Rouge rule.

Ratification of the agreement has been delayed by the stalemate among Cambodia's bickering political parties following last year's elections. But a breakthrough appears close.

The formal decision to create a tribunal for the Khmer Rouge represents a major achievement after a decade of diplomatic effort. To implement it, however, a number of hurdles remain to be overcome.

The first obstacle is cost. Cambodian authorities can help

build their credibility by curbing the temptation to pad bills and inflate salaries. But outsiders will inevitably bear the lion's share of the budget for the tribunal.

The current estimate - \$50 million over three years - has shocked donor governments. But this compares favorably with the Special Court in Sierra Leone (more than \$70 million over three years), and the \$100 million spent annually on the international courts for Rwanda and Yugoslavia.

The price is appropriate. The United States and other western governments fueled Cambodia's civil war in the 1970s, then lent the Khmer Rouge legitimacy in the 1980s by insisting that they continue to occupy Cambodia's seat at the U.N. If the Khmer Rouge trials are to proceed, donor countries must see the Extraordinary Chambers as a prudent investment toward a stable and productive Cambodia. Given how long it has taken to get this far, donors must act quickly to come up with the necessary funds.

The second hurdle stems from the fact that Cambodia's tribunal will be the first internationalized court in which domestic judges form a majority. This poses a particular challenge in a country where lawyers were among the targets of genocidal violence, where few sitting judges possess formal legal training, and which has little tradition of judicial independence. There is thus concern that some in Cambodia's government - which includes officials who once served under the Khmer Rouge - will seek to hijack the trials for political ends.

In order to ensure a credible process, Cambodia and the U.N. must select judges of the highest caliber, not those that toe a party line. Prosecutors must follow the evidence wherever it leads. The trials should be conducted transparently and with broad public involvement. Nongovernmental monitors need to scrutinize the proceedings to ensure that errors are identified early enough to be corrected. The U.N. must make clear that it will halt the tribunal if it falls short of international standards.

The third hurdle is the danger that the Extraordinary Chambers will be regarded as the end rather than the beginning of a long-term search for accountability and legal reform. Given time and resource constraints, it is unlikely that more than a dozen defendants will be tried. But thousands of others took part in the violence. Their many victims will rightly seek some form of accounting and, at a minimum, an official record of the crimes they suffered.



Before long, an effort to document and publish the truth will be necessary.

Done properly, the proceedings of the Extraordinary Chambers could have further positive ramifications by contributing to lasting changes in Cambodia`s ordinary courts. By highlighting positive models of judging and legal advocacy, the trials may stimulate public demand for domestic tribunals that dispense justice fairly and effectively. Cambodia`s government and international donors should respond to this demand by launching reform programs that extend beyond the life of the Extraordinary Chambers.

The Khmer Rouge prosecutions will not be perfect. But they are necessary. Pol Pot died in 1998, but aging senior associates like "Brother Number Two" Nuon Chea and ex-Khmer Rouge president Khieu Samphan live freely in Cambodia. With sufficient resources, and a determination not to compromise on quality, the Extraordinary Chambers can provide a measure of justice for the victims and an example of the power of the law to serve the public good.

James A. Goldston is executive director of the Open Society Justice Initiative, which pursues rights-based law reform worldwide. - Ed.

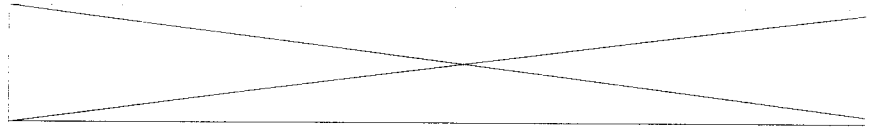
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By James A. Goldston

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## **Special Court's Prosecutor, David Crane's Opening Statement During the Commencement of Trial for Former 'Kamajor' Indictes**

**Concord Times** (Freetown)

DOCUMENT

June 7, 2004

Posted to the web June 7, 2004

By David Crane  
Freetown

On this solemn occasion, mankind is once again assembled before an international tribunal to begin the sober and steady climb upwards towards the towering summit of justice.

