Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office as at: Friday 3 to Friday 10 January 2003

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2003 is definitely going to be the Year of the Special Court. The Court’s proceedings are likely to provoke intense public and media interest during the weeks and months to come.

We need, first of all, to bear in mind the international dimensions of the story. Sierra Leone’s Special Court is only the third international tribunal set up after the International Criminal Tribunal for Rwanda and the Bosnian War Crimes hearings in The Hague. But our Special Court differs from both of them in several important respects.

This is the first international tribunal to try offenses against humanitarian law and actually to be based in the country where the atrocities were committed. The tribunal judging those involved in the Rwandan Genocide of 1994 is located in Arusha, Tanzania while Yugoslavian war criminals are being tried in The Hague, at the Hague.

Apart from this, the Special Court has extremely wide powers to arrest suspects, subpoena documents and seize assets which are probably scattered from one of the two other war crimes tribunals.

The Special Court is also quite independent of both its parents; the UN Security Council and the Government of Sierra Leone. Thus, in many ways, the Special Court for Sierra Leone marks a step forward in the exercise of international humanitarian law. So it is bound to raise considerable interest amongst scholars of international human rights law and media around the world.

For us here in Sierra Leone our interest will be less academic. All of us in this country were touched, in one way or another, by bruttlesites of the ten year conflict. But a debate has long raged between those who want the perpetrators punished and those who argue that the “price we have to pay for peace” is not disting up anamiotics of the past.

The unfortunate thing is that, for too long, the Government of Sierra Leone was on the latter side of the argument. President Kabbah used the words that the amnesty clause of the 1999 Lome Accord was “like a pill” we had to swallow to achieve peace at that time. But the combination with the RUF failed woefully in May 2002. Gradually the government has come to accept the minority argument that creating a culture of impunity simply emboldened the aggressors to continue on a path of mayhem, destruction and aggredgement.

In any case the Special Court will not be bound by the Sierra Leone government’s shifting political opinion. Article 3 of the 1999 Special Court (Ratification) Act specifically points out that “offenders prosecuted before the Special Court are not prosecuted in the name of the Republic of Sierra Leone.”

There are nine major categories of offenses the Special Court can prosecute: “persons who committed crimes against the civilian population”; murder, extermination, enslavement, deportation, imprisonment, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, and any other form of sexual violence; persecution on political, racial, social and religious grounds; and other inhumane acts.

Luckily the Special Court will only try those who bear “greatest responsibility” for these crimes - otherwise its cells would be bursting at the seams. Most of the arrested factions involved in our bitter war definitely did commit these crimes on a regular basis.

The RUF in particular were proud of their policy of forced recruitment of “non-people”, institutionalized violence forced to carry rebel recruitment and logistics. “Sexual slavery, forced pregnancy and all forces of sexual violence were all RUF hallmark.”

But the RUF were not the only offenders. The Special Court is likely to indict those with “greatest responsibility” for the murderous, genocidal assault on Freetown in January 1999. The bulk of those who carried out those atrocities were murderous soldiers.
"I solemnly declare that I will perform my duties and exercise my powers as a Judge of the Special Court for Sierra Leone, established to prosecute those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law... since 30 November 1996, honourably, faithfully, impartially and conscientiously."

The eight judges have been sworn in and President of the Court, Geoffrey Robertson has been appointed. Prosecutor David Crane is said to have almost finished collecting evidence he'll need for the trial. The temporary courthouse and cells are nearing completion.

We do not know when formal indictment will come; but 2002 will certainly be the Year Of The Special Court, when those most responsible for the bloody atrocities of the rebel war will face justice.

Many Sierra Leoneans still don't know very much about how the Special Court will operate. This is intended to be a short primer for public information. Although we have relied heavily on the Special Court's working documents (Rules Of Procedure, Special Court Act 2002 etc) in preparing this, any errors it may contain are entirely the responsibility of the author. This is not an official guide to workings of the Court.

