



**UNITED NATIONS  
OFFICE OF LEGAL AFFAIRS**

**Closing Ceremony of the Special Court for Sierra Leone**

**“The Special Court for Sierra Leone – Lessons and Legacy”**

**Remarks**

by

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The United Nations Legal Counsel

Freetown, Sierra Leone, 2 December 2013

Your Excellency, The President of the Republic of Sierra Leone,  
Your Excellency, The Vice-President of the Republic of Sierra Leone,  
Your Excellency, The Chief Justice of the Republic of Sierra Leone,  
Your Excellency, The Attorney-General and Minister of Justice of  
the Republic of Sierra Leone,  
President King,  
Justices of the Court,  
Excellencies,  
Ladies and Gentlemen,

It is a great honour for me to represent the Secretary-General of the United Nations on this distinguished occasion.

We are here to mark the closing of the Special Court for Sierra Leone. Today is both a solemn day of commemoration, but also a celebration of shared success. This day is very much a landmark, not only for the Special Court, but also for international criminal justice in general. The Special Court is the first of the United Nations and United Nations-assisted tribunals to complete its mandate and to fully hand over its rights and responsibilities to its successor residual institution.

Sierra Leone was also the first country in Africa to establish with United Nations participation a tribunal on its own territory to address, in accordance with international standards, the commission of the most serious international crimes committed there.

Beyond Sierra Leone, it is understandable that the Special Court will be often remembered as the tribunal which convicted and sentenced Charles Taylor, the former president of Liberia. Of itself, this was a monumental, a hugely significant achievement - as has been widely remarked, it was the first conviction of a former Head of State since Nuremberg.

There can scarcely be a more powerful depiction of the foundational principle of the equality of all before the law than to see an individual of such power standing to account before judges representing all of humanity.

At a practical level, this conviction is also a testament to the extraordinary ability and perseverance of the prosecution team at the Court. It is also testament to all who supported them, in building a case beyond reasonable doubt against an individual located largely outside of Sierra Leone during the period in question. It also recognizes the quality of the defence teams in thoroughly testing and questioning the evidence in the case put to the Court.

And at the jurisprudential level, the Charles Taylor proceedings have contributed substantially to the development of the international jurisprudence on aiding and abetting international crimes. The voices of the appellate judges in this case on the evolving contours of the doctrine of command responsibility in international law have also been very important. On all of these levels, I very much believe that the work of the Special Court has the strength to last and will readily stand the test of time.

This audience however needs no reminding that the work, and the impact, of the Special Court extends far beyond the Charles Taylor proceedings. In particular, in the major cases concerning the Armed Forces Revolutionary Council, the Civil Defence Forces and the Revolutionary United Front, the proceedings before the Court also recognised the reality of the extraordinary suffering endured by victims across Sierra Leone.

The testimony of the witnesses in these cases was extraordinarily moving. The dignity they showed in recounting the horrors to which they had been subjected humbled all who heard and saw them.

Allow me to pay tribute today to the courage of all those victims who stepped forward and allowed the Special Court to inscribe their experiences in the history of this country.

In the most fundamental sense, this Court is their court!

Its success validates their accounting of the most horrendous crimes known to humanity. I salute their courage and their conviction in speaking out, in order that justice could be done.

On the legal plane, the totality of the Court's jurisprudence has set new milestones in a number of areas. In a whole variety of areas, the Court was the first to grapple with highly complex and extremely contested issues of international criminal law. The areas are numerous, but I would refer to just a few that stand out to me.

The Court was the first to develop the jurisprudence on the conscription of child soldiers, jurisprudence that ultimately informed the ICC's treatment of the same issue in the well-known Lubanga case. The Court was also in the vanguard of the acknowledgement, in law, of forced marriage as a crime against humanity.

It was also at the forefront of international jurisprudence on the immunities of sitting Heads of State. Likewise, in respect of criminal attacks against peacekeepers. These hard-won legal insights reflect not only the wisdom of the judges in these cases. They also depended on the skilful advocacy and argument of the prosecution and defence teams. This is all legal thinking that has already carried forward into the work of other international courts. And it will continue to do so in the future.

National courts in the region and around the world dealing with these issues will equally benefit. It is no understatement to say that the body of international criminal law as a whole is substantially richer for the deep vein of jurisprudence in all these areas that the Court had rendered.

I should add, on the subject of legal milestones, that the Government's decision to allow victims to claim compensation through domestic process - where the Special Court had found a person guilty of a crime - was also an important contribution to the evolving international practice on victims' reparations.

Mr. President,  
Excellencies,  
Ladies and Gentlemen,

Over a decade ago, the drafters of the Agreement establishing the Special Court - the United Nations and the Government of Sierra Leone - envisaged a new way forward for an international tribunal. In contrast to earlier criminal tribunals, the Special Court stood for a new approach with a high degree of national ownership and proximity to the crimes under its jurisdiction. Specifically, this meant a court that, in principle, was located in the country in which the alleged crimes had been committed.