The path will strewn with the bones of the dead, the moans of the mutilated, the cries of agony of the tortured, echoing down into the valley of death below.

Horrors beyond the imagination will slide into this hallowed hall as this trek upward comes to a most certain and just conclusion.

The long dark shadows of war are retreating. The pain, agony, the destruction and the uncertainty are fading. The light of truth, the fresh breeze of justice moves freely about this beaten and broken land.

The rule of the law marches out of the camps of the downtrodden onward under the banners of "never again" and "no more." A people have stood firm, shoulder to shoulder, staring down the beast, the beast of impunity. The jackals of death, destruction, and inhumanity are caged behind bars of hope and reconciliation.

The light of this new day-today-and the many tomorrows ahead are a beginning of the end of the life of that beast of impunity, which howls in frustration and shrinks from the bright and shining spectre of the law. The jackals whimper in their cages certain of their impending demise. The law has returned to Sierra Leone and it stands with all Sierra Leoneans against those who seek their destruction.

The ghosts of thousands of the murdered dead stand among us. They cry out for a fair and transparent trial- to let the world know what took place here, here in Sierra Leone. The tears of the maimed, the mutilated, and the violated will dampen these walls.

These victims, their families, their towns, their districts-their country ask all of us here for a just accounting for the agony of those ten long years in the valley of death.

Mankind has steeped back from the brink of chaos several times in the past 59 years. In 1945, civilization gasped in horror at its capacity to cause suffering. Again in the early 1990's, reacting to the horrors of Rwanda and Yugoslavia, the world joined in a further step away from the abyss and now in West Africa, in Sierra Leone, another bold and noble step has been taken away from the grim jaws of the beast.

The Special Court for Sierra Leone, a hybrid international war crimes tribunal, gives a new century, indeed new millennia the chance to face down that beast of impunity. Imbued with this new spirit against impunity as noted in the Rome Statute which created the International Criminal Court: That during this [past] century millions of children, women and men have been victims of unimaginable atrocities that deeply shock[ed] the conscience of humanity; And Determined to put an end to impunity for the perpetrators of such crimes The Special Court on behalf of the international community and the people of Sierra Leone is now ready to prosecute those who bear the greatest responsibility for war crimes, crimes against humanity, and other serious violations of international humanitarian law.

Sierra Leone, among all the nations of the world, has stood up and said there must be justice for the victims of this decade-long brutal internal armed conflict, fuelled by the greed of a joint criminal enterprise that spread across the region.

That greed, that avarice, set in motion events that pushed an entire nation over the cliff into wanton and malicious destruction. Those events resulted in such crimes as murder, torture, enslavement, terror, looting and burning inflicted on an overwhelmed, battered and terrorised people.

Despite the obvious political dimension to this conflict, these trials, this trial, are about crimes; and these individuals are indicted for those crimes, the most grievous of acts that a person can be charged with by mankind- war crimes and crimes against humanity.

The Crimes alleged in the indictment Introduction The persons sitting in the dock before you, before this nation, before the world: Samuel Hinga Norman, the National Coordinator of the Civil Defense Force (CDF); Moinina Fofana, the National Director of War for the CDF; and Alieu Kondewa, the High Priest of the CDF-the top leaders of the CDF-have been indicted for the following international crimes: n Crimes against humanity; n Violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II, and; n Other serious violations of international humanitarian law in violation of Articles 2,3, and 4 of this Court's Statute.

We allege in the joint indictment of Norman, Fofana, and Kondewa the following counts: Unlawful Killing: Count 1 - Murder as a crime against humanity punishable under Article 2a. of the Court's statute and/or in the alternative; Count 2-violence to life, health and physical or mental well-being, in particular murder, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3 .a of the Statute.

Physical Violence and Mental Suffering: Count 3 - Inhumane Acts, a crime against humanity punishable under Article 2.i of the statute and/or in the alternative Count 4, violence to life, health and physical or mental well-being of persons, in particular cruel treatment, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3. a of the Statute; It must be noted, for all to hear today, that women and children particularly bore the brunt of this conflict and we will most assuredly show this fact day in and day out as we give evidence regarding the criminal allegations in the joint indictment.