THE JUDGES

There are eight judges. Six of them are non-Sierra Leoneans (British, Canadian etc). Two are Sierra Leoneans (Justice Bankole Thompson and Gbogbo-Eng). These judges will sit on the Trial panel due to hear indictments. The other five judges will either serve on the Appeals chamber and/or serve as designated justices at pre-trial hearings.

According to Rule 17(A) "all judges are equal in exercise of their judicial functions, regardless of dates of election, appointment, age or period of service" (Special Court: Rules Of Procedure And Evidence).

Any judge who has "a personal interest, or any association which might affect his impartiality" (Rule 15A: Special Court: Rules And Procedures) is obliged to withdraw from any case.

An indignant person may also apply to Presi- dent of the Special Court for a judge to be disqualified (if he/she feels their impartiality is in question).

PROSECUTION AND INDICTMENTS

Article 3 of the Special Court Statute, the legislation which embodies terms of the earlier agreement between the U.N Security Council and the government of Sierra Leone into the laws of this country, specifically states that "the Prosecutor and Deputy Prosecutor shall be independent in performance of functions and shall not accept or seek instruction from any government or any source".

The prosecution will be seeking to indict only those who bear "greatest responsibility" for violations of international humanitarian law (e.g. Geneva Convention 1949 and 1977 protocol) and specific Crimes against Humanity.

Article 3 and 4 of the Special Court statute spell these out in some detail: "violence to life, health, physical or mental well-being, torture, mutilation", "taking of hostages, acts of terrorism, pillage, carrying out executions without previous judgment pronounced by a regularly constituted court" are all offenses against the Geneva Conventions for Protection of War Victims (1949).

So too is "rape, enforced prostitution, and any form of indecent assault" (a point we shall re-visit later).

The Special Court will also prosecute people who have committed crimes under Sierra Leonean law.

These include offenses relating to abuse of women and children. Crimes of war are covered by the Geneva Conventions on war crimes.

For example, "atrocity of a girl for immoral purposes". Crimes of war under the Malian Damage Act 1961 such as "setting fire to dwelling houses, public buildings or any other buildings" will also be prosecuted by the Court.

The sting in the tail, however, is Article 4 of the Court statute which details "other serious violations of international humanitarian law".

There are three categories in this section which basically cover anything the Geneva Conventions or Sierra Leonean law omits. The first of these is "intentionally direct- ing attacks against the civilian population... or against individuals civilians not taking part in hostilities" (Article 4a).

This effectively outlaw the use of violence against unarmed civilians and innocent citizens.

The second is "intentionally directing attacks against personnel... evaded in a humanitarian... or peacekeeping mission in accordance with the Charter of the United Nations" (Article 4b) - which makes it a crime to kill or kidnap UNAMSIL personnel.

The Special Court will also prosecute people who have "conscripted or enlisted" children under the age of 15 years into armed forces or groups... using them to participate actively in hostilities".

It is difficult to see, given these provisions, how any of those with "greatest responsibility" from any of the three main factions (CDD government, RUF, SLF-Westside Boys) can go free for their activities since November 30, 1996 from which the Court's mandate begins... (TO BE CONTINUED)
THE YEAR OF THE SPECIAL COURT (2)

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So too is "rape, forced prostitution, and any form of indecent assault". (A point we shall revisit later)

The Special Court will also prosecute persons who have committed crimes under Sierra Leonean law.

These include offenses relating to abuse of children under the Prevention of Cruelty to Children Act 1956 specifically:...abduction of a child under 13 and abduction of a girl for immoral purposes... Crimes of arson under the Malicious Damage Act 1961 such as "setting fire to dwelling houses, public buildings or any other buildings..."

Prosecution and indictment will also be prosecution by the Court.
It was the first year after the outbreak of peace. Sierra Leoneans faced an uphill task trying to rebuild after a decade of barbarism. But if the task seemed daunting, the country appeared even more determined to face it. Citizens cast their ballots in peace for the first time in decades; the Special Court and the TRC heralded a new era of justice and peace for the country; and development projects sprung up on the ruins and ashes of war.

Yes, there was the inevitable down side to all this. The justice system was widely seen as being in a shambles; there were cries of corruption across the land; and the economy barely got by with donor support.

