

**THE JURY IS STILL OUT**  
**A Human Rights Watch Briefing Paper on Sierra Leone**  
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After ten years of brutal civil war, the people of Sierra Leone went to the polls on May 14 and re-elected President Ahmed Tejan Kabbah and his Sierra Leone People's Party for a further five-year term. That the elections could be held nationwide and were conducted peacefully indicates that Sierra Leone has entered a new, more optimistic phase after the years of conflict, destruction, and abuse. Yet, the peace remains fragile. Deep-rooted issues that gave rise to the war—a culture of impunity, endemic corruption, weak rule of law, crushing poverty, and the inequitable distribution of the country's vast natural resources—remain largely unaddressed. The new government, with the support of the international community, must take urgent steps to tackle these problems if Sierra Leoneans are not again to be plunged into the misery and destruction that blighted so many lives in the 1990s. In particular, those responsible for the gross abuses of the past must be brought to justice before the new Special Court for Sierra Leone; the Truth and Reconciliation Commission should expose the causes of the war and recommend safeguards against their recurrence; a fair justice system must be rebuilt to underpin the rule of law; and the process of reforming the police and army to inculcate respect for human rights must be completed. And in the wider region, the international community must take steps to prevent the resurgent conflict in Liberia from again engulfing Sierra Leone.

The devastating ten-year civil war in Sierra Leone between government forces and rebels belonging to the Revolutionary United Front was characterized by unspeakable brutality and widespread human rights abuses against civilians. During what was one of Africa's most brutal wars, tens of thousands of civilians were killed and up to one quarter of the population was displaced.

Today, there are good grounds for optimism that peace has at last returned: over 47,000 combatants have been disarmed and demobilized; hundreds of thousands of civilians who had sought refuge in Guinea, Liberia or within Sierra Leone are returning home to rebuild their lives; civilians abducted from their villages during rebel attacks are being reunited with their families; the government's income from Sierra Leone's vast diamond wealth has gone up dramatically since 1999; and the May 14 presidential and parliamentary elections were peaceful. But the challenges facing the new government remain daunting. For decades, Sierra Leoneans have suffered because of gross mismanagement, corruption, and abuse by governments of different political stripes: politicians and officials rampantly embezzled public funds resulting in the near collapse of most government institutions; the army and police regularly intimidated and extorted money from civilians, and sometimes colluded with rebels who committed human rights abuses; traditional leaders arbitrarily levied fines on those under their authority; and the justice system was subverted by political manipulation and bribe-taking by magistrates and judges.

British-led efforts to rehabilitate Sierra Leone's ill-disciplined army and police, and the presence in Sierra Leone of over 17,000 United Nations peacekeepers serving with the United Nations Mission in Sierra Leone (UNAMSIL), have led to dramatic improvements in prospects for peace, security, and respect for human rights. However, key indicators of social well-being, including infant and maternal mortality, illiteracy, and life expectancy, indicate that conditions for people in Sierra Leone remain among the world's worst. With recent

improvements in security, this problem is one that the government and international community must now address, including by supporting institutions responsible for promoting Sierra Leoneans' economic and social rights—including the rights to education, health care, and just and favourable conditions of work. Addressing corruption head-on will be an integral and indispensable part of this process.

Ensuring sustainable peace in Sierra Leone also depends upon the stability of the other countries which, with Sierra Leone, comprise the Mano River Union, Guinea and Liberia. In all three countries, those who commit serious human rights abuses have done so with impunity. While efforts to ensure accountability are now in process in Sierra Leone, in Liberia, the problem of impunity remains acute. The new war between President Charles Taylor's government and rebels of the Liberians United for Reconciliation and Democracy (LURD) has already drawn in hundreds of former fighters from Sierra Leone, who have crossed into Liberia to fight as mercenaries for one side or the other. Since 2001, LURD forces operating from Sierra Leone have been clandestinely recruiting and operating a supply line along the Sierra Leone/Liberia border. Guinea, which provides logistic, financial, and some military support to the LURD is also currently fueling the conflict. As a result of the growing number of Liberian refugees and combatants crossing into Sierra Leone, the border area threatens to become unstable and vulnerable to cross border raids.

