



RESIDUAL SPECIAL COURT FOR SIERRA LEONE

**Rules Governing the Detention of Persons Awaiting
Trial or Appeal before the Special Court for Sierra Leone
or Otherwise Detained on the Authority of
the Special Court for Sierra Leone
("Rules of Detention")**

**Adopted on 7 March 2003
As amended on 25 September 2003
As amended on 4 May 2004
As amended on 14 May 2005
As amended on 13 May 2019**

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**AMENDED RULES GOVERNING THE DETENTION OF PERSONS AWAITING TRIAL
OR APPEAL OR OTHERWISE DETAINED ON THE AUTHORITY OF THE RESIDUAL
SPECIAL COURT FOR SIERRA LEONE (“RULES OF DETENTION”)**

PREAMBLE

The Registrar of the Residual Special Court for Sierra Leone (“Residual Special Court”),

Recognizing the need for rules governing the detention of persons awaiting trial or appeal before the Residual Special Court for Sierra Leone or otherwise detained on the authority of the Residual Special Court for Sierra Leone and to ensure the continued application and protection of their individual rights while in detention,

Mindful of the need to ensure respect for human rights and fundamental freedoms and particularly the presumption of innocence;

Mindful of the need to regulate the rights and obligations of Detainees at all stages, from reception to release or transfer to another institution for the purposes of enforcement of their sentence, and to provide the basic criteria for the management of the Detention Facility, as defined in the present Rules;

Noting the Statute of the Residual Special Court (“the Statute”) as annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Residual Special Court for Sierra Leone signed in Freetown on 11 August 2010, and in particular Articles 23 and 24 thereof;

Further Noting the Rules of Procedure and Evidence of the Residual Special Court, as Amended, and as applicable pursuant to Article 16 of the Statute and in particular Rules 33, 101 to 103, 123 and 124 thereof;

Noting the bilateral Agreements on Enforcement of Sentences entered by the Special Court or the Residual Special Court with certain States;

Noting the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone adopted on 7 March 2003 and as amended on 25 September 2003, 4 May 2004 and 14 May 2005, which shall apply *mutatis mutandis* to the Residual Special Court until amended by the Registrar, after consultation with the Residual Special Court Prosecutor and Defence staff and with the approval of the President, pursuant to Rule 33(C) of the Rules of Procedure and Evidence;

Recalling the United Nations Standard Minimum Rules for the Treatment of Prisoners adopted by the General Assembly of the United Nations on 17 December 1955 (A/RES/70/175) (“the Mandela Rules”), which are applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to “security measures” or corrective measures ordered by the judge;

Recalling further that the enforcement of sentences by convicts under the authority of the Residual Special Court for Sierra Leone is governed by Article 23 of its Statute, Rules 103, 123 and 124 of the Rules of Procedure and Evidence, applicable Enforcement of Sentences Agreements and the applicable domestic rules governing imprisonment in the relevant States of enforcement, subject to any adjustment thereto agreed by the Parties, and that such enforcement of sentences is thus not governed by the present Rules of Detention;

Hereby issues the Amended Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Residual Special Court for Sierra Leone or Otherwise Detained or in Custody on the Authority of the Residual Special Court for Sierra Leone.

BASIC PROVISIONS

Rule 1 – Definitions

(A) For the purposes of these Rules of Detention the following terms shall mean:

- Agreement** The Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone, signed in Freetown on 11 August 2010 with Statute annexed;
- Chief of Detention** The official of the Residual Special Court appointed by the Registrar as head of the staff of the Detention Facility and responsible for its administration. In the absence of an appointed Chief of Detention, the functions of the Chief of Detention under the present Rules of Detention shall be performed by any person appointed by the Registrar;
- Convict or Convicted Person** A person convicted of a crime under the SCSL or RSCSL Statute, except where that conviction has been set aside by the Appeals Chamber in accordance with the SCSL or RSCSL Statute and the Rules;
- Counsel** Any person who has been engaged by a Detainee or a Convicted Person to represent him in accordance with Rule 44 of the Rules of Procedure and Evidence or any person who has been assigned to represent a Detainee or a Convicted Person in accordance with Rule 45 of the Rules of Procedure and Evidence;
- Defence Office** The office established by the Registrar in accordance with Rule 45 of the Rules of Procedure and Evidence;
- Detainee** Any person detained and awaiting trial or appeal before the Residual Special Court or otherwise detained on the Authority of the Residual Special Court;
- Detention** The situation of a person in custody while the person is awaiting trial or appeal or otherwise detained on the authority of the Residual Special Court;
- Detention Facility** All premises, as designated by the Registrar, where suspects or accused or convicted persons are detained in accordance with these Rules and the Rules of Procedure and Evidence. Subject to rule 3(B) below, Detainees shall be detained in the Detention Facility;
- Duty Counsel** Any person engaged by the Defence Office to provide initial advice and assistance and representation to a Detainee or a Convicted Person in accordance with Rule 45 (B) of the Rules of Procedure and Evidence;