In this SPECIAL ISSUE, SALONE TIMES focuses on the key players and events of the year that brought hope.

NO JUSTICE, NO PEACE: The setting up of the Special Court (whose judges are shown in photo) marked a significant turning point in the global fight against impunity.
Special Court For Sierra Leone
Who is Justice George Gelaga King

Justice George Gelaga King was sworn in as one of five Appeals court judge of the Special Court for Sierra Leone on December 2, 2002. Born in Sierra Leone, he has been President of the Court of Appeal in both The Gambia and Sierra Leone. From 1981 to 1982 he had a special appointment as a judge of the Supreme Court in The Gambia. He was also nominated to be a Supreme Court judge in Sierra Leone.

Justice Gelaga King started his career as a teacher. After attending the Prince of Wales Secondary School from 1948 to 1951, he taught mathematics and biology at Government Secondary School. So and then chemistry at the Sierra Leone Grammar School in Freetown. He then left Sierra Leone to study in England where he obtained a Bachelor of Law degree with honours in 1960. He became a Barrister at Law from Gray’s Inn, London in 1962 and then a member of the Sierra Leone Bar Association in 1964.

Justice Gelaga King had a private legal practice in Sierra Leone from 1964 to 1974 dealing mainly with cases related to civil law. He then became Sierra Leone’s Ambassador to France, Spain, Portugal and Switzerland, residing in Paris. From 1974 to 1976 he was Sierra Leone’s Permanent Representative to UNESCO, from 1978 and 1980 he was Sierra Leone’s Ambassador and Permanent Representative to the United Nations.

Justice Gelaga King taught law at Sierra Leone’s Law School from 1990 to 1997 and was a member of the Board of Directors of the Law School in 1990. He is Chairman of both the Sierra Leone Law Journal and Gambian National Council for Law Reporting. From 1991 to 2000 he was a member of the Judicial and Legal Service Commission and a member of the Sierra Leone Council of Legal Education. He is also a fellow of the Royal Society of Arts.

Justice Gelaga King is married with three children. His hobbies fishing, hunting, reading and wine-making and gardening.
BASIC FACTS ABOUT
THE SPECIAL COURT

How it was established:
On 12 June 2000, Sierra Leone president Alhaji Ahmad Tejan Kabbah, wrote a letter to United Nations Secretary General Kofi Annan, asking the International Community to try those responsible for crimes committed during the country's violent conflict. President Kabbah said that he believes the crimes were so grave as to be of concern to all persons in the world.

After considering the letter, the UN Security Council adopted Resolution 1315 on 14 August 2000 requesting the UN Secretary General to start negotiations to create the special court.

On 16 January 2002, an agreement establishing the Court was signed by the Governments of Sierra Leone and the United Nations.

What kind of Court is it?
The Special Court is an international body that is independent of any government or organisation. Its staff include both Sierra Leoneans and internationals.

Who will be prosecuted?
The Court will try those who bear the 'greatest responsibility' for crimes committed in Sierra Leone during the country's violent conflict after 30th November 1996, when the Sierra Leone government and the Revolutionary United Front signed the Abidjan Peace Agreement.

What type of Crimes?
The Court will try serious violations of humanitarian law or war crimes such as atrocities committed by armed groups against civilians. It will also try 'crimes against humanity', including widespread or systematic murders, rapes, forced prostitution, torture, amputations, enslavement, forced conscription or enlisting of children. Certain crimes under Sierra Leonean law may also be tried relating to sexual violence against children and malicious damage of homes and other buildings. The Court will not try all those who committed such crimes, only those who bear 'greatest responsibility' for them 'having occurred.'

What type of Punishment?
Those found guilty may be sentenced to terms of imprisonment or could have their assets seized if found to have been acquired unlawfully. The Court cannot impose the death penalty.

STRUCTURE OF THE SPECIAL COURT

The Prosecutor
The process begins with the Prosecutor of the Special Court and his team investigating crimes and those individuals suspected of committing them. Once sufficient evidence is found, the prosecutor submits indictments for the judges' approval. The Prosecutor David Crane, was appointed by the UN Secretary General. The Deputy Prosecutor, Desmond de Silva, was appointed by the Government of Sierra Leone.

