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Deputy Prosecutor of the Special Court of Sierra Leone

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“The RUF Judgment and its legacy”

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The RUF Judgment and its Legacy

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1. Introduction

The Special Court for Sierra Leone was set up jointly by the Government of Sierra Leone and the United Nations in 2002, through Security Council Resolution 1315. It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.

The Special Court has two Trial Chambers and one Appeals Chamber. Each Trial Chamber comprises three Judges, two of whom are appointed by the United Nations Secretary-General and one of whom is appointed by the Government of the Republic of Sierra Leone. The Appeals Chamber comprises five Judges, three of whom are appointed by the Secretary-General and two of whom are appointed by the Government of the Republic of Sierra Leone.

The Special Court is an international court, independent from the domestic legal system in Sierra Leone. It is for this reason that the Special Court Ratification Act (2002) provides that “Offences prosecuted before the Special Court are not prosecuted in the name of the Republic of Sierra Leone.”

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Two out of the five cases tried before the Special Court are to this date fully completed, namely the AFRC (Armed Forces Revolutionary Council) and the CDF (Civil Defense Forces) cases.

The AFRC Trial Judgment was issued on 20 June 2007. The case is a success for the Office of the Prosecutor, as the three Accused were found guilty and convicted on 11 out of the 14 counts in the Indictment. The First Accused, Alex Tamba Brima, and the Third Accused, Santigie Borbor Kanu, were sentenced to 50 years imprisonment, whilst the Second Accused, Ibrahim Bassy Kamara, was given a 45 years sentence.

The CDF Trial Judgement was delivered on 2 August 2007. The CDF Appeal Judgment, issued on 28 May 2008, substantially revised the sentences imposed on Moinina Fofana and Allieu Kondewa. It increased the sentences of 6 years for Fofana and 8 years for Kondewa to 15 and 20 years respectively.

The Charles Taylor case is being prosecuted in The Hague but is still under the jurisdiction of the Special Court. The hearing of evidence started on 7 January 2008 and the Prosecution, after having called 91 witnesses, has now finished presenting its case. On May 4, 2009, the Trial Chamber dismissed in its entirety a Motion for Acquittal filed by the Defence. The Defence case is slated to begin on the 29 June 2009.

The only outstanding indictment is that against the fugitive Johnny Paul Koroma. That file is active, as we are still investigating as to his whereabouts or whether he is dead or alive.

2. Background to the Context of the Conflict

Sierra Leone experienced particularly heinous and widespread physical and sexual violence during its 11 years of civil war that lasted from 1991 to 2002. During the war, the rebel groups known as the Revolutionary United Front (RUF) and the Armed Forces Revolutionary Council (AFRC) fought against the government and a government-backed militia group, the Civil Defence Forces (CDF), which supported the Sierra Leonean Army in fighting the rebels.

The civilian population was targeted by all the fighting factions. The RUF, the rebel group that started the war in 1991, used civilians throughout the conflict as a workforce: thousands of civilians were captured, abducted and held as slaves used in forced labor, mainly in diamond mining, but also for other tasks, such as farming, carrying looted goods, weaponry and ammunition. Civilians were systematically mutilated: massive and widespread, the chopping of limbs was used as a tool of terror and control, as well as a symbolic message to those who voted for the government of former president Kabbah. Thousands of civilians were killed in targeted attacks, women, children, and elderly people alike, whole families locked in houses which were then set on fire. The civilian population was kept in a constant state of terror, which would stop them from supporting the government. The conscription, enlistment, or use of children under 15 years into armed groups, was widespread throughout the war. Systematic looting of civilian property allowed the armed groups to maintain their war efforts.

During this extremely brutal conflict an estimated 275,000 women and girls became victims of sexual violence. Massive sexual violence was not only used to sow terror amongst the civilian population, it further served military and supply purposes: rape

and sexual slavery helped to maintain the morale of the fighting forces in a long lasting and cruel guerrilla war.

