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Nigeria/Sierra Leone: Special Court ruling - no immunity for former Liberian President Charles Taylor

Amnesty International welcomes this week's ruling of the Special Court for Sierra Leone (Special Court) which states that Charles Taylor, the former President of Liberia, has no immunity from prosecution for crimes against humanity and war crimes which reinforces the need to ensure that he faces the serious charges against him.

"The decision upholds the principles of international justice and the rule of law," Amnesty International said.

"The ruling reaffirms that Charles Taylor must not be allowed to enjoy impunity from trial for crimes against humanity and war crimes. Amnesty International therefore renews its calls on Nigeria to arrest Charles Taylor and either surrender him to the Special Court or open an investigation with a view to determining whether to pursue criminal or extradition proceedings in Nigerian courts."

A number of individuals and non-governmental organizations in Nigeria, including lawyers, journalists and human rights activists, have publicly expressed their disquiet at the Nigerian government's action in harbouring Charles Taylor and violation of its obligations under international law, and share the concerns of Amnesty International.

On 31 May 2004, the Special Court rejected a preliminary motion by Charles Taylor that the Special Court's indictment against him was unlawful because at the time it was issued he was the President of Liberia and enjoyed head of state immunity.

In reaching its decision, the Special Court, citing long-established precedent, including the Charters of the Nuremberg and Tokyo Tribunals, the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda, the Rome Statute of the International Criminal Court and the Special Court's own Statute, stating that heads of state did not enjoy immunity for crimes under international law such as crimes against humanity and war crimes, held that the former President was not immune from prosecution by the Special Court.

Regrettably, the Special Court limited the scope of its decision by simply concluding that such precedent demonstrated that any immunity enjoyed by heads of state did not extend to charges of crimes against humanity and war crimes before an international criminal court. In doing so, the Special Court ignored extensive evidence in international instruments that this rule of international law applies without exception to all courts, not just international criminal courts.

Background

The Special Court, established by an agreement between the United Nations and the government of Sierra Leone in January 2002, has jurisdiction "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".

Charles Taylor has been indicted by the Special Court for "bearing the greatest responsibility" for crimes against humanity, war crimes and other serious violations of international law falling within the Special Court's jurisdiction. These crimes include killings, mutilations, rape and other forms of sexual violence, sexual slavery, conscription of children, abduction and forced labour perpetrated by Sierra Leone armed opposition forces which Charles Taylor had actively supported.

Despite the unsealing of the indictment and the issuing of an international arrest warrant on 4 June 2003, Charles Taylor was allowed to leave Liberia for Nigeria on 11 August 2003 where he remains with apparent guarantees from the Nigerian government that he will be neither surrendered to the Special Court nor brought before Nigeria's own courts.