

Wetin Na Intanashona I Umaniterian Law?

International Humanitarian Law Made Simple

Second Edition

A Special Court for Sierra Leone Publication

November 2011



The Special Court for Sierra Leone
Outreach and Public Affairs Section

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Visit the Special Court website: <http://www.sc-sl.org>

Moinina Fofana

Convicted on 5 counts of (war crimes) murder, cruel treatment, pillage, (crimes against humanity) murder, inhumane acts. He was sentenced to 15 years imprisonment.

Allieu Kondewa

Convicted on 5 counts of (war crimes) murder, cruel treatment, pillage, (crimes against humanity) murder, inhumane acts. He was sentenced to 20 years imprisonment.

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*Krio phrase for “What is International Humanitarian Law?”



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.

Morris Kallon

Convicted on 16 counts of (war crimes) acts of terrorism, collective punishments, murder, outrages on personal dignity, cruel treatment, pillage, murder of UN peacekeepers; (crimes against humanity) extermination, murder, rape, sexual slavery, forced marriage, mutilation, enslavement; (other serious violations of international humanitarian law) use of child soldiers, attacks on UN peacekeepers. He was sentenced to 40 years imprisonment.

Augustine Gbao

Convicted on 14 counts of (war crimes) acts of terrorism, collective punishments, murder, outrages on personal dignity, cruel treatment, pillage; (crimes against humanity) extermination, murder, rape, sexual slavery, forced marriage, mutilation, enslavement; (other serious violations of international humanitarian law) attacks on UN peacekeepers. He was sentenced to 25 years imprisonment.

Alex Tamba Brima

Convicted on 11 counts of (war crimes) acts of terrorism, collective punishments, murder, cruel treatment, pillage; (crimes against humanity) extermination, murder, rape, outrages upon personal dignity, enslavement; (other serious violations of international humanitarian law) use of child soldiers. He was sentenced to 50 years imprisonment.

Ibrahim Bazy Kamara

Convicted on 11 counts of (war crimes) acts of terrorism, collective punishments, murder, cruel treatment, pillage; (crimes against humanity) extermination, murder, rape, outrages upon personal dignity, enslavement; (other serious violations of international humanitarian law) use of child soldiers. He was sentenced to 45 years imprisonment.

Santigie Borbor Kanu

Convicted on 11 counts of (war crimes) acts of terrorism, collective punishments, murder, cruel treatment, pillage; (crimes against humanity) extermination, murder, rape, outrages upon personal dignity, enslavement; (other serious violations of international humanitarian law) use of child soldiers. He was sentenced to 50 years imprisonment.

Who was tried by the Special Court?

Thirteen people were indicted by the Special Court. They were (RUF) Foday Saybana Sankoh, Sam Bockarie (aka “Maskita”), Issa Hassan Sesay, Morris Kallon and Augustine Gbao; (AFRC) Johnny Paul Koroma, Alex Tamba Brima, Ibrahim Bazy Kamara and Santigie Borbor Kanu (aka “Five-Five”); (CDF) Sam Hinga Norman, Moinina Fofana and Allieu Kondewa; and former Liberian President Charles Taylor.

Foday Sankoh and Sam Bockarie both died before they could be brought to trial. Sam Hinga Norman died before the trial judgement. The proceedings against all of them were terminated.

Johnny Paul Koroma fled Sierra Leone before he was indicted. While there is some evidence that he is dead, there is no proof and the indictment and the arrest warrant against him remain in force. If he were to appear after the Special Court closes, provision would be made to try him.

Eight persons were tried and were convicted on various counts. They are serving their sentences at Mpanga Prison in Rwanda, which meets international standards of security and treatment of prisoners.

At this writing, the trial of **Charles Taylor** is nearing its conclusion in The Hague.

Issa Hassan Sesay

Convicted on 16 counts of (war crimes) acts of terrorism, collective punishments, murder, outrages on personal dignity, cruel treatment, pillage, murder of UN peacekeepers; (crimes against humanity) extermination, murder, rape, sexual slavery, forced marriage, mutilation, enslavement; (other serious violations of international humanitarian law) use of child soldiers, attacks on UN peacekeepers. He was sentenced to 52 years imprisonment.