3. The Revolutionary United Front Case

The Revolutionary United Front case is not a trial of the RUF organization itself, but rather a trial against three individuals, Issa Hassan Sesay, Morris Kallon and Augustine Gbao. Each of the three Accused was charged with eight counts of crimes against humanity, eight counts of war crimes (violations of Article 3 common to the Geneva Conventions and Additional Protocol II) and two counts of other serious violations of international humanitarian law. The charges relate to violations against civilians and civilian property and include acts of terrorism (Count 1), collective punishment (Count 2), extermination (Count 3), murder (Count 4 and 5), rape (Count 6), sexual slavery and other sexual violence (Count 7), inhumane acts (Count 8 and 11), outrages upon personal dignity (Count 9), mutilation (Count 10), enlisting or conscripting children under the age of 15 or using them to participate actively in hostilities (Count 12), enslavement (Count 13) and pillage (Count 14). The charges also include the offences against UNAMSIL peacekeepers including intentionally attacking personnel on a peacekeeping mission (Count 15), murder (Count 16 and 17) and hostage-taking (Count 18).

Judgment was recently delivered in that case on 25 February 2009. The First Accused Issa Sesay was sentenced to 52 years, Second Accused Morris Kallon, 40 years and Third Accused Augustine Gbao, 25 years.

The RUF judgment witnessed the first convictions in world history of Sexual Slavery as

Crime against Humanity and Forced Marriage as Inhuman Act constituting a Crime against Humanity. This last crime had never been specifically recognized before it appeared in our indictments. The judgment was also seminal in its first conviction ever for the offence of ‘intentionally directing attacks against personnel involved in a Peacekeeping mission’.

- **Child Soldiers**

The Special Court is the very first in history to find an Accused guilty for the crime of conscripting children and forcing them to participate in hostilities. The RUF Indictment charged the Accused persons with the offence of conscripting or enlisting children under the age of 15 years into armed forces or groups, or using them to participate actively in hostilities an ‘other serious violation of international humanitarian law’ pursuant to Article 4 (c) of the Statute.

In the CDF Appeal judgment it was held that this offence constitutes a crime under customary international law which entailed individual criminal responsibility prior to the time frame of the Indictment.

Enlistment has been defined as ‘accepting and enrolling individuals when they volunteer to join an armed force or group’. It requires that the person voluntarily consented to be part of the armed force or group. Conscription on the other hand refers to the ‘compulsory enlistment of persons into military service.

In defining the phrase ‘using children to participate actively in hostilities’, the Chamber

expressed agreement with the Commentary² which states as follows-the words “using” and “participate actively” have been adopted in order to cover both direct participation in combat and also active participation in military activities linked to combat such as scouting, spying, sabotage, and use of children as decoys, couriers or at military checkpoints. It would not cover activities clearly unrelated to the hostilities such as food deliveries to an airbase or the use of domestic staff in an officer’s accommodation. However, use of children in a direct support function such as acting as bearers to take supplies to the frontline or activities at the frontline, would be included within the terminology.”

The Chamber in the RUF judgment held that the specific elements of using children under the age of 15 years to participate actively in hostilities are as follows:

- One or more persons were used by the Accused to actively participate in hostilities;
- Such person or persons were under the age of 15 years;
- The Accused knew or had reason to know that such person or persons were under the age of 15 years;
- The Accused intended to use the said persons to actively participate in hostilities

The Chamber was equally cognizant of the application of the special protection provided by Article 4(3)(d) of Additional Protocol II in the event that children under the age of 15 years are conscripted, enlisted, or used to participate actively in hostilities.

- **Sexual Slavery and any other Form of Sexual Violence (Count 7)**

The specific offence of sexual slavery was included for the first time as a war crime and

² Report of the Preparatory Committee on the Establishment of the ICCA/CONF.183/2/Add.1, 14 April 1998, p. 21

a crime against humanity in the ICC Statute. The offence is characterized as a crime against humanity under Article 2(g) of the Statute and the Indictments before the Special Court were the first to specifically indict persons with the crime of sexual slavery.