Enforcement of Sentence Agreement	A bilateral agreement between the Special Court or the Residual Special Court and a State of Enforcement, as referred to in Article 23(1) of the Statute;
Enforcement State	The State where a Convicted Person is serving his sentence;
Headquarters Agreements	The Headquarters Agreement between the Government of Sierra Leone and the Special Court for Sierra Leone, signed on 1 October 2003; the Headquarters Agreement between the Kingdom of the Netherlands and the Special Court for Sierra Leone signed in The Hague on 19 June 2006; the Headquarters Agreement between the Republic of Sierra Leone and the Residual Special Court for Sierra Leone signed in Freetown on 31 October 2012; and the Headquarters Agreement between the Kingdom of the Netherlands and the Residual Special Court for Sierra Leone signed in The Hague on 19 December 2013;
Host Country	Either the Republic of Sierra Leone or the Kingdom of The Netherlands, as provided in Article 6 of the Agreement;
Medical Officer	The Medical Officer of the Detention Facility appointed by the Registrar;
President	The President of the Residual Special Court as referred to in Article 12 of the Statute;
Principal Defender	The Principal Defender of the Residual Special Court appointed pursuant to Rule 45 of the Rules of Procedure and Evidence;
Prison	The custodial facility where a Convicted Person is or has been serving his sentence pursuant to an Enforcement of Sentence Agreement, including, where applicable, the Detention Facility;
Prosecutor	The Prosecutor of the Residual Special Court appointed pursuant to Article 14 of the Statute;
Registrar	The Registrar of the Residual Special Court appointed pursuant to Article 15 of the Statute;
Residual Special Court	The Residual Special Court for Sierra Leone established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone on 11 August 2010, with Statute annexed, and composed of the Chambers, the Prosecutor and the Registrar;
Rules	The Amended Rules Governing the Detention of Persons Awaiting Trial or Appeal or Otherwise Detained on the Authority of the Residual Special Court for Sierra Leone;
Rules of Procedure and Evidence	The Rules of Procedure and Evidence of the Residual Special Court for Sierra Leone, as amended and currently in force;

Special Court	The Special Court for Sierra Leone established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, signed in Freetown on 16 January 2002;
Staff of the Detention Facility	The staff appointed by the Residual Special Court to operate the Detention Facility;
State of Detention	The State where a Detainee is detained on the basis of an agreement entered into between the Residual Special Court and the authorities of that State under rules 8(C) and 64 of the Rules of Procedure and Evidence; and
Statute	The Statute of the Residual Special Court for Sierra Leone annexed to the Agreement.

(B) The masculine shall include the feminine and the singular the plural, and vice-versa.

Rule 2 – Application of the Rules

(A) The Rules shall be applied in conjunction with the relevant provisions of the Agreement, the Statute, the Rules of Procedure and Evidence, and the Headquarters Agreements.

(B) The Rules shall govern the conditions of detention of persons awaiting trial or appeal or otherwise detained on the authority of the Residual Special Court. They do not govern the enforcement of sentences in the prison facility of an Enforcement State, which is governed by the applicable Enforcement of Sentences Agreement and the applicable domestic rules governing imprisonment in the relevant States of enforcement, subject to any adjustment thereto agreed by the Parties. They also do not govern detention in a third State, which shall be governed by a bilateral agreement between the Residual Special Court and the State of detention.

(C) The Rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth or other status.

Rule 3 – Place of Detention

(A) Subject to rule 3(B), Detainees shall be detained in the Detention Facility.

(B) When necessary, the Registrar may order special measures of detention outside the Detention Facility, pursuant to rule 64 of the Rules of Procedure and Evidence in an alternative place of detention, designated in an agreement entered between the Residual Special Court and a State. Unless provided otherwise in the agreement between the Residual Special Court and the relevant State, the Rules do not apply to detention in such alternative place, which is exclusively governed by the specific provisions of the applicable agreement.

(C) Detainees shall be kept separate from Convicted Persons or any other persons convicted by a domestic jurisdiction.

Rule 4 – Responsibility for the management of the Detention Facility

(A) The Residual Special Court shall retain sole responsibility for all aspects of detention pursuant to the Rules.

(B) Under the authority of the Registrar, the Chief of Detention or the person specially appointed to perform his functions shall have sole responsibility for all aspects of the daily management of the Detention Facility, including security and good order, and may make all decisions relating thereto, except where otherwise provided in the Rules.

Rule 5 – Inspections

(A) The International Committee of the Red Cross (hereinafter the “ICRC”) or other competent inspecting authority shall regularly inspect the Detention Facility and advise the Chief of Detention—and the Registrar upon the observance of the Rules and other relevant regulations, including, but not limited to:

- (i) the quantity, quality, preparation and serving of food;
- (ii) the hygiene and cleanliness of the Detention Facility and of the Detainees;
- (iii) the sanitation, heating, lighting and ventilation of the Detention Facility; and
- (iv) the suitability and cleanliness of the Detainees’ clothing and bedding.

(B) The Registrar shall, if he concurs with the recommendations made by the ICRC or other competent inspecting authority, take immediate steps to give effect to those recommendations.

MANAGEMENT OF DETENTION FACILITY

Reception

Rule 6 – Valid Warrant of Arrest or Order for Transfer and Provisional Detention

(A) No person shall be received in the Detention Facility without a valid Warrant of Arrest, or Order for Transfer and Provisional Detention, issued by a Judge or a Chamber of the Residual Special Court.

(B) The Chief of Detention shall notify the Registrar of the reception of a Detainee immediately after his reception. As soon as practicable thereafter, the Registrar shall transmit the notification of reception to the Defence Office and the ICRC or other competent inspecting authority designated under Rule 5 of the Rules.

Rule 7 – Records

(A) Upon the reception of a Detainee in the Detention Facility, the Chief of Detention shall obtain the photograph of the Detainee and any other information from him that the

Chief of Detention considers necessary to maintain the security and good order of the Detention Facility.

(B) A complete, secure and current record shall be kept in the Detention Facility concerning each Detainee received. Each record shall include:

- (i) information concerning the identity of the Detainee and the identity, location and emergency contact details of his next of kin or any other person to be notified in the event of any serious illness, serious injury or death;
- (ii) the date of issue of the Indictment, the Warrant of Arrest and/or the Order for Transfer and Provisional Detention, if any;
- (iii) the date and time of reception;
- (iv) the name and contact information of his Counsel, if any; and
- (v) the date, time and reason for all absences from the Detention Facility, whether to appear before the Residual Special Court, for medical or other approved reasons, or on final release or transfer to another institution for the purpose of continued detention or the enforcement of the sentence.