Acknowledgements

This booklet was produced by the Outreach and Public Affairs Section of the Special Court. We thank all sections of the Court that assisted with this project, especially the Office of the Principal Defender, the Office of the Prosecutor, and the Registrar's Office.

The first edition of International Humanitarian Law Made Simple acknowledged valuable assistance by the local office of the International Committee of the Red Cross (ICRC). The ICRC has since left Sierra Leone, but some of their contributions have been carried over into this edition.

Foreword

This booklet 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. The booklet's structure involves several sections where key concepts of International Humanitarian Law are explained in simple language, accompanied by illustrations which portray visually the same message. These illustrations are not meant to be exact representations. Instead, they are meant to communicate concepts which are often abstract and complex. This booklet is one of Outreach's many initiatives to provide information, not only about the Special Court itself, but also about key issues related to it. The Court hopes that a public knowledgeable about important legal concepts relating to the rule of law will form part of its legacy in years to come.

Binta Mansaray

Registrar, Special Court for Sierra Leone
November 2011



The Special Court has a duty to teach about the rule of law.

Conclusion

International Humanitarian Law spells out rules which protect people who are not involved in fighting when a conflict is taking place. It also protects people from certain types of crimes, called crimes against humanity, which often occur during a war but can also be committed when a war is not taking place.

The mandate of the Special Court for Sierra Leone is to try persons bearing the greatest responsibility for crimes committed during the war after 30 November 1996. The Court, as the first modern international tribunal to sit where the crimes took place, also has an opportunity, along with Government, civil society, and many other institutions, to teach people about the rule of law. Certain basic rules to ensure respect for people must be followed at all times – even in the extreme situation of an armed conflict.

The Special Court for Sierra Leone: What the Law Says

The Articles which follow are taken from the Statute of the Special Court for Sierra Leone. The Statute mandates that the Court try persons who bear the greatest responsibility for violating International Humanitarian Law. It spells out what is prohibited under international law, and what is required.

Article 2 relates to crimes against humanity. These are crimes committed as part of a widespread or systematic attack against civilians. These laws originated in the Nuremberg Trials that took place after World War II, which found that “crimes so serious that they shocked the conscience of mankind” had been committed.

Article 3 relates to war crimes. War crimes are committed by an armed militia or group against “protected persons,” such as wounded combatants, prisoners of war, or people who had already laid down their weapons. In the Special Court Statute, war crimes refer to “Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II.”

Article 4 relates to “Other serious violations of international humanitarian law.” This section includes acts that do not fall under one of the other categories because they were recognized as crimes in more recent years, after the categories of “war crimes” and “crimes against humanity” were already defined. In the Special Court Statute, these include attacks directed at civilians, the use of child soldiers, and attacks on United Nations peacekeepers.

Sierra Leone is a State Party to all of these laws. This means that Sierra Leone has ratified all of the conventions containing these laws, and is therefore responsible for implementing them. This booklet will go on to explain in more detail the concepts of International Humanitarian Law.

Article 1

Competence of the Special Court

1. The Special Court shall [...] have the power to prosecute persons who bear the greatest responsibility for serious violations of International Humanitarian Law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996, including those leaders who, in committing such crimes, have threatened the establishment and implementation of the peace process in Sierra Leone.

Article 2

Crimes Against Humanity

The Special Court shall have the power to prosecute persons who committed the following crimes as part of a widespread or systematic attack against any civilian population:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation;
- e. Imprisonment;
- f. Torture;
- g. Rape, sexual slavery, enforced prostitution, forced pregnancy and any other form of sexual violence;
- h. Persecution on political, racial, ethnic or religious grounds;
- i. Other inhumane acts.

7. Parties to a conflict have to distinguish at all times between the civilian population and combatants. The civilian population and its property are not to be used as targets for attacks. Attacks shall be directed solely against military targets. For example, it is forbidden to burn the houses of civilians.