The Judges
The Judges of the Special Court hold a trial to determine whether those indicted are guilty or innocent. The indicted are always presumed innocent until proven guilty. The Court has a total of eight judges:

Three are Trial judges, two of whom are appointed by the UN and one by the Government of Sierra Leone. The five other judges are Appeals judges, three appointed by the UN and two by the Government of Sierra Leone. The president of the Court is elected from among the judges.

The Defence
Those individuals detained, arrested or indicted have the right to be represented by a defence lawyer. If they cannot afford one, the Special Court will assign one to them. The Court must ensure that the accused have a fair and public trial.

The Registry
The Registry is responsible for the overall administration and management of the Court including the Court's detention facility. It must ensure that the rights of the accused are respected and that witnesses are protected. The head of the Registry is Robin Vincent. He was appointed by the UN Secretary General.

THE PREMISES OF THE SPECIAL COURT

The premises of the special Court are under construction in Sierra Leone's capital Freetown. The Office of the Prosecutor and the Registry began operating in August 2002 in temporary premises in the city. By the end of the year they are set to move into prefabricated offices on the permanent site. A detention centre and the court house where trials are to take place will be completed by May 2003.
Establishment of International Criminal Court

The Rome Statute on the International Criminal Court (ICC) came into effect officially on July 1, 2002, signifying the birth of the first permanent international criminal justice organization in human history. Although it takes some time before the court goes into official operation, its coming is an important step towards the lofty ideal long cherished by internationalists and safeguarding lasting peace in the world.

The International Law Commission began work on establishing an ICC and successfully met the deadlines despite the limitations of its mandate during the League of Nations period. After the founding of the United Nations, it turned over the task. The 1947 United Nations General Assembly established the International Law Commission to draft a law on the subject, and the charter that violates peace and security of humanity and a Statute on ICC. By 1953, the UN General Assembly set up a special committee to draft a convention on the establishment of an ICC. But the UN General Assembly was not satisfied with the results. The international community is making a substantial investment in international criminal law and institutions. There are the potential benefits of establishing and maintaining an ICC.

The 1991 Nuremberg Statute created the provisions on the establishment of an ad-hoc international criminal tribunal. The relevant provisions were later adopted in the ICTY and ICTR statutes. The 1998 Statute on the establishment of an ICC without defining its jurisdiction dates back to 1990, the report submitted by the Special Session on the Establishment of ICC. The UN General Assembly, not the UN General Assembly, won a positive response. It was the International Criminal Court. The International Law Commission had been sent to draft a convention on the establishment of an ICC. The treaty was adopted by the General Assembly on November 15, 2000 and opened for signature on July 17, 2001. The treaty entered into force on July 1, 2002.

While reconstructing their homes, people have also built a collective security system with the United Nations at its core. The international law restricts the right of a country to wage wars and, apart from collective security actions and self-defense, ban the use of arms or the threat with the use of arms. At the same time, the international community is making a substantial investment in international criminal law and institutions. There are the potential benefits of establishing and maintaining an ICC.

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Canadian heroes seek justice for decade of abuse
MICHELE LANDSBERG

No doubt you've seen pictures of the amputees who are survivors of Sierra Leone's 10-year "diamond war." It's a shivery horror to look at these helplessly maimed people, children and adults, whose limbs were brutally chopped off by rampaging rebels who sought to control the country's rich diamond trade. The International Red Cross estimates there are about 1,000 of these survivors. Thousands more, of course, died from their untended wounds.

What you haven't seen is the deep and lasting trauma to an estimated 50,000 to 64,000 little girls, teenagers and women who were savagely gang-raped, sexually tortured and enslaved during that degenerate decade.

No, I'm not set to ruin your Sunday with a tale of unmitigated horror, though sadly, there's more than enough of that to go around. The gleam of light for Canadians in this story is the patient work of "repairing the world" undertaken by some of our compatriots.