Rule 8 --Confidentiality of Records

All information, including reports and medical records, concerning a Detainee shall be treated as confidential and made accessible only to the Detainee, his Counsel and persons authorized by the Registrar. Each Detainee shall be informed of this fact by the staff of the Detention Facility upon his reception at the Detention Facility.

Rule 9 – Notification of Counsel and Family

(A) As soon as practicable after reception, each Detainee shall be visited by Duty Counsel who shall provide information concerning legal assistance, in accordance with Rule 45 of the Rules of Procedure and Evidence.

(B) The Detainee may request that the Duty Counsel or the staff of the Detention Facility contact a close family member, a legal representative or an appropriate diplomatic or consular representative.

Rule 10 –Dangerous Items

(A) On reception at the Detention Facility, the Chief of Detention shall order that a Detainee's body and clothes be searched for items that may constitute a danger to:

- (i) the security and good order of the Detention Facility; or
- (ii) the health and safety of the Detainee, any other Detainee or any member of the staff of the Detention Facility.

(B) The initial search performed at reception shall comply with the standards applicable to searches, as provided under rule 24(D) below.

(C) Any such items which, in the opinion of the Chief of Detention, fall within paragraph (A) shall be removed and/or destroyed. A record shall be kept of any item removed and/or destroyed and the Detainee shall be informed in writing thereof by the staff of the Detention Facility.

Rule 11 – Inventory of Personal Possessions

(A) The staff of the Detention Facility shall take an inventory and record all money, valuables, clothing and other items belonging to a Detainee which, under the regulations of the Detention Facility, he is not allowed to retain. The inventory thereof shall be signed by the Detainee and by the Chief of Detention.

(B) All items which the Detainee is not allowed to retain under paragraph (A) shall be placed in safe custody by the staff of the Detention Facility or, shall, at the request and expense of the Detainee, be sent to an address provided by him.

Rule 12 – Initial Medical Examination

Each Detainee shall be examined by the Medical Officer as soon as practicable after his reception and thereafter as necessary, in accordance with Rules 20 to 22 of the Rules. Particular attention shall be paid to:

- Identifying health-care needs and taking all measures for treatment;
- Identifying ill-treatment that arriving detainees may have been subjected to prior to admission;
- Identifying all signs of psychological or other stress brought on by the fact of detention, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;
- In cases where detainees are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those detainees during the infectious period; and
- Determining the fitness of detainees to work, to exercise and to participate in other activities, as appropriate.

Accommodation

Rule 13 – Single Cells

Each Detainee shall occupy a cell unit by himself unless the Chief of Detention decides otherwise for special reasons. A decision by the Chief of Detention regarding the sharing of accommodations for a period longer than seven days shall be approved by the Registrar.

Rule 14 – Maintenance

The staff of the Detention Facility shall properly maintain and keep clean all parts of the Detention Facility at all times. Each Detainee shall be required to keep his cell unit clean and tidy.

Rule 15 – Bedding

Each Detainee shall be provided with a separate bed and appropriate bedding. The bedding shall be kept in good order and changed on a regular basis so as to ensure its cleanliness.

Rule 16 – Health and Hygiene

(A) At all times, the Detention Facility shall meet all requirements of health and hygiene, with due regard being paid to climatic conditions, minimum floor space, lighting, heating and ventilation.

(B) Each Detainee shall be permitted access to the sanitary, bathing and shower installations in his cell block as frequently as necessary for general hygiene according to season, but at least once a week in a temperate climate.

Rule 17 – Personal Hygiene

(A) Detainees shall be required to keep themselves clean and shall be provided with water and such toilet items as are necessary for health and cleanliness.

(B) The Detention Facility shall provide facilities for the proper care and personal hygiene of the Detainees, including for the proper care of hair and beard.

Rule 18 – Clothing

(A) Detainees may wear their own clothing if, in the opinion of the Chief of Detention, it is clean and suitable. Any Detainee who cannot afford to buy suitable clothing shall be provided with such by the Detention Facility. Such clothing shall be suitable for the climate and shall in no manner be degrading or humiliating.

(B) All clothing, including underclothing, shall be clean and kept in proper condition, and shall be changed and washed as often as necessary for the maintenance of hygiene.

Rule 19 – Food

(A) The Detention Facility shall provide, at appropriate hours, each Detainee with food which is well prepared and served, and which satisfies in quality and quantity the standards of dietetics and modern hygiene and takes into account, as far as practicable, the age, health and religious requirements of the Detainee.

(B) The Detention Facility shall provide drinking water to each Detainee whenever he needs it.

Medical Care

Rule 20 – Medical Services

(A) Medical services, including the services of a qualified dentist, shall be available to Detainees. A member of the staff of the Detention Facility capable of providing first-aid shall be available at all times.

(B) The Medical Officer shall have the care of the physical and mental health of the Detainees. The Medical Officer shall see daily all sick Detainees, all Detainees who complain of illness and any Detainee to whom his attention is specially directed. The Medical Officer shall perform regular medical examinations of all Detainees.

(C) The relationship between the Medical Officer or other health-care professionals and the Detainee shall be governed by the same ethical and professional standards as those applicable to other patients in the community, including adherence to the Detainee's autonomy with regard to his own health and informed consent in the doctor-patient relationship subject to the existence of a real and imminent threat to the patient or other persons.

(D) The Medical Officer shall make a report in writing to the Chief of Detention whenever he considers that the physical or mental health of a Detainee has been or will be adversely affected by his continued detention or by any conditions of detention.

(E) The Chief of Detention shall immediately submit any such report to the Registrar.

(F) The Medical Officer shall keep records regarding the physical and mental state of each Detainee.