By this assertion, it is not to be suggested that the offence is entirely new. Sexual slavery is a particularized form of slavery or enslavement and acts which could be classified as sexual slavery have been prosecuted as enslavement in the past. In the Kunarac case, for instance, the Accused were convicted of the offences of enslavement, rape and outrages on personal dignity for having detained women for months and subjected them to rape and other sexual acts. In that case, the ICTY Appeals Chamber emphasized that “it finds that enslavement, even if based on sexual exploitation, is a distinct offence from that of rape.”

The Trial Chamber of the RUF opined that the prohibition of the more particular offences such as sexual slavery and sexual violence criminalizes actions that were already criminal. The Chamber further considered that the specific offences are designed to draw attention to serious crimes that have been historically overlooked and to recognize the particular nature of sexual violence that has been used, often with impunity, as a tactic of war to humiliate, dominate and instill fear in victims, their families and communities during armed conflict.

The Indictment in Count 7 charges the Accused persons with sexual slavery and any other form of sexual violence as a crime against humanity under Article 2 of the Statute. This Count relates to the Accused persons alleged responsibility for the abduction and use as sexual slaves of women and girls. The Accused are also alleged to be responsible

for the subjection of women and girls to other forms of sexual violence. All of the allegations are said to have occurred in different time periods relevant to the Indictment.

Primarily, the Chamber held that Count 7 of the Indictment is bad for duplicity and that the appropriate remedy is to proceed on the basis that the offence of sexual slavery is properly charged within Count 7 and to strike out the charge of “any other form of sexual violence. The Chamber therefore considered only the elements of the offence of “sexual slavery”.

The Chamber also took the view that the offence of enslavement is prohibited at customary international law and entails individual criminal responsibility. It was thus satisfied that this would equally apply to the offence of sexual slavery which is “an international crime and a violation of jus cogens norms in the exact same manner as slavery.”

The Chamber considered that the actus reus of the offence of sexual slavery is made up of two elements: first, that the Accused exercised any or all of the powers attaching to the right of ownership over a person or persons (the slavery element) and second, that the enslavement involved sexual acts (the sexual element).

In the RUF judgment, the Trial Chamber emphasized that the lack of consent of the victim to the enslavement or to the sexual acts is not an element to be proved by the Prosecution, although whether or not there was consent may be relevant from an evidentiary perspective in establishing whether or not the Accused exercised any of the powers attaching to the right of ownership.

The Chamber subscribed to the statement of the ICTY Appeals Chamber that “circumstances which render it impossible to express consent may be sufficient to presume the absence of consent.” The duration of the enslavement is not an element of the crime, although it may be relevant in determining the quality of the relationship.

- **Forced Marriage**

In that same RUF judgment, for first time in world history all three accused (all of them leaders of the Revolutionary United Front-RUF) were convicted for the crime of ‘forced marriage’ as a separate “crime against humanity”, recognizing the particular suffering inflicted upon women through conscription as ‘bush wives’ during the conflict in Sierra Leone.

The use of so-called “bush wives”, women and girls who were forced into “marriage” with commanders and combatants, further helped the armed groups to keep the fighters committed to the movement since they could easily satisfy their sexual and emotional lust.

The Appeals Chamber in the AFRC case defined forced marriage within the context of the Sierra Leone conflict, ‘as a situation in which the perpetrator through his words or conduct, or those of someone for whose actions he is responsible, compels a person by force, threat of force, or coercion to serve as a conjugal partner resulting in severe suffering, or physical, mental or psychological injury to the victim.’³