The civilian population and its property may not be used as targets for an attack.

6. The methods of warfare have to be designed to avoid suffering as much as possible. It is prohibited to use weapons or methods of warfare that cause unnecessary suffering. For example, it is forbidden to rape women or girls as a method of warfare.



Rape or other forms of sexual violence must not be used as a means of warfare.

Article 3

Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II

The Special Court shall have the power to prosecute persons who committed or ordered the commission of serious violations of article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include:

- a. Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- b. Collective punishments;
- c. Taking of hostages;
- d. Acts of terrorism;
- e. Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- f. Pillage;
- g. The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
- h. Threats to commit any of the foregoing acts.

Article 4

Other serious violations of International Humanitarian Law

The Special Court shall have the power to prosecute persons who committed the following serious violations of International Humanitarian Law:

- a. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- b. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the International Law of Armed Conflict;
- c. Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.

5. Guarantees of a fair trial shall be respected at all times. This means that no one shall be held responsible for an act that he has not committed, nor shall he be tortured or treated in a cruel or degrading manner.



Accused persons must receive a fair trial.

4. Captured fighters and civilians who live in an area under the control of the enemy are entitled to respect for their lives, dignity and personal convictions. They have to be protected against all acts of violence and reprisals. They also have the right to communicate with their families and to receive assistance.



Captured fighters and civilians living in an area under control of the enemy have to be treated with respect.

Introduction

The conflict in Sierra Leone was characterized by serious violations of International Humanitarian Law. These included murder, amputations and mutilations, the burning of houses, mosques, churches and other buildings, enslavement, rape and the forced marriage of women, attacks on peacekeepers, and the use of children as combatants. Even during a war, there are laws which protect civilians and non-combatants, and these must be respected. These laws are collectively called International Humanitarian Law.

This booklet is published by the Special Court for Sierra Leone to create awareness of International Humanitarian Law.

International Humanitarian Law applies to anyone taking part in combat, and it also protects civilians. It is designed to create a standard of protection that minimizes the suffering of people affected by war. It is violations of these laws, committed during the decade-long conflict that started in 1991, that are being tried at the Special Court for Sierra Leone. Those who were tried were alleged to bear the greatest responsibility for such acts.

This booklet is part of the transitional justice efforts undertaken in Sierra Leone. Even though the war in Sierra Leone has come to an end, it is still important to promote greater awareness of International Humanitarian Law. People must be informed about these laws, and learn to apply them at all times.

We believe that providing information on International Humanitarian Law can help to accomplish this goal, and so prevent such acts from occurring in the future. We hope that, in the same way that the experience of Sierra Leoneans has helped to inform the world about the need to address serious crimes committed during a conflict, this booklet can be a model for Outreach efforts in other countries so affected.

What is International Humanitarian Law?

War Crimes

The term International Humanitarian Law, when it was first used, meant the same as the “Law of Armed Conflict,” or the “Law of War.” The “Law of Armed Conflict” was first set down in the 1800s by the founder of the International Committee of the Red Cross (ICRC), Henry Dunant. This law sets out the rules on how to conduct a war, especially on how the combatants, whether they are soldiers, rebels, or civil defence forces, must act once the war has started.

For these laws to work, governments need to agree to follow them. In 1949, countries met in Geneva, Switzerland to update and extend previous treaties on the laws of war. These laws were called the Geneva Conventions. A violation of any of these laws is called a war crime. They are aimed at protecting persons who are affected by war. All civilians, and those combatants who are injured, sick, or have put down their weapons, shall not be the targets of an attack.