(G) The Medical Officer shall regularly inspect and advise the Chief of Detention upon the observance of the Rules and relevant regulations, including, but not limited to:

- (i) the quantity, quality, preparation and serving of food;
- (ii) the hygiene and cleanliness of the Detention Facility and the Detainees;
- (iii) the sanitation, heating, lighting and ventilation of the Detention Facility; and
- (iv) the suitability and the cleanliness of the Detainees' clothing and bedding.

Rule 21 – Consultations

(A) Detainees may consult with a doctor or dentist of their choice at their own expense. All such visits shall be made by prior arrangement with the Chief of Detention as to the time and duration of the visit and shall be subject to the same security controls as are imposed under Rule 42 of the Rules.

(B) Any treatment or medication recommended by such doctors or dentists shall be administered solely by the Medical Officer or a person authorised by him. The Medical Officer shall be informed of the outcome of all consultations of doctors or dentists, and may, in his sole discretion, refuse to administer any such treatment or medication.

Rule 22 – Specialist Treatment

Detainees who, in the opinion of the Medical Officer, require specialist or in-patient treatment shall receive such treatment, if practicable, within the Detention Facility. If necessary, treatment at a hospital shall be authorised by the Registrar.

Rule 23 – Death, Serious Illness or Serious Injury

(A) The Chief of Detention shall immediately inform the Registrar of the death, serious illness or serious injury of a Detainee. The Registrar shall immediately inform the President and the Detainee's next-of-kin or any other person designated by the Detainee under Rule 7 (B)(i) of the Rules.

(B) In the event of the death of a Detainee, the Registrar shall arrange for the conduct of an inquest in accordance with the legal requirements of the Host Country.

(C) The President may order an inquiry into the circumstances surrounding the death, serious illness or serious injury of any Detainee. The President shall appoint the person or authority to conduct such an inquiry.

(D) The body of a deceased Detainee shall be treated with respect and dignity. It should be returned to his next of kin as soon as reasonably possible, at the latest upon completion of the investigation. A culturally appropriate funeral shall be facilitated by the Registry if there is no other person willing or able to do so. The Registrar shall keep a full record of actions taken under this sub-rule.

(E) Detainees shall be informed at once of the serious illness, serious injury or death of a near relative or any significant other.

Security and Good Order

Rule 24 – Search

(A) The Chief of Detention may decide upon the search of a Detainee and/or his cell at any time for the purpose of maintaining security and good order in the Detention Facility. If any item is found which constitutes, in the opinion of the Chief of Detention, a danger to the security or good order of the Detention Facility, or the health and safety of the Detainee or any other person, it shall be removed and/or destroyed in accordance with rule 10 of the Rules.

(B) The Chief of Detention shall, as soon as practicable, inform the Detainee in writing of any items removed and/or destroyed in accordance with paragraph (A). A copy of such letter shall be put in the Detainee's file.

(C) Only persons authorised by the Registrar or the Chief of Detention may have access to the Detainees' cells.

(D) Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity. Searches shall not be used to harass, intimidate or unnecessarily intrude on a Detainee's

privacy. Intrusive searches, such as body cavity searches, should be undertaken only if absolutely necessary and by staff appropriately trained in standards of hygiene, health and safety. Appropriate records of searches, in particular strip and body cavity searches and searches of cells, as well as reasons for the searches, the identity of those who conducted them and any results of the searches shall be maintained.

(E) Documents relating to the legal proceedings in possession of the Detainee may be searched in a way that respects their privileged nature.

Rule 25 – Video Surveillance

(A) In case of danger to the security and good order of the Detention Facility or danger to the health and safety of a Detainee or any other person, the Chief of Detention may, with the approval of the Registrar, order that the cell of the Detainee be monitored by video surveillance equipment for a period not exceeding fourteen days.

(B) The Registrar may, upon request by the Chief of Detention, renew such video surveillance for periods not exceeding fourteen days each. Renewals shall be reported to the President.

(C) The Detainee shall be immediately provided with a copy of the decision to be monitored by video surveillance, together with the reasons therefor. The Detainee may appeal the decision to the President.

Rule 26 – Discipline and Control

(A) Discipline and control shall be maintained by the staff of the Detention Facility with firmness but with no more restriction than necessary in the interests of safe custody, security, good order and a well-ordered community life within the Detention Facility.

(B) The Chief of Detention, in consultation with the Registrar, shall issue regulations:

- (i) defining conduct constituting a disciplinary offence;
- (ii) regulating the type and duration of punishment that can be imposed;
- (iii) specifying the authority that can impose such punishment; and
- (iv) providing for a thorough investigation and a right of appeal.

(C) A Detainee shall only be punished in accordance with the regulations specified in paragraph (B).

(D) A Detainee shall not be punished unless he has been informed of the offence alleged against him in a language that he understands and given a proper opportunity for presenting his defence. A Detainee shall never be punished twice for the same offence. The Detainee shall be informed of his right to Counsel throughout the disciplinary proceedings, and shall be provided with the services of an interpreter if necessary.

(E) Indefinite or prolonged solitary isolation as defined in rule 31 below, corporal punishment or the reduction of the Detainee's diet or drinking water, punishment by placing in a dark or constantly lit cell, collective punishment, the prohibition of family contacts and all torture, cruel, inhuman and degrading punishments shall be prohibited as punishments for disciplinary offences. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

(F) Prior to any punishment that may be prejudicial to the physical or mental health of a Detainee, the Medical Officer must first have examined the Detainee and certified in writing the physical and mental health of the Detainee to sustain such punishment. The Medical Officer shall visit daily the Detainees undergoing such punishments and shall advise the Chief of Detention and the Registrar if he considers the termination or alteration of the punishment necessary for the physical or mental health of the Detainee.