Against this backdrop of internal problems and external threats, Sierra Leone's future is an uncertain one. Encouraging progress has been made, but much more remains to be done if today's fragile peace is to be secured and if the people of Sierra Leone are at last to enjoy the rights that are their due.

### **Accountability for Past Abuses**

Ensuring accountability for the horrific atrocities and other abuses that marked the ten-year war is of paramount importance if Sierra Leoneans are to have a future based on respect for human rights and the rule of law.

The overwhelming majority of abuses were committed by the RUF rebels, but widespread abuses were also committed by former national army soldiers who supported the Armed Forces Revolutionary Council (AFRC) after it seized power in 1997. The abuses included summary executions of civilians, amputation of limbs, torture and mutilation. Women were raped, including gang raped, sexually abused and held in sexual slavery; thousands of civilians, including children, were abducted, impressed as fighters or used as forced labor, and others were used as human shields; and the opposing forces committed wanton destruction of property. Serious abuses were also committed by the government-aligned Civil Defense Force (CDF) militias—they used child combatants and tortured and executed prisoners—and by soldiers from the Nigerian-led peacekeeping force known as ECOMOG, the Economic Community of West African States (ECOWAS) Cease-fire Monitoring Group, who summarily executed suspected rebels and collaborators.

Two key transitional justice mechanisms—the Special Court for Sierra Leone (SCSL) and the Truth and Reconciliation Commission (TRC)—have now been created to address these crimes. Human Rights Watch welcomes the establishment of both bodies; they have a truly historic role to play. In addition, urgent action is required to rebuild Sierra Leone's failed judicial system in order that ordinary Sierra Leoneans can seek redress for abuses suffered.

## **The Special Court for Sierra Leone**

The Special Court for Sierra Leone is a groundbreaking institution established by the United Nations (U.N.) Security Council that combines international and domestic mechanisms and laws. It is charged with bringing to justice those who bear the greatest responsibility for serious violations of international humanitarian law, and certain violations of Sierra Leonean law, committed since November 1996. Human Rights Watch fully supports the Special Court and believes that in addition to punishing those responsible for atrocities, it will be an indispensable instrument to combat the longstanding and destructive culture of impunity existing in Sierra Leone. It will also serve to revitalize belief in the rule of law in a society that has largely lost confidence in it. The court is expected to try some twenty to thirty of those from all warring factions who have both direct and indirect command responsibility for the most serious abuses and violations.

The Special Court came out of an initiative by President Ahmad Tejan Kabbah who, following the collapse of the peace process in May 2000, asked for U.N. assistance in establishing a mixed national and international court in Sierra Leone to try “members of the RUF and their accomplices.” In August 2000, the Security Council adopted a resolution authorizing the U.N. secretary-general to enter into negotiations with the Sierra Leonean government to establish such a court. On January 16, 2002, after over a year of negotiations, the United Nations and the government of Sierra Leone signed an agreement which created the legal framework for the court, which will be based in Freetown and have both international and Sierra Leonean judges, prosecutors and staff. On April 19, 2002, U.N. Secretary-General Kofi Annan appointed a senior attorney of the U.S. Department of Defense, David Crane, as the chief prosecutor of the Special Court for Sierra Leone, and Briton Robin Vincent, as the tribunal’s registrar. Following these first key appointments, the United Nations said the Special Court could start operating in Sierra Leone by the third quarter of the year and issue its first indictments before the end of 2002.

Human Rights Watch continues to urge the United Nations Security Council to reconsider the truncated temporal jurisdiction, currently starting from November 30, 1996 and urges that it be extended to cover the entirety of the war, which began on March 23, 1991. An international tribunal that restricts justice to crimes committed during less than half of this brutal ten-year conflict but ignores those responsible for what were equally or more serious crimes that were committed before the current restricted temporal jurisdiction, risks undermining the overall objectives of the court.

In order for the Special Court to be meaningful, credible, and produce lasting results, it must take steps to safeguard prosecutorial and judicial independence and be intolerant of political manipulation by the ruling party, the government of Sierra Leone, or any other interested party. In order to be effective and legitimate, Human Rights Watch believes the court must objectively investigate members of all warring factions in Sierra Leone's war. Human Rights Watch believes the Special Court is important, not only to bring those responsible for atrocities during the Sierra Leonean war to account, but also in serving as a deterrent to future abuse.