³ AFRC Appeal Judgment, para. 190

Hon. Judge Doherty, in her Partly Dissenting Opinion, in the trial judgment of the same case, expressed the view that forced marriage involves “the imposition, by threat or physical force arising from the perpetrator’s words or other conduct, of a forced conjugal association by the perpetrator over the victim.”⁴ She further considered that this crime satisfied the elements of “Other Inhumane Acts” because victims were subjected to mental trauma by being labelled as rebel “wives”; further, they were stigmatised and found it difficult to reintegrate into their communities. According to Judge Doherty, forced marriage qualifies as an “Other Inhumane Acts” causing mental and moral suffering, which in the context of the Sierra Leone conflict, is of comparable seriousness to the other crimes against humanity listed in the Statute.⁵

In a forced marriage scenario, a “wife” was exclusive to a rebel “husband,” and any transgression of this exclusivity such as unfaithfulness, was severely punished.⁶ A “wife” who did not perform the conjugal duties demanded of her was deemed disloyal and could face serious punishment, including beating and possibly death.⁷

They were often abducted in circumstances of extreme violence,⁸ compelled to move along with the fighting forces from place to place,⁹ and coerced to perform a variety of conjugal duties including regular sexual intercourse, forced domestic labour such as cleaning and cooking for the “husband,” endure forced pregnancy, and to care for and bring up children of the “marriage.”¹⁰ In return, the rebel “husband” was expected to

⁴ Doherty Partly Dissenting Opinion, para. 53.

⁵ *Ibid* at paras 48, 51 (stating that “[s]erious psychological and moral injury follows forced marriage. Women and girls are forced to associate with and in some cases live together with men whom they may fear or despise. Further, the label ‘wife’ may stigmatise the victims and lead to their rejection by their families and community, negatively impacting their ability to reintegrate into society and thereby prolonging their mental trauma.”).

⁶ *Ibid* at paras 1122, 1139, 1161.

⁷ *Ibid* at paras 1138, 1141.

⁸ For example one witness was abducted as a ‘wife’ moments after her parents were killed in front of her. *See* AFRC Trial Judgment, paras 1078, 1088.

⁹ AFRC Trial Judgment, paras 1082, 1083, 1085, 1091, 1096, 1154, 1164, 1165.

¹⁰ *Ibid* at paras 1080, 1081, 1130, 1165.

provide food, clothing and protection to his “wife,” including protection from rape by other men, acts he did not perform when he used a female for sexual purposes only.¹¹ As the Trial Chamber found, the relative benefits that victims of forced marriage received from the perpetrators neither signifies consent to the forced conjugal association, nor does it vitiate the criminal nature of the perpetrator’s conduct given the environment of violence and coercion in which these events took place.¹²

- **Does Forced Marriage Satisfy the Elements of “Other Inhumane Acts”?**

The Prosecution argued and continues to do so, that forced marriage amounts to an “Other Inhumane Act” and that the imposition of a forced conjugal association is as grave as the other crimes against humanity such as imprisonment, causing great suffering to its victims.¹³ In particular, the Prosecution argues that the mere fact of forcibly requiring a member of the civilian population to remain in a conjugal association with one of the participants of a widespread or systematic attack directed against the civilian population is at least, of sufficient gravity to make this conduct an “Other Inhumane Act.”¹⁴

Other Inhumane Acts in international criminal law was first introduced under Article 6.c of the Nuremberg Charter, the crime of “Other Inhumane Acts” is intended to be a residual provision so as to punish criminal acts not specifically recognised as crimes against humanity, but which, in context, are of comparable gravity to the listed crimes against humanity.¹⁵ It is therefore inclusive in nature, intended to avoid unduly

¹¹ *Ibid* at paras 1157, 1161. See also Doherty Partly Dissenting Opinion, paras 48, 49.

¹² See AFRC Trial Judgment, paras 1081, 1092.

¹³ *Ibid* at paras 614, 617, 621.

¹⁴ *Ibid* at para. 624.

