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SIERRA LEONE: First indictments before the Special Court for Sierra Leone

On 10 March 2003 the Special Court for Sierra Leone announced its first indictments. Seven people were indicted by the Special Court for war crimes, crimes against humanity and other serious violations of international humanitarian law falling within the jurisdiction of the Special Court. They are:

- Foday Sankoh, former leader of the armed opposition Revolutionary United Front (RUF);
- Issa Hassan Sesay, a former leading RUF member;
- Alex Tamba Brima, a former member of the Armed Forces Revolutionary Council (AFRC) which allied itself to the RUF following a military coup in May 1997;
- Morris Kallon, a former leading RUF member;
- Johnny Paul Koroma, former leader of the AFRC, elected to parliament in May 2002;
- Sam Bockarie ("Mosquito"), a leading RUF member;
- Samuel Hinga Norman, Minister of Internal Affairs, former National Coordinator of the Civil Defence Forces (CDF).

Further indictments are expected. An eighth person, Augustine Gbao, a former RUF commander, has also been taken into the custody of the Special Court as a suspect but has not yet been indicted. The Prosecutor of the Special Court has 30 days to issue an indictment or request that the suspect be held for a further 30 days. If a suspect is not indicted after 90 days, they must be released.

Five of those indicted are now in the Special Court's custody. International warrants of arrest have been issued for Johnny Paul Koroma and Sam Bockarie. Johnny Paul Koroma evaded arrest in January 2003 following an attack on a military compound in the capital, Freetown. Sam Bockarie is reported to be in Liberia, where the government of President Charles Taylor has supported the RUF; reports also suggest that Sam Bockarie is associated with armed opposition groups in Côte d'Ivoire. The Prosecutor has called for them to be handed over to the Special Court as indicted war criminals.

Amnesty International welcomes the fact that the work of the Special Court has begun and that trials of those suspected of bearing "the greatest responsibility" for the crimes falling within the jurisdiction of the Special Court will proceed. This is an important and significant start of a judicial process which will contribute towards ending impunity for the grave human rights abuses which occurred during Sierra Leone's 10-year internal armed conflict.

Amnesty International is also encouraged that the first indictments by the Special Court reflect investigation of crimes committed by all parties to the conflict during the period of the conflict over which the Special Court has jurisdiction (that is, from 30 November 1996). Those indicted include not only former leading members of rebel forces of the RUF and the AFRC but also the National Coordinator of the government-allied CDF.

Amnesty International had repeatedly called for the prosecution policy to be balanced and impartial and not focussed on a single party to the conflict.

The Statute of the Special Court for Sierra Leone has a number of guarantees to ensure a fair trial. These provisions, as well as internationally recognized guarantees for a fair trial, must be fully implemented in practice to ensure that all trials before the Special Court adhere to the highest standards of fairness.

In view of the horrific nature and scale of the abuses committed during the conflict and the large proportion of the Sierra Leonean population directly affected by the crimes committed, it is important to bear in mind that there should be no presumption of guilt of those indicted; in accordance with international standards of fair trial, they have the right to be presumed innocent until proven guilty beyond a reasonable doubt by the Special Court. All officials and staff of the Special Court should make every effort to ensure that this presumption is fully respected in all public statements.

Amnesty International is concerned that there should be a full range of reparations for the victims of the crimes over which the Special Court has jurisdiction. Every victim of these crimes has the right to full reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. The Statute of the Special Court should be amended to provide for such reparations. National courts should also be able to award such reparations.

The Special Court for Sierra Leone will try only a relatively small number of people: those considered to "bear the greatest responsibility" for crimes committed after 30 November 1996. A Truth and Reconciliation Commission (TRC) has also been set up to gather information about human rights abuses committed during the conflict since it began in 1991 as a means of establishing the truth and promoting reconciliation as Sierra Leone emerges from the trauma of war. It is not, however, a judicial mechanism. If those identified by the TRC as perpetrators of grave crimes under international law are not investigated and, if there is sufficient admissible evidence, prosecuted by the Special Court, they will have impunity in Sierra Leone because of the general amnesty provided by the 1999 Lomé peace agreement and subsequently passed into law. Under international law, however, any other state in the world can exercise jurisdiction over them.

Amnesty International believes that the Sierra Leone government should repeal the 1999 amnesty so that the national courts of Sierra Leone are able to address impunity for those cases which will not be tried before the Special Court.

Amnesty International is concerned that the Special Court contribute to the longer-term strengthening of the national criminal and civil justice system - through, for example, training, personnel, infrastructure, and provision of legal texts - so that it will in the future be able to address effectively impunity for such grave crimes. Since these crimes are crimes against the international community, not only against people in Sierra Leone, and since the Sierra Leone government cannot rebuild the justice system on its own, the international community must assist this effort with sufficient resources.

Background information

The Special Court for Sierra Leone was established by an agreement signed by the United Nations (UN) and the government of Sierra Leone in January 2002, following a decision by the UN Security Council in August 2000. The Special Court will "prosecute persons who bear the greatest responsibility" for war crimes, crimes against humanity, other serious violations of international humanitarian law and certain crimes under Sierra Leone national law committed since 30 November 1996. Independent of any government or organization, it is funded by 30 contributing states. It has both international and national judges and staff. It is based in Freetown and has a current mandate of three years. (The website for the Special Court is: <http://www.sc-sl.org>.)

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