Segregation

Rule 27 – Grounds for Segregation

(A) The Registrar acting on the request of the Prosecutor or the Principal Defender or on his own initiative, and after seeking advice from the Medical Officer that he or they are physically and mentally fit to sustain it, may order that a Detainee or Detainees be segregated from all or some of the other Detainees for purposes of:

- (i) preserving security, good order and health in the Detention Facility;
- (ii) protecting the Detainee or Detainees in question; or
- (iii) preventing any prejudice or otherwise undermining the outcome of the proceedings against the Detainee or Detainees or any other proceedings.

(B) At any time, the Chief of Detention may also order that a Detainee or Detainees be segregated from some or all of the other Detainees for the same purposes as set out in paragraph (A). In such cases, the Chief of Detention shall report the segregation immediately to the Registrar and to the Medical Officer, who shall examine the Detainee or Detainees before or within twenty-four hours of segregation, and confirm in writing that he or they are physically and mentally fit to sustain it.

(C) The staff of the Detention Facility shall keep a detailed record of all the events concerning a Detainee or Detainees during segregation.

(D) Segregation shall not be used as a disciplinary measure.

Rule 28 – Request by Detainee

A Detainee may request the Chief of Detention that the Detainee be segregated from all or some of the other Detainees for his own protection. This request may be granted only if the Medical Officer confirms that such segregation would not be injurious to the mental or physical health of the requesting Detainee.

Rule 29 – Segregation in Communal Areas

(A) The Chief of Detention may organize the use of communal areas of the Detention Facility so as to segregate certain groups of Detainees from others in the interests of the safety of the Detainees and the proper conduct and operation of the Detention Facility.

(B) If such segregation is put into practice, care shall be taken to ensure that all such groupings are treated on an equal basis, having regard to the number of Detainees falling within each group.

Rule 30 – Review of Segregation Orders

The Chief of Detention shall review all cases of segregation of Detainees at least once a week and report to the Registrar thereon. The Registrar may vary the nature, basis or conditions of segregation.

Isolation

Rule 31 – Grounds for Isolation

(A) Isolation shall refer to the confinement of detainees for 22 hours or more a day without meaningful human contact. Isolation is deemed prolonged, for the purpose of rule 26(E) above when it extends for a period in excess of 15 consecutive days. Isolation shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review. It should be excluded in the case of Detainees with mental or physical disabilities if their conditions would be exacerbated by such measures.

(B) The Chief of Detention may order that a Detainee be confined to the isolation unit as a result of disciplinary proceedings. In such cases, the Chief of Detention shall report the isolation immediately to the Registrar and to the Medical Officer, who shall examine the Detainee before or within twenty-four hours of isolation, and confirm in writing that he is physically and mentally fit to sustain it.

(C) The staff of the Detention Facility shall keep a detailed record of all events concerning a Detainee confined to the isolation unit.

(D) A Detainee confined to an isolation unit shall be entitled to communicate with and receive visits from his Counsel in accordance with rule 45 below.

Rule 32 – Visits by Medical Officer

(A) The Medical Officer shall visit daily Detainees confined to the isolation unit and shall advise the Chief of Detention if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

(B) A Detainee who has been confined to the isolation unit may at any time request a visit from the Medical Officer, such visit to be made as soon as practicable.

Rule 33 – Review of Isolation Orders

(A) No Detainee shall be kept in the isolation unit for more than seven consecutive days without further order from the Registrar. If further isolation is necessary, the Chief of Detention shall report the matter to the Registrar before the end of the seven-day period and the Medical Officer shall confirm the physical and mental fitness of the Detainee to continue such isolation for a further period of seven days. No extension of isolation is allowed beyond 15 consecutive days.

(B) The Registrar may order the release of a Detainee from the isolation unit at any time.

Instruments of Restraint and Use of Force

Rule 34— Instruments of Restraint

(A) Instruments of restraint, such as handcuffs, shall only be used in the following exceptional circumstances:

- (i) as a precaution against escape during transfer from the Detention Facility to any other place;
- (ii) to prevent a Detainee from self-injury, injury to other Detainees or any member of the staff of the Detention Facility, or to prevent serious damage to property; or
- (iii) when the Chief of Detention has reasonable grounds to believe that the restraint is necessary for the security and good order of the Detention Facility, or to preclude escape.

(B) Instruments of restraint shall never be applied as a punishment. Their use shall be limited to circumstances when no lesser form of control would be effective to address the risks posed by unrestricted movement.

(C) For all uses of instruments of restraint referred to in subparagraphs (A) (ii) – (iii), the Chief of Detention shall consult the Medical Officer before or as soon as practicable after using such instruments and report to the Registrar.

(D) Instruments of restraint shall not be applied for any longer time than is strictly necessary and shall, in any case, be removed when the Detainee appears before a Judge or a Chamber, unless otherwise ordered by the Judge or the Chamber.

(E) If any instrument of restraint is used under this Rule, the restrained Detainee shall be kept under constant and adequate supervision.

Rule 35 – Use of Force

(A) The staff of the Detention Facility shall not use force against a Detainee except in cases of:

- (i) self-defence;
- (ii) attempted escape by the Detainee;
- (iii) serious threat to the safety of the Detainee or any other person; or
- (iv) active or passive physical resistance to an order based on law or regulations or any other serious threat to the security and good order of the Detention Facility.

(B) Staff of the Detention Facility shall be given special physical training to enable them to restrain aggressive Detainees.

(C) Except in special circumstances, staff of the Detention Facility should not be armed. They shall never be provided with arms unless they have been adequately trained in their use.

(D) Staff of the Detention Facility who have recourse to force shall use no more than is strictly necessary and shall report the incident immediately to the Chief of Detention, who shall provide a report on the matter to the Registrar.