¹⁵ *Kupreškić* Trial Judgment, para. 563. The category of “Other Inhumane Act” was included in Article 6.c of the Nuremberg Charter to provide for any loophole left open by other offences not specifically mentioned. It was deliberately designed as a residual category as it was felt undesirable for this category to be exhaustively enumerated. An exhaustive list would merely

restricting the Statute's application to crimes against humanity.¹⁶ The prohibition against "Other Inhumane Acts" is now included in a large number of international legal instruments and forms part of customary international law.¹⁷

The jurisprudence of the international tribunals shows that a wide range of criminal acts, including sexual crimes, have been recognised as "Other Inhumane Acts." These include forcible transfer,¹⁸ sexual and physical violence perpetrated upon dead human bodies,¹⁹ other serious physical and mental injury,²⁰ forced undressing of women and marching them in public,²¹ forcing women to perform exercises naked,²² and forced disappearance, beatings, torture, sexual violence, humiliation, harassment, psychological abuse, and confinement in inhumane conditions.²³ Case law at these tribunals further demonstrates that this category has been used to punish a series of violent acts that may vary depending upon the context.²⁴ In effect, the determination of

create opportunities for evasion of the letter of the prohibition. *See also Stakić* Appeal Judgment, para. 315; *Blagojević* Trial Judgment, para. 625; *Rutaganda* Trial Judgment, para. 77; *Kayishema* Trial Judgment, para. 149.

¹⁶ *Blagojević* Trial Judgment, para. 625; *Akayesu* Trial Judgment, para. 585 ("The categories of crimes against humanity are set out in Article 3, this category is not exhaustive. Any act which is inhumane in nature and character may constitute a crime against humanity, provided the other elements are met.").

¹⁷ The crime of "Other Inhumane Acts" has been included in the following international legal instruments: Charter of the International Military Tribunal, Article 6.c; Charter of the International Military Tribunal for the Far East, Article 5.c; Control Council Law No. 10, Article II.c; Statute of the International Criminal Tribunal for the former Yugoslavia, Article 5.i; Statute of the International Criminal Tribunal for Rwanda, Article 3.i; Rome Statute of the International Criminal Court, Article 7.k. The crime of "Other Inhumane Acts" is also referred to in the 1996 ILC Draft Code of Crimes Against the Peace and Security of Mankind, Article 18.k. *See also Stakić* Appeal Judgment, para. 315; *Blagojević* Trial Judgment; *Galić* Trial Judgment; *Čelebići* Trial Judgment; *Akayesu* Trial Judgment; *Tadić* Trial Judgment.

¹⁷ *See* AFRC Trial Judgment, para. 698 (defining "Other Inhumane Acts" as "1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act; 2. The act was of a gravity similar to the acts referred to Articles 2.a to 2.h of the Statute; and 3. The perpetrator was aware of the factual circumstances that established the character of the gravity of the act."). The Trial Chamber's definition mirrors the definition of "Other Inhumane Acts" in the Rome Statute, Elements of Crimes, Article 7.1.k. The *mens rea* for "Other Inhumane Acts" and the *chapeau* elements are not at issue in this Appeal.

¹⁸ *Stakić* Appeal Judgment, para. 317; *Blagojević* Trial Judgment, para. 629; *Krstić* Trial Judgment, para. 523.

¹⁹ *Kajelijeli* Trial Judgment, para. 936; *Niyitegeka* Trial Judgment, para. 465.

²⁰ *Naletilić* Trial Judgment, para. 271; *Vasiljević* Trial Judgment, para. 239; *Blaškić* Trial Judgment, para. 239; *Tadić* Trial Judgment, paras 730, 737, 744.

²¹ *Akayesu* Trial Judgment, para. 697.

²² *Ibid* at para. 697.

²³ *Kvočka* Trial Judgment, paras 206-209.