Looting and burning: Count 5- pillage, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3.f. of the Statute.

Terrorizing the Civilian Population and Collective Punishments: Count 6- Acts of terrorism, a violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II, punishable under Article 3.d. of the Statute; and Count 7- Collective Punishments, also a violation of Article 3 Common to the Geneva Conventions and of Additional protocol II, punishable under 3. b. of our Statute; And Use of Child Soldiers: Count 8 - Enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities, and other serious violation of international humanitarian law, punishable under Article 4.c. of the Statute.

The General Allegations Highlighting the general allegations in the indictment against the accused Norman, Fofana and Knodewa: - That the Civil Defense Force (CDF) was an organised armed faction; - That there was a nexus between the armed conflict and all the acts or omissions charged as violations of Article 3 common to the Geneva Conventions and of Additional protocol II and as other serious violations of International humanitarian law.

- That the CDF was an organised armed faction comprised of various tribally based traditional hunters.

- These accused and those that served in the CFD were required to abide by international Humanitarian Law and the law of customs governing the conduct of armed conflicts.

- All of these alleged offenses charged were committed within the territory of Sierra Leone after 30 November 1996.

- All of the acts or omission charged in the indictment as crimes against humanity were committed as part of a widespread or systematic attack directed against the civilian

population used in this indictment refer to persons who took no active part in the hostilities, or were no longer taking an active part in the hostilities, among other general allegations in indictment Individual Criminal Responsibility Each and every indictee is individually criminally responsible for the acts or omissions charged under 6.1 and 6.3 of the statute. In other words they are each personally liable for these horrific crimes as if they committed each and every crime themselves.

Essentially the accused sitting here today either planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the crimes laid out in the indictment and/or in the alternative they in their superior capacities knew or should have known that subordinates were about to commit the acts charged or failed to take the necessary and reasonable measures to prevent such acts or to punish those who did.

As declared at Nuremberg in 1945: [c]rimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.

In principle 1 of the Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal: Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment.

Individualized guilt serves the important purpose of not only punishing those found guilty of the crimes charged but also of preventing a collective guilt syndrome. By diminishing the tendency to ostracize a specific ethnic or national group and the need for revenge, it contributes "to the process of national reconciliation." Individual responsibility serves the very important purpose of avoiding a collective guilt syndrome: avoiding laying guilt upon a whole people, ethnic group or national organization because of the misdeeds and manipulation of perpetrators associated with the particular group. Likewise members of such groups are not individually criminally liable for acts or omissions committed by other members or of their leaders. These considerations can help heal the wounds of war.

In general, as alleged in their joint indictment: Norman was in overall command of the CDF as National Coordinator.

His job was to establish, organize, support, and promote the CDF. He was also the leader of the Kamajors and had de jure and de facto command and control over the activities and operations of Kamajors.

Fofana acted as leader of the CDF in the absence of Norman and was considered his second in command. As national Director of War he had direct responsibility for implementing the policy and strategy for prosecuting the war. Fofana also commanded a battalion of Kamajors.

Kondewa as the High Priest has supervision and control over all initiations within the CDF, including the initiation of Children. He had direct command authority over special-mission units in the CDF.

In the positions referred to above, Norman, Fofana, and Kondewa individually or in concert exercised authority, command and control over all subordinate members of the CDF.

Their plan and purpose and that of their subordinates was to defeat by any means necessary the Revolutionary United Front (RUF) to include the complete elimination of the RUF and members of the Armed Forces Revolutionary Council (AFRC), their supporters, sympathisers, and anyone who did not actively resist the RUF/AFRC occupation of Sierra Leone.

Each of these accused acted individually and in concert with subordinates to carry out this plan.

#### **Purpose or design.**

For these acts or omission, we allege that Norman, Fofana, and Kondewa are each individually criminally responsible pursuant to Article 6.1 of the Statute for crimes alleged in the indictment, which crimes each of them planned, instigated, ordered, committed or in whose planning, preparation or execution each accused otherwise aided and abetted or which crimes were within a common purpose, plan or design in which each accused participated or were reasonably foreseeable consequences of the common purpose, plan or design in which each accused participated.