The court is to be operational for at least three years and has a budget of U.S. \$56.8 million. While funds for the court's first year have been secured, there are still shortfalls for

the second and third years. Human Rights Watch urges donors and the international community to provide the necessary remaining funds.

UNAMSIL's mandate should be revised to include direct support for the functioning of the Special Court, including the investigation of past atrocities, the protection of the physical premises of the court, assistance with apprehension of those who have been indicted, and security for detainees.

And lastly, the international community, particularly African governments, should fully cooperate with the functioning of the court, and agree to surrender any and all alleged war criminals who might try to evade indictment by the Special Court for Sierra Leone.

### **The Truth and Reconciliation Commission**

The Truth and Reconciliation Commission (TRC), mandated under the 1999 Lomé Peace Accord, seeks to establish an impartial historical record of the conflict, promote reconciliation and healing, and make recommendations aimed at preventing a repetition of the violations committed. Efforts to establish the TRC were spearheaded by UNAMSIL and the Office of the United Nations High Commissioner for Human Rights. The form the TRC takes—open public hearings, closed sessions, the publication of a report, memorial services, and other activities—will depend upon the recommendations of the seven TRC commissioners who will be directing its operation. On July 5, 2002, President Kabbah formally swore in the commissioners—three international and four Sierra Leonean—signalling the beginning of TRC operations. Following a three-month preparatory phase, the TRC will operate for an initial period of one year with the possibility of a six-month extension.

However, the TRC is experiencing serious funding shortfalls and unnecessary bureaucratic delays within the U.N. The appeal to fund the TRC was launched late, in late February 2002, and of the U.S.\$9.98 million budget, only U.S. \$1.2 million—\$500,000 from the United Kingdom, \$500,000 from the United States, and \$200,000 from Sweden—has, at this writing, been pledged. Human Rights Watch is concerned that commencing operations without adequate funds could undermine the work of the commission and public confidence in it, and is calling on the international and donor community to ensure that it is fully funded.

Human Rights Watch is also keen to ensure that the commissioners resist any attempt to influence the direction of the TRC's inquiry by the government, ruling party, or other political parties or groups. The TRC commissioners should make sure that the process allows both victims and perpetrators of abuses to describe the horrors of the war, enables a record of abuses by all sides to be compiled, and also addresses the conditions that gave rise to the war. The commission should also serve to expose and identify key factors that influenced the war, including collusion between the national army and rebel forces; clandestine business dealings between rebel forces and foreign commercial interests, as well as with elected politicians, government officials and international peacekeeping forces; and the involvement of regional players who provided logistical, financial, and military support to rebel groups.

### **Accountability within the National Courts**

With the Special Court for Sierra Leone able to prosecute only a small number of the worst perpetrators, ordinary Sierra Leoneans should be able to look to the normal judicial

system to obtain redress for abuses they have suffered. Currently, however, they are prevented from doing so by a provision of the Lomé Peace Accord Act of 1999 that granted amnesty to all warring parties; this provision was based on a clause in the 1999 Lomé Peace Accord between the government and the RUF. Human Rights Watch is urging the government to repeal this provision, as those who commit war crimes and crimes against humanity should never have impunity.

On the contrary, Human Rights Watch believes that those accused of committing such crimes during the course of the war should be indicted and brought to justice in accordance with all relevant due process guarantees; however, if convicted, they should not face the death penalty. Domestic law provisions providing for capital punishment should be repealed.

### **Rebuilding the Sierra Leonean Judicial System**

In order to facilitate accountability for past abuses, combat impunity, and establish the rule of law, it is also imperative that the issues that contributed to the dysfunctional state of the judicial system, which has all but collapsed, be confronted head-on and without delay. Instead of confronting impunity, the present state of the judiciary is actually contributing to it.

While there were serious problems with the judicial system before the conflict, the ten-year war has clearly exacerbated them. Numerous courtrooms and police stations were destroyed, and rebel control over revenue-generating diamond and mineral resources in part undermined the government's ability to finance the running of the legal system.