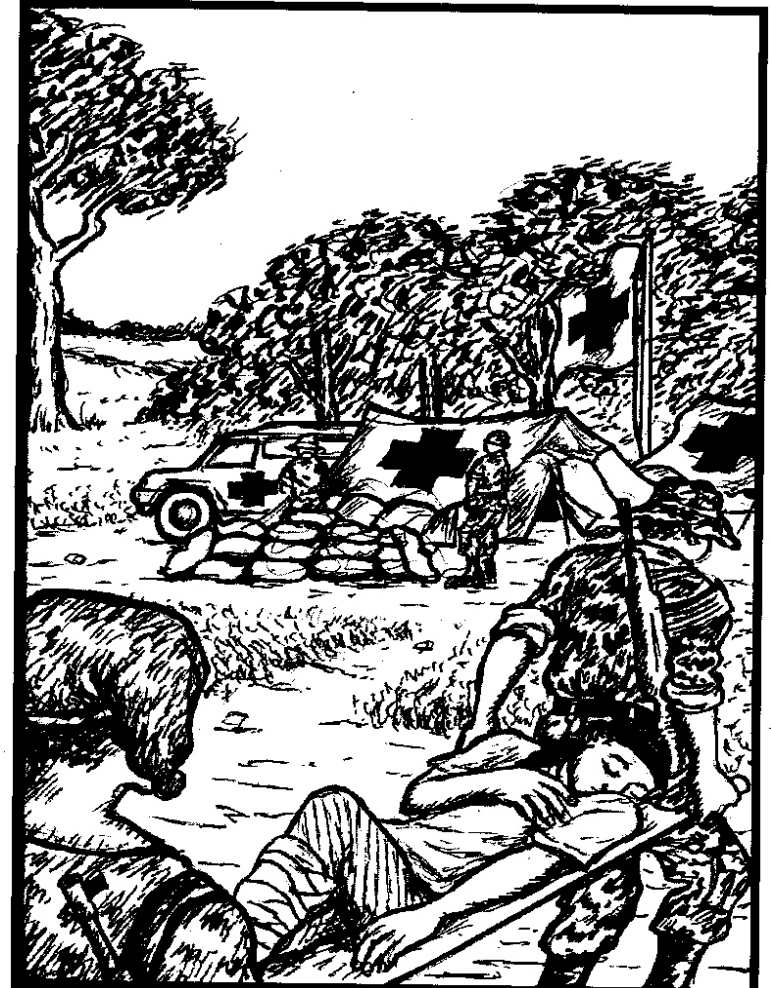
In June 1965, Sierra Leone agreed to follow – or “acceded to” – the Geneva Conventions. Sierra Leone acceded to the additional protocols on war crimes in October 1986.

War crimes convictions at the Special Court include those for acts of terrorism, collective punishments, murder, outrages on personal dignity, cruel treatment, and pillage.

Crimes Against Humanity

The charters of the *ad hoc* international criminal tribunals, such as the International Criminal Tribunal for (the former) Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone, along with the permanent International Criminal Court (ICC), also view crimes against humanity as a part of International Humanitarian Law. Those who commit such crimes, which are directed

3. The wounded and sick shall be collected and cared for by the party which is in control of that area. To ensure that the wounded and sick are treated properly, medical personnel or transporters and hospitals may not be targeted.



The wounded and sick have to be cared for

2. It is forbidden to kill or injure any civilian, or any combatant of the enemy forces when he has surrendered or has given up fighting. It is permissible to keep him as a prisoner of war. Prisoners of war have to be treated humanely.



It is forbidden to kill or injure fighters that have surrendered.