Additionally or alternatively, pursuant to article 6.3, the accused, Norman, Fofana, and Kondewa, while holding these positions of superior responsibility and exercising command and control over their subordinates, are individually criminally responsible for the crimes referred to in the indictment. Each of these accused is responsible for the criminal acts of his subordinates in that he knew or had reason to know that the subordinates was about to commit such acts, or had done so and each accused failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

Proving the Case It must be noted at this juncture that this is the opening statement and facts asserted are illustrative of criminally. Certainly at trial these allegations of fact will be proven beyond a reasonable doubt.

During the course of the trial we will focus on various and critical crimes bases where alleged criminal acts or omissions took place. These crimes bases are in Koribundo, Kenema, Base Zero in Bonthe District, Moyamba, Bo and Tongo.

Throughout the trial we will bring in children who fought in the CDF who will recount story after story of alleged horrors they committed. Part of a lost generation on both sides

of this conflict, they will bravely come forward to tell the world the tragic tale of the child soldier in Sierra Leone.

As stated, the crimes bases center in the Southern and Eastern Regions of Sierra Leone, mainly in the districts of Bonthe, Pujehun, Moyamba, Kenema and Bo, the time frame is generally focused between November 1997 to March of 1998. This time period will most certainly capture the res gestae of the crimes alleged to be committed by the accused.

The crimes will be proven in large part by the people of Sierra Leone- witnesses to events that will make men of civility and reason recoil.

They will come before you one by one, damaged, proud, some afraid, yet still brave and determined citizens who shouted in the valley of death never again, no more!

These citizens will testify to such acts or omissions by the accused Norman, Fofana, Kondewa as those alleged crimes committed against a citizen of Sierra Leone in the town to Bradford. The witness alleges that the CDF moved into the town and began to loot rice supplies throughout the day, and returned a few days later to do more looting. The witness, his wife and daughter hid in a banana plantation to avoid capture by members of the CDF. The witness alleges that they did capture his wife and robbed her of their life saving of 600,000L. they then shot her and left her dead. The witness recall her calling his name out as she died. After the CDF left he went to her side, but she was gone, their 5-year-old daughter sitting by her mother's corpse.

Other citizens will testify and allege that in Tongo 1997 and 1998 in a time called Cyborg, a period where the Revolutionary United Front (RUF) called themselves Cyborg and opened a Cyborg Pit, the RUF forced people to mine for diamonds. The Kamajors in the CDF took the mine after the RUF pulled out. Allegedly throughout the day Kamajors picked people at random and hacked them to death, a standard CDF tactic.

The witness will further allege that he was in a captured group that the CDF took to a location near Pandebu. Later released, the witness and those Sierra Leoneans with him were told to follow the main highway to Kenema. Others who had been hiding in the bush joined the group along the way and walked until they were stopped at the bridge at Kambaoma, where other Kamajors arrested them for allegedly being collaborators. The excuse of collaboration was used frequently to justify their criminal acts.

There around 65 human beings taken out behind a house, the witness will testify. They were told that anyone who used the road they had travelled on were to be killed. Separated into groups of 3 to 4 they were shot. Their bodies were then rolled down a hill into a valley below. At first the CDF used their weapons to execute them, until they got to the last 10.

When the CDF realized that they needed the rounds for combat they began to cut the head off of the remaining 10 one at a time. The witness was cut in the neck from behind

and rolled down the hill he was the last victims of the group and had watched as those in front of him died one at a time.

Though a damaged and broken man, he will be here in this Chamber to tell his story.

With the CDF, the number of victims are not on the scale of Rwanda, but there were thousands, regardless, there can be no impunity, even for the death of one person. The pain and suffering of the victims of crimes spelled out in the indictment against Norman, Fofana, Kondewa were agonizing, the crimes, beyond imagination.

A Breach of Duty The essential aspects of this case against these indictees, Norman, Fofana and Knodewa is about a breach of duty perverted into a killing frenzy against innocent civilians, non combatants, their own fellow citizens even their own tribesmen- the mende people.