At present, the High Court and magistrates' courts are only functional in the capital, Freetown, and two other provincial towns. The law court buildings in the provinces need to be rebuilt and refurbished, as do police stations and detention facilities. The insufficient numbers of judges, magistrates, prosecutors, and courtrooms, which has led to huge backlogs, needs to be addressed, as does the extended and unlawful detention of hundreds of criminal suspects, many without due process guarantees as stipulated in the constitution. The government should make all efforts to fill current vacancies for judges, magistrates, prosecutors, and public defenders with qualified personnel, appropriately remunerated. The government should also take steps to ensure that the judiciary is independent, impartial, and free from political manipulation and corruption.

The system of local courts, presided over by traditional leaders or their officials and applying customary law, should also be overhauled and properly regulated. The local courts are the only form of legal system accessible to an estimated 70 percent of the population. Customary law applied by the local courts is often discriminatory, particularly against women, and the local courts frequently abuse their powers by illegally detaining persons and charging excessively high fines for minor offences, as well as adjudicating criminal cases which should by law be tried in the higher courts.

There is also an important need for the training of judges, magistrates, and other legal personnel in international law, computer skills, and court reporting as well as the provision of law libraries. The international community should provide resources to rebuild a Sierra Leone judicial system that promotes respect for fundamental human rights. This may include the secondment of judges from other Commonwealth countries.

The international community should also increase funding and provide technical support to human rights groups providing legal aid services to the indigent so as to assist those wanting to seek legal redress through the judicial system or facing criminal charges. Further, the international community should provide technical and financial support to review existing laws, many of which were inherited from the British colonial period and date back to the nineteenth century. The government should revise or replace those laws that do not meet international human rights standards, particularly those that do not provide sufficient protections to women and children.

The United Kingdom has since 1998 made a significant commitment to the Sierra Leone legal system through its Law Development Project, which seeks to restore and strengthen legal institutions and update the legal code in Sierra Leone. Human Rights Watch commends this effort and hopes other donors will follow suit.

## **Corruption**

Corruption within both the public and private sectors in Sierra Leone is endemic. It permeates all levels of government and most business transactions. Scandals involving the looting of state coffers and development aid are commonplace. Even though the situation has recently improved, a large percentage of Sierra Leone's diamonds are still thought to be traded illegally, depriving the Sierra Leonean government of much needed revenue to support public services. Petty corruption, extortion, and bribe-taking, particularly by police officers or low ranking officials, is rampant. Money has to change hands in order to secure entrance for children into a public school, receive treatment in a public clinic, obtain a permit, authorization, or letter from a ministry, or even file a police report. Corruption has historically bought the support of both the police and the army, making them subject to political interference and undermining their duty to protect. Personal gain through corruption remains the primary motivation for those entering the civil service. As stated above, the efforts of those seeking redress through the legal system are often frustrated by corruption within the very system designed to combat it.

Largely in response to public pressure, and supported by the international community, the government in 2000 created the Anti-Corruption Commission (ACC), vested with the powers to investigate, subpoena, and arrest persons alleged to be involved in corrupt practices. The ACC is largely funded by the U.K.'s Department for International Development (DFID), and British nationals fill three key posts. During 2000 and 2001, the ACC was involved in several high profile cases resulting in the conviction of a High Court judge for accepting bribes from a former agriculture minister, the arrest and trial of the then commissioner of income tax for soliciting a bribe, the arrest of a prominent businessman for attempting to bribe the minister of trade and industry, and the arrest of the then transport and communication minister and his wife for illicit mining and smuggling of diamonds.

While these are encouraging signs, a number of cases, several involving key politicians, have yet to be brought to court. It is incumbent upon Sierra Leone's president to see to it that the ACC is able to fulfil its mandate without political interference. Human Rights Watch urges the international community to take every opportunity to both privately and publicly underscore the importance of an effective ACC, and to address the continuing problem of corruption within the Sierra Leonean government.