(E) A Detainee against whom force has been used shall be examined immediately and treated, if necessary, by the Medical Officer. The medical examination shall be conducted in private and in the absence of any non-medical staff.

(F) The results of such examination, including any relevant statement by the Detainee and the Medical Officer's opinion, shall be recorded and provided to:

- (i) the Detainee and his Counsel, in a language accessible to them;
- (ii) the Chief of Detention;
- (iii) the Registrar;
- (iv) the President;
- (v) the Prosecutor; and
- (vi) the Principal Defender.

Rule 36 – Records

All documents regarding the use of force against a Detainee shall be kept in the Detainee's records.

Disturbances

Rule 37 – Requests for Assistance

- (A) If, in the opinion of the Chief of Detention, a situation exists or is developing which threatens the security and good order of the Detention Facility, the Registrar may request the immediate assistance of the authorities of the Host Country or recognised international authority to maintain control within the Detention Facility.
- (B) The Registrar shall report such requests to the President immediately.

Rule 38 – Suspension of Rules

- (A) If there is serious danger of disturbances occurring within the Detention Facility, the Chief of Detention may temporarily suspend the operation of all or part of the Rules for a maximum of seven days.
- (B) Any such suspension shall be reported to the Registrar immediately, who shall report the matter to the President.
- (C) Thereupon, the Registrar, acting in consultation with the President and the relevant authorities of the Host Country, shall take such action in connection therewith as may be appropriate.

RIGHTS OF DETAINEES

Information to Detainees

Rule 39 – Information

- (A) Each Detainee shall on reception or as soon as practicable thereafter be provided with a copy of the Rules and the relevant regulations, as well as written information regarding:
- (i) the obligations, rights and treatment of Detainees;
 - (ii) the disciplinary regulations of the Detention Facility;
 - (iii) the procedures for seeking information and making complaints; and
 - (iv) all other matters necessary to enable him to understand both his rights and obligations and to adapt himself to the routine of the Detention Facility.
- (B) A copy of the Rules, including any amendments thereto and any regulations made hereunder, shall be made available to all Detainees and staff of the Detention Facility.
- (C) Summaries of this information shall be prominently displayed in common areas of the Detention Facility.

Rule 40 – Language and Literacy

(A) If a Detainee does not speak or understand neither the working language of the Special Court nor that spoken by the staff of the Detention Facility, he shall be provided with the services of an interpreter as soon as practicable.

(B) If a Detainee is illiterate, the information mentioned under Rule 39 above shall be conveyed to him orally.

Communications and Visits

Rule 41 - Communications with Family and Others

(A) Subject to rules 47 and 48 of the Rules, Detainees shall be entitled, under such conditions of supervision and time-restraints as the Chief of Detention deems necessary, to communicate regularly with their families and others by letter and by telephone at their own expense. If available and considered necessary, the Chief of Detention may authorise under strict supervision the use of electronic, digital or other means of communication.

(B) In the case of an indigent Detainee who does not have sufficient means to communicate with his family and others by letter or telephone, the Registrar may permit payment.

(C) A Detainee shall be informed immediately of the death, serious injury or serious illness of any near relative.

Rule 42 - Visits from Family and Others

(A) Detainees shall be allowed, subject to rule 48 of the Rules, to receive visits from their families and others at regular intervals under such restrictions and supervision as the Chief of Detention, in consultation with the Registrar, may deem necessary in the interests of the administration of justice or the security and good order of the Detention Facility.

(B) All visits under this rule shall be conducted in the sight and within hearing of the staff of the Detention Facility, with the exception of conjugal visits, where applicable, and privileged legal visits from Counsel.

(C) Conjugal visits may be allowed in conditions which ensure due regard to safety and dignity.

(D) The Chief of Detention may refuse a visit by any person whose purpose he suspects shall be adverse to the security and good order of the Detention Facility. The Detainee may appeal such decision to the Registrar in accordance with the complaint procedure under rule 60 of the Rules.

(E) All visitors shall comply with the separate requirements of the visiting regime of the Detention Facility. These restrictions may include personal searches and X-ray examination of possessions on entry to the Detention Facility. The same conditions as provided under rule 24(D) above shall apply to personal searches. Personal searches shall be conducted only in accordance with a published operational order and where strictly necessary for the security and good order of the Detention Facility. Body cavity searches are excluded in the case of children.

(F) Any person, including Counsel for a Detainee or a diplomatic or consular representative accredited to the Host Country, who refuses to comply with such requirements, shall be refused access.

Rule 43 – Communications with and Visits from Media

(A) A Detainee who seeks to communicate with or be visited by a representative of the media, or a representative of the media who seeks to communicate with or visit a Detainee, shall make a request for approval by the Registrar.

(B) The Registrar may prohibit a Detainee from communicating with or being visited by a representative of the media if there are reasonable grounds for believing that such communications or visit:

- (i) is for the purposes of attempting to arrange the escape of the Detainee from the Detention Facility;
- (ii) could prejudice or otherwise undermine the outcome of the proceedings against the Detainee or any other proceedings;
- (iii) could constitute a danger to the health and safety of any person;
- (iv) could be used by the Detainee to breach an order made by a Judge or a Chamber, or otherwise interfere with the administration of justice or frustrate the mandate of the Special Court; or
- (v) could disturb the maintenance of the security and good order in the Detention Facility.

(C) The same conditions of access as described under rule 42(A), (B), (D), (E) and (F) above shall apply to visits from media.

Rule 44 – Communications with and Visits from Diplomatic and Consular Representatives

(A) Detainees who are not Sierra Leonean nationals shall be allowed to communicate with and receive visits from the diplomatic and consular representatives of the State of which they are a national.