The organisation called the Civil Defense Force, the CDF, an armed faction set up to counter the internal threat of the Revolutionary United Front (RUF) and later the Armed Forces Revolutionary Council (AFRC); led by Norman and assisted by Kondewa and Fofana and largely supported by the hunting society called the Kamajors who filled the ranks of the CDF; had a duty to defend and protect the people of Sierra Leone, in the Southern and Eastern regions of the country in particular. This duty was even more manifest by the fact that the indictee Norman was the Regent Chief of Koribundo, a location we will mention in a few moments as a crime scene.

Norman, Kondewa and Fofana tragically failed in that duty by being unable to push the other organised armed forces factions out, and in their frustration turned on their own- their fellow citizens- the Mende people whom they declared to be collaborators of the RUF or AFRC in such districts and places as Bonthe, Pujehun, Bo, Kenema, Moyamba, the killing field Tongo, and the black hole of Base Zero.

The issues before you are not, cannot be, political.

We have not charged political crimes. The court of law, this Chamber, must focus on the alleged criminal acts of these jointly charged indictees. Politics must remain barred from proceedings. Respectfully, you must focus your energy on whether, beyond a reasonable doubt, these accused committed crimes- grievous crimes-listed in the indictment against their own people, the people of Sierra Leone. We allege that the accused committed international crimes, their actions were criminal acts, their mindset criminal-not political.

Now defending one's nation is a just cause, it is accomplished by an honoured and necessary profession- the profession of arms-which for centuries has adhered to the laws of armed conflict. The just cause of a civil defense force in Sierra Leone, set up to defend a nation became perverted and was twisted beyond measure by Norman, Kondewa and Fofana. Under their leadership these accused war criminals turned what should have been a just cause into an unjust effect- serious breaches of the laws designed to protect



humanity. These so-called defenders of the nation were really offenders of the nation looking out for their own self-interest.

Again, they had a duty to defend and to protect, and they failed criminally in that duty and turned against their own people and institutions, such as the Sierra Leonean Police for example. Keep this in mind- they are charged with crimes as individuals, jointly and severally -not with political acts.

This joint indictment is not an indictment of what could have been important force for good- the organisation called the CDF- the organisation that these indictees perverted. Nor do we indict the cultural traditions or the concept of the centuries old hunting societies such as the Kamajors. In this chamber, in this indictment, we condemn alleged criminals for what they did as individuals-murder, terror, looting/burning, collective punishment, and recruiting child soldiers, among other war crimes and crimes against humanity.

Let me cite an example of this breach of duty and indeed individual criminal responsibility, as well as this perversion of just cause. On or about 13 February 1998, due to an attack by the Kamajors on Koribundo, one of our witnesses will testify that he and others were advised to flee to BO. The witness fled to his brother's house in Bo. However, by then the Kamajors arrived, scouring the town for those persons who fled from Koribundo. The witness will state that he was caught along with his brother and taken to the Kamajor headquarters where they were beaten and tortured. Their captors said they were going to kill and cook his brother that day. The witness will state that afterwards they took them out of them out, and standing among other bodies, cut his brother's throat.

The witness will state that he tried to turn away, but his head was held and he was forced to watch his own brother die. The witness you will hear testify will say that the Kamajors told him to go back and tell the people of Koribundo what would happen if they collaborated with the Sierra Leone Army, SLA.

He returned to Koribundo, noticing many graves along the road. A short time later the witness will state that Hinga Norman himself came to Koribundo (recall he is their Regent Chief) and held a meeting at the town barri. At this meeting, allegedly, Norman told the townspeople that they should not hold the Kamajors responsible, that they had done in the town, but they should hold him responsible, that they were acting on his orders. This witness will state that Norman declared that in fact he was disappointed in the Kamajors because he had ordered them to burn all but 3 buildings in the town, the Mosque, the barri and a house he was stay in.

He also stated he was unhappy because the Kamajors did not kill every living thing-even the ants he allegedly said, and rebuked them for being afraid to kill.