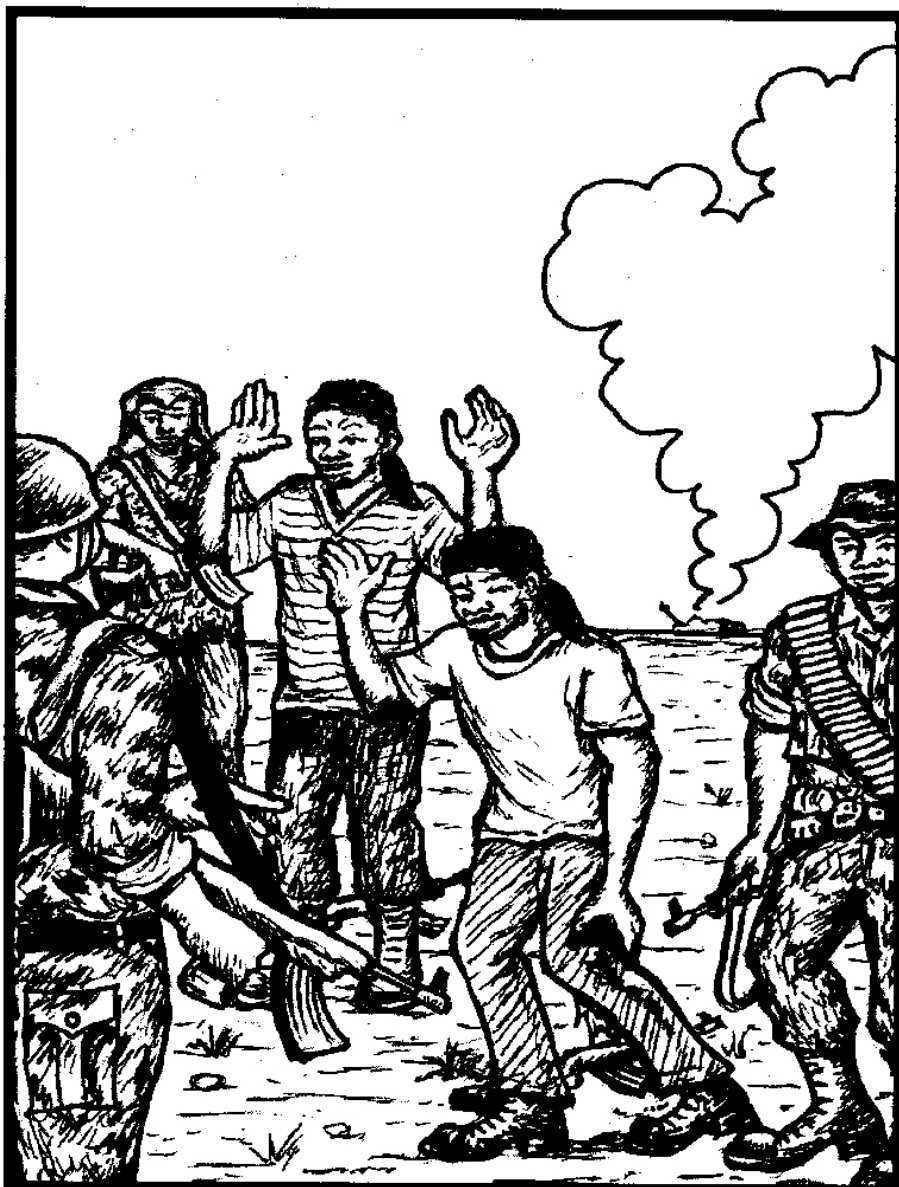
against a civilian population, can be prosecuted by an international criminal tribunal or by a national court that has jurisdiction over these kinds of crimes. One important element of a crime against humanity is that it does not have to be committed during a war. Crimes against humanity are crimes committed as part of a widespread or systematic attack against a civilian population.

Crimes against humanity prosecutions and convictions at the Special Court include extermination, rape, sexual slavery, forced marriage, (physical violence), and enslavement. The convictions for forced marriage were the first ever by an international criminal tribunal.

Other Serious Violations of International Humanitarian Law

These are laws which have come into being since the time when war crimes and crimes against humanity were defined. Under the Special Court's Statute, they include attacks directed against civilians, the use of child soldiers, and attacks directed against United Nations peacekeepers.

The convictions for the use of child soldiers and for attacks on UN peacekeepers were the first ever by an international criminal tribunal.



Wounded or sick fighters have to be cared for.

The most important rules of International Humanitarian Law

1. People who are not taking part in the fighting must not be harmed in any way. For example, it is forbidden to mutilate another human being. Combatants must always treat civilians and non-combatants in a humane way.



People who are not fighting must not be harmed in any way.

It is important to remember that an individual state does not have the authority to grant amnesty for the most serious violations of International Humanitarian Law. Even if a state grants such an amnesty, the international community can still prosecute those who commit crimes under International Humanitarian Law. For example, the Lome Peace Accord between the government and the RUF rebels to end the war in Sierra Leone granted amnesty for all crimes committed during the conflict. The Special Court's Appeals Chamber ruled, however, that this did not prevent people alleged to have committed serious crimes from being tried under international law.