(B) Detainees who are nationals of States without diplomatic or consular representation in the Host Country and refugees and stateless persons shall be allowed to communicate with the diplomatic representative of the State which takes charge of their interests or the national or international authority whose task is to serve the interest of such persons.

Rule 45 – Communications with and Visits from Counsel

(A) Each Detainee shall be entitled to receive privileged visits from the Principal Defender, his Counsel and their Legal Assistants and to communicate fully and without restraint by letter or telephone with the Principal Defender, his Counsel and their Legal Assistants, with the assistance of an interpreter where necessary. All such communications shall be privileged,

otherwise ordered by a Judge or a Chamber. The list of persons entitled to privileged communications shall remain strictly limited at all times to the Principal Defender, the Detainee's Counsel and specifically designated members of their teams working under their authority and responsibility and bound by the Code of Professional Conduct for Counsel.

(B) Each Detainee shall bear the expense of all such communications and visits unless he is indigent, in which case the Residual Special Court shall pay for such expenses.

(C) All visits shall be made by prior arrangement with the Chief of Detention as to the time and duration of the visit and shall be subject to the same security controls under rule 42(D)-(F) of the Rules, except for the fact that privileged documents shall be searched in a way that respects their privileged nature without looking at their written content. The Chief of Detention shall not refuse a request for such a visit without reasonable grounds.

(D) Visits from the Principal Defender, Counsel and Legal Assistants shall take place without undue delay, interception or censorship and in full confidentiality. These may be conducted in the sight of but not within the hearing of the staff of the Detention Facility.

(E) Legal Assistants referred to in this rule must be admitted to practice law in a State.

Rule 46 - Identity of Visitors

A Detainee shall be informed of the identity of each visitor and may refuse to see any visitor.

Rule 47 – Inspection of Letters and Packages and Monitoring of Telephone Calls

(A) All letters, documents and packages shall be inspected in accordance with rule 56 of the Rules. The inspection of privileged documents may be conducted in a way that respects their privileged nature.

(B) Telephone calls may be monitored only in the circumstances set out under rule 48 of the Rules.

Rule 48 – Prohibition or Conditions on Communications and Visits

(A) The Registrar, acting on her own initiative or at the request of a Judge, a Chamber or the Prosecutor, may prohibit, regulate or set conditions for communications, including the monitoring of telephone calls, and may prohibit, regulate or set conditions on visits between a Detainee and any other person, except under Rules 44 and 45 above, if there are reasonable grounds for believing that such communications and visits:

- (i) are for the purposes of attempting to arrange the escape of any Detainee from the Detention Facility;
- (ii) could prejudice or otherwise undermine the outcome of the proceedings against any Detainee or any other proceedings;
- (ii) could constitute a danger to the health and safety of any person;

(iii) could be used by any Detainee to breach an order made by a Judge or a Chamber, or otherwise interfere with the administration of justice or frustrate the mandate of the Residual Special Court; or

(iv) could disturb the maintenance of the security and good order in the Detention Facility.

(B) The Registrar may make arrangements for any communication to or by any or all Detainees to be intercepted if the Registrar considers that it is necessary on the grounds set out in Paragraph A of this rule and it is proportionate to what is sought to be achieved.

(C) The order of the Registrar shall have effect for six months or if the Registrar believes that such arrangements are no longer necessary or proportionate to what is sought to be achieved whichever is the earlier. The order for interception may be extended for a further six months if the Registrar considers that the arrangements are still necessary on the grounds set out in Paragraph A of this rule and proportionate to what is sought to be achieved.

(D) The Registrar shall not retain any intercepted material for a period longer than three months beginning with the day on which the material was intercepted or obtained unless the Registrar is satisfied that continued retention is necessary on the grounds specified in Paragraph A of this rule and is proportionate to what is sought to be achieved by continued retention. Where such material is retained for longer than three months the Registrar shall review its continued retention every three months.

(E) In case of emergency, a Judge, a Chamber or the Prosecutor may make a request under paragraph (A) to the Chief of Detention to prohibit, regulate or set conditions for communications, including monitoring telephone calls, and to prohibit, regulate or set conditions for visits between a Detainee and any other person. In such a case, the Judge, the Chamber or the Prosecutor shall immediately inform the Registrar of the request, together with the reasons therefor. The Registrar shall review the decision of the Chief of Detention, as soon as practicable thereafter.

(F) The Detainee shall be informed in writing of any decision under paragraphs (A), (B), (C), (D) or (E), together with the reasons therefor within twenty-four hours of such decision.

(G) A Detainee may, at any time, request the President to reverse a decision made by the Registrar under this rule.

Spiritual Welfare

Rule 49 – Religious Beliefs

Subject to the security and good order of the Detention Facility, a Detainee shall be entitled to observe the religious beliefs and the moral precepts of the group to which the Detainee belongs, and to observe them in appropriate forms of worship.

Rule 50 – Spiritual Advice

Each Detainee shall be entitled to indicate, on arrival at the Detention Facility or thereafter, whether he wishes to establish contact with a minister or spiritual adviser.

Rule 51 – Satisfying Religious Life

As far as practicable and in the interest of the security and good order of the Detention Facility, each Detainee shall be allowed to satisfy the needs of his religious, spiritual and moral life by attending services or meetings held in the Detention Facility, if any, and having in his possession the books of religious observance and instruction of his denomination.

Rule 52 – Visits

A qualified representative of the religion or beliefs held by any Detainee shall be allowed to visit the Detainee at his request. Such representative shall be permitted to hold services and activities within the Detention Facility and to pay pastoral visits as requested to any Detainee of his religion, subject to the same considerations of the security and good order of the Detention Facility as apply to other visits. If a Detainee objects to the visit of any religious representative, his attitude shall be fully respected.