## **Sierra Leonean Army and Police**

The Sierra Leone Army and Sierra Leone Police have over the years been the source of considerable instability, corruption, and human rights violations. Soldiers and police have enjoyed near complete immunity from prosecution for all sorts of violations, including rampant extortion at military and police checkpoints, the looting of villages, rape of women in police custody, collusion in abuses committed by rebel troops, and the execution of alleged rebels and collaborators. Their history of serious and systematic human rights abuses, particularly by the then Sierra Leonean soldiers who in 1997 formed part of the AFRC and later the West Side Boys, is well documented.

Since 1999 the British-led International Military Advisory and Training Team (IMATT) has endeavoured to reform, restructure, and rehabilitate the army, now called the Republic of Sierra Leone Armed Forces (RSLAF). Some 14,000 Sierra Leonean soldiers, many of them former AFRC, RUF, and West Side Boy rebels, have been retrained and are currently deployed country-wide. Some 130 mostly British, Canadian, American, and Australian officers hold, and likely will hold for years to come, key decision-making positions within the Ministry of Defence, military headquarters and brigades. The hands-on approach and tight supervision of the newly trained army appears to be rendering results: human rights monitors have received very few reports of indiscipline and serious abuses against civilians by the retrained soldiers. A few high-level officers and several lower-level officers have, in fact, been suspended from their positions for corruption and mismanagement, something that would never have happened in years past.

However, since 1999, the army has been unable to hold court martial boards and try their own cases. In 2001, British advisers and Sierra Leonean officers rewrote the rules of procedure and standing regulations for court martial boards so as to bring them up to international standards. The new regulations were in October 2001 submitted to the office of the minister of justice for approval. However, they have yet to be approved, and as a result no courts martial can take place. There are currently eight military personnel, including two officers, who have cases pending. If corruption, indiscipline, and impunity within the military are to be addressed, these regulations must be passed and cases involving the RSLAF must begin to be adjudicated.

Since 1998, the Commonwealth Secretariat, largely funded by DFID, has led a significant effort to restructure and retrain the ill-disciplined and abusive Sierra Leone Police (SLP), including the secondment of a British inspector-general. For decades the SLP was used as a repressive arm of the ruling party, and their institutionalized corruption led to considerable mistrust, fear, and disrespect. The focus of the current training effort, called the Commonwealth Police Development Task Force (CPDTF), has been on stopping political interference in the work of the police, and sorting out problems with senior police management, which was saturated with deeply corrupt and unprofessional officers. The CPDTF has set up an internal investigation unit to look into complaints of corruption, mismanagement, and unprofessional conduct, and has dismissed many, and indeed prosecuted several police officers for corrupt practices. They have also made an effort to establish special units to respond to domestic and sexual violence. However, the three full-time staff and nine part-time CPDTF consultants, who are largely Freetown based, are unable to provide sorely needed "hands-on" supervision and mentoring on the basic building blocks of policing.

Human Rights Watch continues to receive frequent complaints of corrupt, unprofessional and in some cases abusive practices by police, including the taking of bribes at checkpoints; refusal to investigate complaints unless a bribe is paid; inability to take statements and conduct proper criminal investigations; intimidation of local businessmen, impounding of vehicles and fabrication of claims for the purposes of extortion.

The task of rehabilitating the SLP is enormous. The CPDTF has nonetheless made significant progress, but Human Rights Watch believes the current training approach is failing to provide the back-to-basics training and day-to-day supervision needed to transform the SLP into a truly professional police force—what is needed is for the Commonwealth Secretariat, DFID, and the international community to consider revising the current training model to include the embedding of supervisors and trainers into all levels of the police force, along the same lines as the program for the army.

### **Regional Aspects to Peace and Stability in Sierra Leone**

Over the past decade, the governments of Guinea, Liberia, and Sierra Leone have frequently harboured each other's rebel groups and supported cross-border incursions, causing widespread instability. The renewal of conflict in Liberia is all the more complex because of the web of shifting military and political alliances, based on ethnicity and other factors that have been established over recent years among the governments of the Mano River Union.