²⁴ *See Kordić* Trial Judgment, para. 800 (finding that conditions varied from camp to camp but detained Muslims were used as human shields and were forced to dig trenches); *Galić* Trial Judgment, para. 599 (finding that there was a coordinated and protracted campaign of sniping, artillery, and mortar attacks upon civilians); *Tadić* Trial Judgment, paras 730, 737, 744 (finding that there were several incidents of assaults upon and beating of prisoners at a camp) and *Niyitegeka* Trial Judgment, paras 462,

whether an alleged act qualifies as an “Other Inhumane Act” must be made on a case-by-case basis taking into account the nature of the alleged act or omission, the context in which it took place, the personal circumstances of the victims including age, sex, health, and the physical, mental and moral effects of the perpetrator’s conduct upon the victims.²⁵

The Appeals Chamber in the AFRC case afore-mentioned, agreed with the Prosecution that the notion of “Other Inhumane Acts” contained in Article 2.i of the Statute forms part of customary international law.²⁶ As noted above, it serves as a residual category designed to punish acts or omissions not specifically listed as crimes against humanity provided these acts or omissions meet the following requirements:

- (i) inflict great suffering, or serious injury to body or to mental or physical health;
- (ii) are sufficiently similar in gravity to the acts referred to in Article 2.a to Article 2.h of the Statute; and
- (iii) the perpetrator was aware of the factual circumstances that established the character of the gravity of the act.²⁷

The acts must also satisfy the general *chapeau* requirements of crimes against humanity.

At this point, it is instructive to note that the Concurring and Partly Dissenting Opinions, of both Justice Sebutinde and Justice Doherty who made a clear and

465 (finding that the accused was rejoicing when a victim was killed, decapitated, castrated and his skull was pierced with a spike).

²⁵ *Galić* Trial Judgment para. 153; *Vasiljević* Trial Judgment, para. 235; *Krnojelac* Trial Judgment, para. 131; *Čelebići* Trial Judgment, para. 536; *Kayishema* Trial Judgment, paras 150, 151.

²⁶ *Stakić* Appeal Judgment, para. 315; *Blagojević* Trial Judgment, para. 624.

²⁷ AFRC Trial Judgment, para. 698.

convincing distinction between forced marriages in a war context and the peacetime practice of “arranged marriages” among certain traditional communities, noting that arranged marriages are not to be equated to or confused with forced marriage during armed conflict.²⁸ Justice Sebutinde went further to add, correctly in my view, that while traditionally arranged marriages involving minors violate certain international human rights norms such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), forced marriages which involve the abduction and detention of women and girls and their use for sexual and other purposes is clearly criminal in nature.²⁹

- **Attack on Peacekeepers: Intentionally Directing Attacks against Personnel involved in a Peacekeeping mission**

It is no new occurrence or crime to prohibit attacks against peacekeeping personnel. But rather, as personnel and objects involved in a peacekeeping mission are only protected to the extent that “they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict”, this offence can be seen as a particularization of the general and fundamental prohibition in international humanitarian law against attacks on civilians and civilian objects.

It has been traditionally acknowledged that United Nations observer and peacekeeping missions have traditionally relied on their identification as United Nations representatives to ensure that their personnel and equipment are not targeted.

As attacks on United Nations personnel have increased, in particular since the 1990s,

²⁸ Sebutinde Separate Concurring Opinion, paras 10, 12; Doherty Partly Dissenting Opinion, para. 36.

²⁹ Sebutinde Separate Concurring Opinion, para. 12.

these attacks have been condemned and criminalized. Military manuals today evidence support for the criminalization of an attack on peacekeepers. Similarly, state legislations also, have notably prohibited attacks against personnel and other objects involved in a peacekeeping mission.

In further support in establishing that the offence of intentionally attacking peacekeepers is now recognized in international customary law, the Trial Chamber applied the Convention on the Safety of the United Nations and Associated Personnel- which specifically prohibited attack on peacekeepers as being an offence subject to Universal Jurisdiction. It is trite to point out, that Sierra Leone signed the Convention on 13 February 1995.

It is instructive to note at this point however, that this Chamber observed that the said Convention on the Safety of United Nations and Associated Personnel expressly excludes from its application those United Nations operations “authorized by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies.”