For International Humanitarian Law to be effective, it has to be respected by everyone who takes part in the fighting. Every combatant has to respect these laws. Combatants must treat enemies who no longer pose a threat, as well as all civilians, humanely. At the same time, it is the duty of the high ranking commanders to ensure that no violations of International Humanitarian Law occur. It is their responsibility to prevent people from breaking these laws. Under no circumstances are they allowed to give orders which would lead to a violation of International Humanitarian Law. They must prevent their followers from committing these crimes, and punish those who commit such violations.



Every combatant has to respect International Humanitarian Law.

Who is protected?

Protection means that non-combatants must not be killed or harmed in any way. For example, it is forbidden to rape or mutilate any person, and the houses of civilians as well as hospitals, churches and mosques must not be targeted.

Wounded and sick people have to be collected and taken care of. It is forbidden to cause unnecessary suffering. Because of this, the parties to a conflict must distinguish between military and non-military targets. It is only acceptable to attack military objects and enemy fighters.



Only military objects may be attacked.

What is done to ensure respect for International Humanitarian Law?

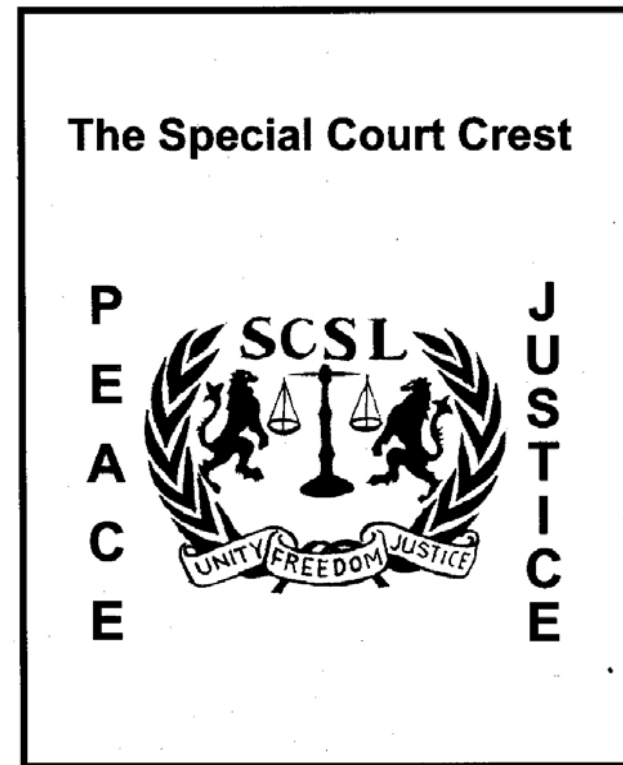
Every country must teach the rules of International Humanitarian Law to their armed forces and to the general public. They must also prevent people from violating these laws, and punish them when they do so. Governments have to enact laws providing for the punishment of people who commit these offences.

According to the Geneva Conventions, organizations like the ICRC can monitor the conduct of war. They can report any violations of International Humanitarian Law to the warring parties. The leaders of those countries and warring parties must ensure that their followers do not commit crimes against non-combatants.



A state has to teach about the rules of International Humanitarian Law.

When a government does not punish people who have committed violations of International Humanitarian Law, or is unable to do so, offenders can be tried by international courts, or by national courts that have jurisdiction over these kinds of crimes. To ensure that the responsible people are brought to justice, various tribunals and the International Criminal Court have been established. Some of these tribunals are known as “*ad hoc*” courts, because they are created to deal with crimes committed during a single conflict. An example of an *ad hoc* court is the Special Court for Sierra Leone. Other examples are the ICTR, the ICTY, the Extraordinary Chamber for the Courts of Cambodia (ECCC), and the Special Tribunal for Lebanon (STL).



The Special Court for Sierra Leone