Concluding No one deserves to live in circumstances like this, to die like this, to witness the horrors perpetrated by all sides, and most certainly by these accused, who twisted a just cause into an unjust perversion. We will most assuredly show you, through witness

after witness, what the result of these unjust acts or omissions caused- the murder, mutilation, and maiming of thousands, the looting and burning of entire towns, terrorizing an entire nation.

Any time the citizens of a nation rise up to seek a just accounting for 10 years of painful war, the international community must respond- and it has. Just look around you today.

If I may, I will close my portion of this opening statement with a poem from Sierra Leonean, Sydnella Shooter, published recently in Freetown, entitled songs that Pour the Heart. It is called, "my Root in Flames".

Massive eruption everywhere Consuming my town and brush My cherished cradle my  
ancestral shrine All ablaze I turned around, my eyes catch But a mound of ash The ash of  
my kin's sweat Blood can't quench this fire Weeping through my blood There is no fame  
in these flames But ash that brings pain Ash with a stain The ash of the slain This ash that  
bleeds hearts Has nothing on the screen But incinerating Sierra Leone Vomiting and  
flaring up Can we read chronicles of ash And ash in chronicles When my foundation is  
razed To cinders and ash Ash weakening hearts Ash withering glories Ash that never  
buries Atrocities eroding my root Let justice be done thank you.

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# Liberia's sanctions are holding, UN report says

7 June 2004 – A United Nations expert panel on Liberia has found no proof of weapons-smuggling into the West African country after August 2003 or of diamond- and timber-smuggling out, and the imposed sanctions contributed significantly to ending the country's armed conflicts over a 14-year period.

According to the panel's report, however, "organized, international smuggling networks remain in place and could be reactivated at any time." While disarmament is progressing, factions may have hidden weapons either in Liberia itself or in neighbouring countries.

Because of poor national security, diamond mining has practically ceased, making smuggling currently negligible, the panel says in its report to the Security Council.

The National Transitional Government of Liberia "has begun taking urgent steps towards the establishment of an effective certificate of origin scheme for trade in rough diamonds that is transparent and internationally verifiable, with a view to joining the Kimberley Process."

While it found no evidence of "widespread exports" of timber, the panel notes that the Forestry Development Authority (FDA) has not been able to function outside the capital, Monrovia, and in the forests of southeast Liberia. The UN Mission in Liberia (UNMIL) has not yet been deployed in the forest areas.

"Corruption remains widespread," it says, "and the task of rebuilding is daunting."

The fiscal costs of retaining sanctions include lost wages and salaries, it says. Although the level of poverty and illiteracy is high, appropriate steps should be taken to "ensure that they have unhindered access to a fair share of the existing economic opportunities for which, under normal circumstances, their current status would not qualify them."

The Panel lists 11 names said to have violated – some more than once – the travel ban imposed on senior officials associated with former President Charles Taylor.

Six people had contacted the panel demanding to know why their names were still on the list of banned travellers in March when they had had no contact with Mr. Taylor since he went into exile in Nigeria last year, the report says.


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## US 'not bound by torture laws'

A Pentagon report last year argued that President George W Bush was not bound by laws banning the use of torture, according to the Wall Street Journal.

The document also argued that torturers acting under presidential orders could not be prosecuted, the paper said.



The US has been criticised for its treatment of terror suspects

The report was written by military and civilian lawyers for US Defence Secretary Donald Rumsfeld.

It came after staff at Guantanamo Bay complained normal interrogation tactics were not eliciting enough information.

The document outlined why restrictions on torture under US laws and international treaties might be overcome by considerations for national security or legal technicalities, the newspaper reported.

### Vital intelligence

The draft argued that because nothing was more important than "obtaining intelligence vital to the protection of untold thousands of American citizens" normal strictures on torture might not apply, according to the Journal.

The report contended that the president, as commander-in-chief, has the authority to approve almost any physical or psychological actions during interrogation, including torture, the newspaper reported.

It said it had reviewed a draft dated 6 March, 2003, and had not seen the full final report.

But people familiar with the final text said there were few substantial changes from the draft version, the Wall Street Journal added.

It is not known whether President George W Bush has ever seen the report.

The Bush administration has said it supports the Geneva Conventions and humane treatment for detainees.

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