The Trial Chamber further noted the distinction between peacekeeping from enforcement actions authorized by the Security Council under Chapter VII. Article 42 of the United Nations Charter allows the Security Council to “take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.”

In practice, the Security Council has authorized member States or coalitions of member

States to conduct military enforcement action on a voluntary rather than mandatory basis.

By opposition to peacekeeping operations, enforcement action does not rely on the consent of the States concerned, but on the binding authority of the Security Council under Chapter VII.

The Chamber further held that the offence is a particularization of the general and fundamental prohibition in international humanitarian law, in both international and internal conflicts, against attacking civilians and civilian property. Therefore, the Chamber was satisfied that this offence existed in customary international law in both international and non-international conflicts and entailed individual criminal responsibility at the time of the acts alleged in the Indictment.

Finally, the Trial Chamber in the RUF judgment considered that the condemnation and criminalization of intentional attacks against personnel and objects involved in a humanitarian or a peacekeeping mission by States, international organizations, the finding of the ICRC and the inclusion of the offence in the ICC Statute in 1998 demonstrates State practice and *opinio juris*.

Elements of proof:

- The Accused person directed an attack against personnel, installations, materials, units or vehicles involved in humanitarian assistance or peacekeeping in accordance with the Charter of the UN.
- The Accused person intended such personnel, installations, materials, units or vehicles to be the object of the attack.
- Such personnel, installations, materials, units or vehicles were entitled to the

- protection accorded to civilians or civilian objects under international law of armed conflict.
- The accused person knew or had reason to know that the personnel, installations, materials, units or vehicles were protected in accordance with the Charter of the UN.

In analyzing the elements, the Chamber viewed, the primary object of the attack must be the personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission. There exists no requirement that there be actual damage to the personnel or objects as a result of the attack and the Chamber opined that the mere attack is the gravamen of the crime. The Chamber adopted the definition of attack in Article 49(1) of Additional Protocol I as an “act of violence”.

The Chamber further viewed that the second element reflects that this offence has a specific intent *mens rea*. The Accused must have therefore intended that the personnel, installations, material, units or vehicles of the peacekeeping mission be the primary object of the attack.

The third element was viewed by the Chamber to require that such personnel or objects be entitled to the protection given to civilians or civilian objects under the international law of armed conflict.

In the Chamber’s view, common sense dictates that peacekeepers are considered to be civilians only insofar as they fall within the definition of civilians laid down for non-combatants in customary international law and under Additional Protocol II, namely, that they do not take a direct part in hostilities.

The Chamber opined that by force of logic, personnel of peacekeeping missions are entitled to protection as long as they are not taking a direct part in the hostilities – and thus have become combatants - at the time of the alleged offence. Where peacekeepers become combatants, they can be legitimate targets for the extent of their participation in accordance with international humanitarian law. As with all civilians, their protection would not cease if the personnel use armed force only in exercising their right to individual self-defence.

Likewise, the Chambers concluded that the use of force by peacekeepers in self-defence in the discharge of their mandate, provided that it is limited to such use, would not alter or diminish the protection afforded to peacekeepers.

In conclusion therefore, the legacy of the RUF judgment in international criminal law could be discerned through the lenses and footprints in areas of charging and conviction for the offence of an attack on Peacekeepers, the first convictions in world history of Sexual Slavery as Crime Against Humanity, and most importantly, recognition of forced marriage as a separate “crime against humanity”, recognizing the particular suffering inflicted upon women through conscription as ‘bush wives’ during the conflict in Sierra Leone.

The pace has been set and the momentum is gaining ground, the Special Court and similar institutions have begun to deter these crimes by holding the leaders of the groups that commit them responsible. We have seen justice done in the AFRC, CDF and RUF trials, and we are pursuing that same justice against Taylor, Africa’s first indicted head of state. In the future, other leaders responsible for these atrocities will be held to account and women, girls, boys and innocent civilians in general will be less likely to

become their victims.

Thank you!