



The Special Court for Sierra Leone (SCSL)

Talking Points

- The United States is the strongest supporter of the Special Court. Congress has appropriated \$20 million to the Court, \$5 million more than originally pledged by the US. This represents nearly a third of the SCSL's total budget of \$75 million.
- The Special Court is based in Freetown, the capital of Sierra Leone. Having the court where the atrocities were committed will result in a quicker, more cost-effective legal process. It will also allow the victims of the atrocities to more easily participate in the court's work.
- The Prosecutor of the Court, David Crane, served as a lawyer in the US military. He believes that the Court should be seen as more than just a Sierra Leonean war crimes tribunal. It should also bring to justice those regional and international actors who bear the greatest responsibility for crimes committed in Sierra Leone.
- The testimony of witnesses before the court indicates that Charles Taylor, who was at the time the president of Liberia, is chiefly responsible for the atrocities in Sierra Leone. Unfortunately, Taylor is the only living person indicted by the court who is not in custody.
- Security and stability through the promotion of the rule of law in Sierra Leone is critical to the overall stability of the region and vital in preventing another failed state in Africa. The failure to try Taylor would be a severe blow to the rule of law and a blow to regional stability in West Africa.
- The Special Court has a three year mandate that expires in early 2005. The Court's mandate should be extended to ensure that Charles Taylor is brought to justice.
- In addition, the government of Liberia should urge the General Assembly of the United Nations to pass a resolution calling for the transfer of Taylor from Nigeria, and the Economic Community of West African States should issue a statement supporting Taylor's transfer to the Special Court.
- Finally, the US should continue to provide adequate funding to the court. A recent report by Human Rights Watch indicates that lack of resources has hampered the court's ability to protect witnesses and provide adequate legal representation to the defendants.

Introduction

The Special Court for Sierra Leone (SCSL) was approved by UN Security Council Resolution 1315 in January 2002 to try those indicted for war crimes committed during the ten-year civil war. The Court is a unique hybrid court and the first of its kind. It was formed by agreement between the UN and the Sierra Leonean government to try those responsible for the worst atrocities committed in Sierra Leone. It has jurisdiction over the following crimes:

- Crimes against humanity, i.e., widespread and systematic murder, rape, and torture directed against a civilian population;
- War crimes, i.e., violations of Article 3 of the Geneva Conventions and of Additional Protocol II;
- Other serious violations of international humanitarian law; and
- Certain crimes under Sierra Leone law, such as sexual violence against children and malicious damage of property.

The Court has a three-year mandate. Its staff is composed of national and international personnel, with a trial chamber judge and an appeals chamber judge appointed by the government of Sierra Leone. The

FACT SHEET

Special Court and the national courts of Sierra Leone have concurrent jurisdiction, but, the Special Court's decisions take precedence over national courts.

While this mission is a positive step in bringing justice to the people of Sierra Leone, some observers believe that the court's budget is insufficient and that it will be closed too soon. Concern has also arisen that the court will only try those bearing the greatest responsibility, and that many of the mid-level and lower level actors who actually carried out the violence and murder will not be brought to justice. Even amongst those who bear most responsibility, two of the three principal actors are already thought or known to be dead, while one, Charles Taylor lives in asylum in Nigeria. Therefore, the court may fail to even bring those bearing greatest responsibility to justice.

Basic Facts

The Special Court is composed of a Management Committee (chaired by Canada) of 32 states that oversee the court's non-judicial operations and budgetary reviews. The Special Court budget is primarily funded through voluntary contributions by these 32 donor states. The most significant contributors to the Court are the United States, the United Kingdom and Canada.

Since its founding in 2002, the annual budget has been a relatively low at \$20 million per year, compared to \$100 million each for the tribunals in Rwanda and the former Yugoslavia. As a result, the court's staff is limited, emphasizing the need for highly experienced individuals to occupy core positions to ensure the court's efficiency. The system of voluntary contributions has left the Court in a precarious position. According to Secretary-General Kofi Annan, there will be a budget gap of around \$20 million for the Court's third year. To remedy this deficit, the Court now receives some funds directly from the UN. However, without significant additional voluntary contributions, the Court will remain under-staffed.

The Indictees

The Court issued twelve indictments for war crimes and crimes against humanity. Nine of the indictees are now in custody. Of the other three, two are dead and one, Charles Taylor, is living in asylum in Nigeria. Foday Sankoh, former leader of the Revolutionary United Front (RUF) and one of the first three individuals to be indicted by the Special Court, died of natural causes in July, 2003, while in UN custody. Johnny Paul Koroma is believed to have been murdered at the hands of Taylor in Liberia.

Those in custody are Sam Hinga Norman, Moinina Fofana, Allieu Kondewa, Issa Hassan Sesay, Morris Kallon, Augustine Gbao, Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu.

The Trials

Sam Hinga Norman, Morris Kallon, Brima Bazzy Kamara and Santigie Borbor Kanu are currently awaiting trial at the Special Court's detention facility in Freetown. Hinga Norman pleaded not guilty to all charges against him at a closed hearing on 15 May 2004. Kallon, Kamara and Kanu all refused to plead at a hearing on 17 May. Judge Boutet thus entered a not guilty plea on their behalf. Hinga Norman initially complicated proceedings by firing his entire defense team and asserting his right to defend himself. The Court later ruled against this and assigned a stand-by counsel. Hinga Norman also claims that the Special Court does not have the constitutional right to try him or any other Sierra Leonean.

Trials began again in September 2004 and are expected to conclude by the end of 2005.