A court that, for that reason, was readily accessible to those victims. A court which included judges of the very same country, while augmented by international judges in order to ensure that best international practices and highest standards could be met. At the time, the naysayers were not few, and criticisms of these novel arrangements could be heard in numerous quarters.

Today, looking back over the path by the Special Court, we can agree that the drafters of the Agreement and the Court's Statute acted with wisdom and foresight. The principles animating the approach taken have more than proved their worth. With the benefit of hindsight and experience, the Special Court has reshaped legal opinion on what can and should be done in international criminal justice. It is now accepted that, other things being equal, the advantages of being located in the country where the alleged crimes were committed are extraordinary.

Practical accessibility and the ease with which all forms of media can engage in local proceedings exponentially increase their impact on the affected population.

The presence of domestic judges gives added legitimacy and credibility to the proceedings in the eyes of the broader population. At the same time, a majority of international judges act as a fallback to ensure international due process and fair trial standards are fully respected.

The views of national judges also add a richer dynamic to the judicial process, lending deeper experience and understanding of the particular national context to the international views of foreign judges.

Sometimes the combination of voices can be at odds. For me, though, the Court is actually the stronger for the diversity of views it has incorporated. The Special Court model has the additional advantage of building capacity of national judges, prosecution and defence staff and court administrators. This all strengthens skills that will be of great value to the national contexts to which they ultimately return.

It also assists, very directly, Sierra Leone in building a State truly grounded in the rule of law. All of these principles are now widely accepted, and any future court established to address a particular national set of international crimes will be strongly informed by the experience of the Special Court. That is as it should be.

Alongside these successes, the Special Court model has also taught a lesson for the future. The Agreement set out an ambitious attempt to fund the Court through voluntary contributions, a first for such an approach. Although there has been a very generous group of donors for many years, their investment has not always proven sufficient. Repeatedly, there was need for subventions from the General Assembly to bridge critical funding gaps.

Inevitably, these processes proved understandably distracting to the Court and its personnel. They also added unhelpfully to the already very large workload of the Court's administrators, forcing diversion of resources from core operations. This pattern is not unique to Sierra Leone, and is being experienced elsewhere where a similar funding model is employed. I do believe it is time for all stakeholders to recognize that voluntary contributions are not amenable to enabling even, sustainable funding flows over the anticipated lifetimes of an international criminal tribunal.

That lesson, in my view, is now clear and should inform future decisions on funding mechanisms.

Mr. President,  
Excellencies,  
Ladies and Gentlemen,

Although the Special Court is about to close, the Residual Special Court for Sierra Leone will commence operations in its place. The United Nations and the Government of Sierra Leone realized at an early point that even though the main work of the Court would come to an end, important tasks would have to continue.

In particular, witness protection and archiving and records functions would last well into the future. These two matters are critically important for preserving the integrity of the Special Court's work and in maximizing its positive impact for all in Sierra Leone. That of course includes future generations who never lived through the horrors of the period under the Special Court's jurisdiction.

In addition, there needed to be the facility for future judicial proceedings, should they become necessary. The Residual Special Court, with its seats in Sierra Leone and in The Hague, makes provision for all these needs. Its legal framework is also fully consistent with best international standards for such legacy institutions.

For that, allow me to acknowledge, again, the commitment of the Government of Sierra Leone, and also that of the Government of The Netherlands. Their support and expertise has been essential to making for a smooth transition to the new Residual Court.

Mr. President,  
Excellencies,  
Ladies and Gentlemen,

On behalf of the United Nations, allow me to acknowledge the Government of Sierra Leone, our partner and counterpart in this project.

From the outset, we have both shared the same goal. We have both shared the same commitment that there could not and should not be impunity for the crimes that took place here.

Those were crimes which truly shocked the conscience of all of humanity. Without the willing, sustained cooperation and practical assistance of the Government of Sierra Leone, the achievements of this Court would not have been possible. The Court's success has been, in essential measure, the sum of our joint investment. Likewise, from the judges of the Court to the Prosecutors' and defence teams, from the Registrars to all staff of the court over the years, the fact that we are here to commemorate the Court's closing is testament to the collective whole of their efforts.

I acknowledge each of their contributions in enabling the Court to reach today's milestone.

The achievements of the Special Court that we commemorate today are shared ones, in which we all deserve due credit. Although the Special Court closes, it is most fortunate that its legacy lives on in Sierra Leone in the years to come.

It lives through the justice it has delivered, through the vitality of its jurisprudence and through the legal professionals now working in Sierra Leone whose skills it has enabled and strengthened. That is a powerful legacy, a legacy that makes a real and practical difference. It is a legacy of which we can justly be proud.

I thank you for your attention.