

SIERRA LEONE: The United Nations Security Council should strengthen the independent special court to prosecute perpetrators of human rights abuses

The establishment of a special court for Sierra Leone, which is currently under debate by the United Nations (UN) Security Council, must result in a process which is credible and effective and meets international standards of fairness if impunity for human rights abuses is to be ended, Amnesty International said today.

*On 26 July, Amnesty International published a report - *Sierra Leone: Ending impunity - an opportunity not to be missed* - which set out the organization's recommendations for a process which would achieve justice for the victims of human rights abuses in Sierra Leone, ensure that those who are brought to trial receive a fair trial in accordance with international standards, and contribute towards the longer-term strengthening of the Sierra Leone judicial system.*

Amnesty International welcomes the Security Council's decision to take steps to create an independent special court and urges it to ensure that this court fully meets these objectives.

The draft resolution recommends that the court should have jurisdiction over senior Sierra Leonean nationals who bear the greatest responsibility for the most systematic and egregious criminal violations of Sierra Leone law and international humanitarian law, in particular those whose actions have posed, since 7 July 1999, serious threats to peace and security in the region. Amnesty International understands this to mean that the special court will try those alleged to be most responsible for crimes under international law, including crimes against humanity, war crimes and other serious violations of international humanitarian law. Although the Revolutionary United Front (RUF) has been

responsible for systematic and widespread abuses throughout the nine-year internal armed conflict, the Armed Forces Revolutionary Council (AFRC), soldiers of the Sierra Leone Army and members of the civilian militia, the Civil Defence Forces (CDF), have all been responsible for gross human rights abuses.

Those most responsible for these crimes, whether they are members of the RUF, the AFRC, the Sierra Leone Army or the CDF, and regardless of their current political position or allegiance, must be brought to justice, Amnesty International said.

Contrary to the current draft, the jurisdiction of the court should not be limited to Sierra Leone nationals alone and exclude nationals of other countries who may have committed these crimes. An independent prosecutor, subject to appropriate judicial scrutiny, should decide who should be prosecuted. The Security Council should call on all states to cooperate with the special court, especially in the transfer of suspects who are indicted by the court.

The peace agreement signed by the government and the RUF on 7 July 1999 in Lomé, Togo, sought to provide a blanket amnesty for all acts, including human rights abuses, committed since the beginning of the conflict 1991. The draft resolution recalls the UN's understanding that the amnesty does not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law.

The Security Council should go further and reaffirm that the amnesty does not apply to crimes under international law committed during the conflict and ensure that this is integrated into the statute of the special court and rigorously applied, Amnesty International said.

The draft resolution calls on the UN Secretary-General to make recommendations on the period of time which the special court will have jurisdiction. The special court should have the jurisdiction to try crimes under international law, including crimes against humanity and war crimes, as well as certain grave crimes under national law committed since the conflict began in 1991", Amnesty International said.

However, in establishing the special court, the Security Council should ensure that the death penalty, which can be imposed under national law, is excluded as a punishment.

Amnesty International has recommended that the UN establish, together with the Sierra Leone authorities, a judicial process of an international character, under the auspices of the UN. The draft resolution states that the judges and prosecutors of the special court, and the seat of the court, should be selected in a manner that safeguards the impartiality, independence, and the credibility of the process.

It is important to ensure that any court, while including Sierra Leoneans, comprises a majority of international judges, prosecutors and investigators to participate in all stages of the judicial process. This is an essential guarantee for the independence and impartiality of the court and would ensure an even-handed and independent prosecution policy.

The draft resolution also asks the UN Secretary-General to provide recommendations on the amount of voluntary contributions, as appropriate, of funds, equipment and services to the special court. If the special court is to be financed by voluntary contributions, the Security Council must ensure that adequate resources are made available. Otherwise, it should be financed by the UN from the regular budget.

For the court to function effectively, it is essential that it receive full and sustained financial support@, Amnesty International said.

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