One of them is Louise Taylor, now working in Sierra Leone as a gender crimes investigator for the office of the special prosecutor. A few months from now, a special court and a truth and reconciliation commission will be up and running, side by side, in Sierra Leone. Taylor is one of those who ensured the rampant war crime of rape would be recognized and prosecuted in the court, instead of being granted amnesty under the truth and reconciliation process.

The world is on the verge of war again. Canada may take part. This week, I'd like to think of the Canadians, many of them women, who have worked for the past two years to bring some measure of sanity and order to a far corner of the world, using the tools of compassion and justice rather than death-dealing weapons.

I spoke to law students Mora Johnson and Kathryn Howarth, who are part of an eight-person team from the University of Toronto. They are helping the office of the special prosecutor in Sierra Leone by researching the jurisprudence on rape as a war crime from the Rwanda and Yugoslavia tribunals.

It's long, painstaking work, poring through legal judgments, but these young women are tackling it with a kind of grave enthusiasm. They acknowledged that some of the material is agonizing to read.

"But it's also incredibly exciting to play a part in bringing the rule of law to a place that had been lawless," Johnson said.

Among the Canadians involved is Valerie Oosterveld, a legal officer at the Department of Foreign Affairs, who has worked doggedly for several years with the United Nations "management committee" in New York (chaired by a Canadian) in the multi-nation effort to set up the special court.

Five other Canadians, including deputy chief of investigations Gilbert Morissette, are currently working at the court.
My interest was first sparked when I read a 75-page report by Taylor, the gender crimes investigator, and published by Human Rights Watch last month. The title is "We'll kill you if you cry." Sexual Violence in the Sierra Leone Conflict. (You can find it at http://www.hrw.org) It briskly documents the history of the war and contains terrible testimony in the victims' own words.

Girls were gang-raped in front of their families, beaten, abducted and enslaved for months. Babies were ripped from their mothers' arms and murdered; pregnant women were disemboweled.

Just one example will give you a feeling for the insensate viciousness of those war years: A young woman who had given birth two weeks earlier went to find her husband in the bush. She was captured by the rebels and raped by 20 or 30 men (they lined up) over several weeks.

They shoved a pistol in her vagina when she tried to resist. Because they threatened to murder her baby girl if she cried, the mother desperately breastfed her during the attacks. The woman managed to escape when her uterus prolapsed and the men left her to die. She and the baby survived.

Systematic, widespread use of rape as a military strategy can happen in a culture where a woman's highest worth is her virginity. She is valued not as a human, but as her father's or husband's unsullied and market-worthy property.

In the words of Taylor's report, "The humiliation, pain and fear inflicted by the perpetrators serve to dominate and degrade not only the individual victim but also her community."

Revealingly, discrimination against women in matters of adoption, marriage, divorce, burial, and inheritance is specifically permitted in Sierra Leone's constitution. Marriages are usually arranged without the female's consent, and 90 per cent of women in Sierra Leone have been genitaly mutilated.

Maternal mortality is among the highest in the world. The status of women in that country is so low, the poverty so great and the history of the country so chaotic, it was not until 1999 that the first rape case was successfully prosecuted, according to a report on war-related sexual violence in Sierra Leone by Physicians for Human Rights.

So there, in a paragraph, is the primary cause of the mass rape in Sierra Leone. The boys grow up into men who know they can own, beat and violate women with impunity. (In the war, boys raped women old enough to be their grandmothers).

In one survey, 67 per cent of Sierra Leone urban women reported they had been beaten by husbands or boyfriends; half had been raped by their partners. Still worse, the women commonly accept that their husbands have the right to beat them and force them sexually.

In working so valiantly and patiently to reveal these war crimes to the world, and to bring those most responsible to account for themselves before the special court, Canadians are helping to expose and erode such corrosive belief systems.

To me, these international workers are the true heroes — heroes of peace, rebuilding, human equality and of the long, hard search for justice.

Michelle Landsberg's column usually appears in the Star Saturday and Sunday. Her e-mail address is milandsb@thestar.ca