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Sierra Leone: Ending impunity and achieving justice - Amnesty International's message to the National Victims Commemoration Conference

Amnesty International welcomes the initiative taken by the Special Court for Sierra Leone to organize the National Victims Commemoration Conference on Truth, Justice and Reconciliation in Freetown on 1 and 2 March 2005. This is an important opportunity for the people of Sierra Leone to assess to what extent the Special Court is contributing towards an end to impunity for some of the worst crimes ever known and also to determine what more needs to be done to achieve justice for all victims and their families for crimes committed during a decade of internal armed conflict.

The Statute of the Special Court provides a mandate to prosecute those *"who bear the greatest responsibility"* for crimes against humanity, war crimes and other serious violations of international law committed during Sierra Leone's armed conflict after 30 November 1996. Its jurisdiction therefore does not include all those who committed crimes under international law throughout the 10-year conflict. Only 11 of the very large number of people suspected of committing these crimes have been indicted. Two of them, including former Liberian President Charles Taylor, have yet to be arrested and surrendered to the Special Court.

Since August 2003 Charles Taylor has been harboured by the Nigerian government in violation of its legally binding obligations under international law. Its decision to grant refugee status to Charles Taylor violates Nigeria's obligations to surrender a person indicted for crimes under international law or to submit the case to its prosecuting authorities. The Nigerian government must arrest Charles Taylor and surrender him to the Special Court.

While prosecuting a few of those responsible for these crimes is a major contribution towards ending impunity in Sierra Leone, it is only a partial response. More needs to be done. While Sierra Leone's Truth and Reconciliation Commission (TRC) has been important in providing a forum for victims and perpetrators to recount their experiences, creating an impartial historical record of human rights abuses committed during the conflict, identifying the reasons for those abuses, and facilitating reconciliation, it cannot be a substitute for a court of law to try alleged perpetrators of serious violations of international law.

An essential element of providing justice to the victims of human rights abuses is the provision of reparations. Amnesty International was disappointed that the Statute of the Special Court did not follow the example of the Rome Statute of the International Criminal Court by authorizing the Special Court to award reparations for victims of crimes within its jurisdiction, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Such reparations are integral to achieving justice for the victims and also assisting them to rebuild their lives.

The national justice system needs to be able to work to ensure that all those who committed horrific crimes during the conflict, but who are not among the small number indicted by the Special Court, are brought to justice and that their victims have access to reparations. In this, the "legacy" bequeathed by the Special Court to the national justice system - which continues to face serious challenges in providing effective and efficient administration of justice - is crucial. Although the Special Court cannot by itself turn around the struggling national justice system, its presence, example and resources should be an important catalyst for and reinforce a committed, long-term strategy to end impunity and build an effective system of justice for the future.

A major stumbling block, however, is the general amnesty included in the 1999 Lomé peace agreement and subsequently enacted into national law. This amnesty, however, cannot apply to crimes against humanity, war crimes and other serious violations of international law. In a historic decision in March 2004 the Special Court refused to recognize the applicability of the amnesty provided by the Lomé peace agreement and concluded that it did not prevent international courts, such as the Special Court, or foreign courts from prosecuting crimes against humanity and war crimes. For impunity to be successfully challenged in Sierra Leone, the amnesty provision must be removed from the statute books.

A landmark and lasting legacy of the Special Court would be if its example were to be followed and the death penalty removed from Sierra Leone's statute books. The discrepancy between the Special Court, where the maximum penalty which can be imposed is a period of imprisonment, and the national courts, which continue to pass death sentences, needs to be removed. The Sierra Leone government should follow the example of the Special Court, as well as implement one of the key recommendations of the TRC, and abolish the death penalty.

For further information, see *Special Court for Sierra Leone: Statement to the National Victims Commemoration Conference, Freetown, 1 and 2 March 2005* (AI Index: 51/002/2005), 1 March 2005.