As the conflict in Sierra Leone has wound down, the conflict in Liberia has been exacerbated by the arrival of many former fighters from Sierra Leone's civil war, who have crossed over to fight as mercenaries either for the Liberian government or LURD. Many former fighters from the Sierra Leonean rebel RUF, which received direct support from Liberian leader Charles Taylor for years despite its grossly abusive record, are now integrated into the Liberian government forces and have been implicated in atrocities against Liberian civilians. At the same time, LURD fighters are clandestinely recruiting and establishing a supply line along the Sierra Leone/Liberia border, despite the Sierra Leone government's refusal to allow the LURD to operate from its territory. Since at least January 2001, hundreds of former fighters from the Sierra Leonean CDF militias (such as the ethnic Mende militia known as the Kamajors), from the former members of the Sierra Leonean army who rebelled to form the West Side Boys militia, and even from the RUF, have been recruited as mercenaries for the LURD.

The government of Guinea is also currently fuelling the Liberian conflict by providing logistic and some financial and military support to the LURD rebels. Evidence indicates that this support is being given with the knowledge and support of high-ranking Guinean officials.

As of June 2002, the United Nations High Commissioner for Refugees (UNHCR) had registered some 24,000 Liberian refugees in Sierra Leone in camps, and estimated that several thousand more were living without international assistance in border towns. UNHCR anticipates that this number will continue to grow significantly throughout the year.

In addition to refugees, both Liberian government troops and LURD rebel soldiers often cross from Liberia into Sierra Leone for the purpose of looting, to sell looted goods, to buy provisions, to escape fighting, and, in a few cases, to abduct people who are then forced to work as porters for them. In February 2002, for example, soldiers from the Liberian army,



the Armed Forces of Liberia (AFL) appeared in Batwono and Bobu, on the Sierra Leone side of the border, and forced local residents to buy their looted goods. In March 2002, LURD forces attacked Baladu village in Sierra Leone, killing one civilian and abducting ten as porters. Liberian army deserters are also to be found on the Sierra Leone side of the border, where they could present an additional security threat. There appears to be no consistent policy on the part of either the Sierra Leonean government or UNAMSIL on how to address this problem. In the first half of 2002, Sierra Leone police detained scores of AFL soldiers, including one lieutenant-colonel.

There is an urgent need for border security to be strengthened, including by screening to ensure that combatants are clearly distinguished and separated from civilians seeking refugee protection in Sierra Leone. The Sierra Leonean government needs to establish an adequate police presence along the border areas, establish a status determination body to screen and separate combatants from refugees, and work swiftly to set up separate camps for Liberian combatants. Additionally, there is a need for improved policing to ensure that refugees are adequately protected and to guarantee the civilian nature of all refugee camps. UNHCR should work closely with the Sierra Leonean Government to ensure as a priority the civilian nature of the camps and work closely with neighbouring host governments to establish mechanisms at the border to screen and separate Liberian combatants from refugees.

In view of the close links between the Guinean government and the LURD rebel forces in Liberia, the participation of Guinean troops in the U.N. peacekeeping mission in Sierra Leone, UNAMSIL, gives cause for concern. The Guinean contingent of UNAMSIL is currently deployed in Sierra Leone's Pujehun District, which borders Liberia, raising fears that this area too could become a base of operations for the LURD, enabling them to strike into Liberia from two directions. Human Rights Watch recommends the replacement of the Guinean forces in the UNAMSIL operation in Sierra Leone with non-West African troops that are not implicated in the sub-regional conflict. At a minimum, the Guinean battalions should be removed from Pujehun District, and not be deployed near the Sierra Leone/Liberia border where the likelihood of their involvement in Liberian rebel support and/or refugee intimidation is higher.

The Mano River region is awash with arms. The international community needs to investigate and expose information about arms shipments, and pressure governments that allow their territory to be used by proxy armies aimed at destabilizing one another. The recently renewed mandate of the United Nations Panel of Experts, which has played a useful role in curtailing cross-border support for rebel groups in Sierra Leone, should be extended to enable it to continue to monitor illicit weapons flows into the sub-region, and to examine Guinea's role in the Liberian conflict. The United Nations should mandate the placement of international military observers and human rights monitors along the Guinea/Liberia and Sierra Leone/Liberia borders to monitor, record, and investigate cross-border attacks.