Work Programme

Rule 53 – Work Programme

(A) The Chief of Detention, as far as is practicable, shall institute a work programme to be performed by Detainees either in the individual cells or in the communal areas of the Detention Facility.

(B) Detainees shall be offered the opportunity to enrol in such a work programme but shall not be required to work.

(C) A Detainee who chooses to work shall be paid for his work at rates to be established by the Chief of Detention in consultation with the Registrar and may use part of his earnings to purchase items for his own use under rule 58 of the rules. The balance of any monies earned shall be held to his account in accordance with rule 11 of the Rules.

Recreational Activities

Rule 54 – Reading and Writing Materials

(A) Detainees shall be allowed to procure at their own expense or at the expense of a third party, books, newspapers, reading and writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the Detention Facility.

(B) So far as is practicable, the Chief of Detention shall establish and administer a Detention Facility library.

(C) Detainees shall be allowed to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, by radio or television transmissions, by lectures or by any similar means as authorized or controlled by the Chief of Detention.

Rule 55 – Physical Exercise, Sport and Recreational Opportunities

(A) Each Detainee shall be allowed at least one hour of walking or other suitable exercise in the open air daily, if the weather, staffing and security considerations permit.

(B) Physical education, sport and other recreational activities shall be provided by the staff of the Detention Facility in so far as resources permit.

(C) Special arrangements shall be made, under medical direction, for remedial or therapeutic treatment for any Detainee who is unable to participate in the regular programme.

Personal Possessions of Detainees

Rule 56 – Items Received

(A) Any item, letter or document received from outside the Detention Facility, including any item introduced by any visitor to a Detainee, shall be subject to security controls by the Detention Facility.

(B) The Chief of Detention may refuse to receive any item intended for the Detainees that may constitute a danger:

- (i) to the security and good order of the Detention Facility;
- (ii) to the health and safety of the Detainee, any other Detainee, or any member of the staff of the Detention Facility; or
- (iii) of attempted escape by a Detainee from the Detention Facility.

(C) Any item received for a Detainee from outside the Detention Facility shall be removed or destroyed as provided for under rule 9 of the Rules unless intended and permitted under the Rules for use during detention.

Rule 57 – Medication, Cigarettes and Alcohol

(A) The possession and use of any medication by a Detainee shall be subject to the control and supervision of the Medical Officer.

(B) Detainees may possess cigarettes, subject to restrictions on the quantity provided in the relevant Detention Facility regulations. The Detainee may smoke cigarettes at such times and places as the Chief of Detention permits.

(C) The possession or consumption of alcohol by detainees shall not be permitted.

Rule 58 – Purchases

(A) Each Detainee shall be authorized to purchase items from the store operated by the Detention Facility, if any.

(B) In case of a Detainee who does not have sufficient means, the Registrar may authorize the purchase of such items, within reason, to be paid for by the Residual Special Court. Such items shall not include cigarettes, alcohol and goods which purchase, consumption or detention is prohibited under the domestic law of the State of detention.

(C) Detainees shall have the right to purchase such items within seven days of reception in the Detention Facility and at least once a week thereafter.

Rule 59 – Return of Property

On release of the Detainee from the Detention Facility, or transfer to another institution for the purposes of enforcement of sentence or detention, all items and money retained within the Detention Facility shall be returned to the Detainee or handed over to the representatives of the institution to which the Detainee is transferred. The Detainee shall sign a receipt for the items and money returned to him.

Complaints

Rule 60 – Complaints Procedure

(A) Each Detainee or his Counsel may make a complaint to the Chief of Detention or his representative at any time. A log of all complaints made shall be kept by the Chief of Detention.

(B) If not satisfied with the response from the Chief of Detention, the Detainee shall have the right to make a written complaint, without censorship, to the Registrar.

(C) Each complaint shall be dealt with promptly by the Registrar and replied to without undue delay.

Rule 61 – Communications with Inspecting Authorities

Each Detainee shall have the right to communicate freely and in full confidentiality with the ICRC or any other competent inspecting authority designated under rule 5 of the Rules.

REMOVAL AND TRANSPORT OF DETAINEES

Rule 62 – Removal

The removal of a Detainee for the purpose of appearing before a Judge or a Chamber, or of being transferred to a prison, another detention facility or a medical facility, shall be the responsibility of the Chief of Detention under rule 4 of the Rules, following the issuance and service of a Notice of Hearing, an instruction by the Registrar or an order of a Judge or a Chamber.

Rule 63 – Public View

When Detainees are being removed to or from the Detention Facility, they shall be exposed to public view as little as practicable, and proper safeguards shall be adopted to protect them from insult, injury, curiosity and publicity in any form.

Rule 64 – Adequate Transportation

Detainees shall be transported in vehicles or other means of transport with adequate ventilation and light and in such a way as shall not subject them to unnecessary physical hardship or indignity.

AMENDMENT

Rule 65 – Amendments Procedure

(A) Proposals for the amendment of the Rules may be made by a Judge, the Prosecutor, the Principal Defender or the Registrar and shall be adopted by the Registrar after consultation with the Residual Special Court Prosecutor and Defence staff and with the approval of the President of the Special Court.

(B) An amendment shall enter into force immediately unless it is provided otherwise.

(C) Any amendments made shall not apply retroactively.

ACCESSIBILITY

Rule 66 – Provision of Rules to Detainees and Staff

The Rules and any regulations made hereunder shall be provided to all Detainees and staff of the Detention Facility.

ENTRY INTO FORCE

Rule 67 – Date of Entry into Force

The Rules entered into force on 7 March 2003, having been adopted by the Registrar, and were amended on 25 September 2003, 4 May 2004, 14 May 2005 and subsequently, on 13 May 2019.



Binta Mansaray
Registrar
13 May 2019