

(229-259)

SPECIAL COURT FOR SIERRA LEONE

**Before: Judge Bankole Thompson
Designated Judge**

Registrar: Robin Vincent

Date filed: 23rd April, 2003

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THE PROSECUTOR

Against

ALEX TAMBA BRIMAH also known as (aka) TAMBA ALEX BRIMAH

aka GULLIT

CASE NO. SCSL - 2003 - 06 -PT

**RESPONSE OF THE DEFENCE TO THE PROSECUTION MOTION FOR
IMMEDIATE PROTECTIVE MEASURES FOR WITNESSES AND VICTIMS
AND FOR NON-PUBLIC DISCLOSURE**

Office of the Prosecutor:

Lue Cote, Chief of Prosecutions
Brenda J. Hollis, Senior Trial Counsel
Nicholas Brown-Marke, Prosecutor

Defence Counsel:

Terence Michael Terry

THIS RESPONSE OF THE DEFENCE HEREIN TO THE PROSECUTION MOTION FOR IMMEDIATE PROTECTIVE MEASURES FOR WITNESSES AND VICTIMS AND FOR NON-PUBLIC DISCLOSURE WAS TAKEN OUT AND FILED BY TERENCE MICHAEL TERRY 4TH FLOOR MARONG HOUSE 11 CHARLOTTE STREET FREETOWN FOR AND ON BEHALF OF THE ACCUSED TAMBA ALEX BRIMA HEREIN.

(1) The Defence in its response to the Prosecution Motion for several protective measures will at the outset address two vital matters namely:

- (i) The undated statement of Morie Lengor and
- (ii) The declaration of Alan W. White. Both (i) and (ii) above will be canvassed by the Defence as Preliminary issues to be determined by the Trial Chamber on the assumption that it uphold the submissions of the defence on any one and/OR on both issues, then the question of the determination of the merits of the Motion becomes mere academic. On the other hand, if the Trial Chamber over rule the two preliminary objections so raised by the defence, and in its wisdom is enclined to proceed with a determination on the merits of the Motion, the defence will rely on several legal and factual submissions to be buttressed by legal authorities and recent cases relating to the jurisprudence in the area of the grant of protective measures by international tribunals.

As regards the first issue namely:

- (1) The undated statement of Morie Lengor, the defence submits that no weight ought with respect to be given to his statement as ex-facie there is no showing on that document without more when exactly the statement was made.
- (2) The second issue is the declaration of Alan W. White. Unlike the undated statement Morie Lengor, the declaration of Alan W. White bears the date the 7th day of April, 2003. However it is fundamentally flawed ex-facie having regard particularly to paragraph (i) of his said declaration where he states the following.

“I, Allan W. White Ph.D., Chief of Investigations for the office of the prosecutor of the Special Court for Sierra Leone (SCSL) do declare that the foregoing facts are true and accurate to the best of my knowledge”. The defence will submit that on a true reading of paragraph 1 of the said declaration of Alan W. White, it will become apparent that reliance is placed by him on foregoing facts which can only mean and be related to the alleged facts contained in the undated statement of Morie Lengor. If the defence submission is right so far in this connection, then it follows as a necessary corollary that the declaration of Alan W. White is predicated in the main to the undated statement of Morie Lengor and its inherent drawbacks as regard the exact time, day and year when the said statement was made by him to warrant giving it any weight whatsoever for the purposes of the grant of the several orders prayed for in the Motion seeking protective measures by the prosecution.

Assuming without conceding that the Trial Chamber is inclined to even consider the facts canvassed in both the undated statement of Morie Lengor and the declaration of Alan W. White the defence will submit the following:

First, that the facts disclosed in the undated statement of Morie Lengor are at best general in their contents, lack particularity in important areas and failed woefully to

satisfy the litmus test so ably set out in the following celebrated cases: THE PROSECUTOR V. MILOSEVIC (19TH FEBRUARY, 2002), PROSECUTOR V. TADIC (5TH NOVEMBER, 1996), PROSECUTOR V. RUTAGANDA (26TH SEPTEMBER, 1996), PROSECUTOR V. BAGOSORA (31ST OCTOBER, 1997), PROSECUTOR V. NAHIMANA AND OTHERS, PROSECUTOR V. CARCISSE MUVUNYI & OTHERS AND BRDJANIIN & TALIC (3RD JULY, 2000).

Second, in paragraph (4) four of the undated statement of Morie Lengor, the word "May" appears therein which suggest at its very highest that the prosecutor is not even sure that the person (without stating their names) who were interviewed will even appear and testify as witnesses at the trial proper.

Thirdly, paragraph (6) six of the undated statement of Morie Lengor refer to members of the Civilian population again without stating their exact number. To that extent therefore, defence submits that the undated statement of Morie Lengor is devoid of details regarding numbers. This is bound to be an important consideration which might very well go to weight if only to assist the Trial Chamber at the end of the day in the exercise of its discretion regarding the orders prayed for by the prosecution for the granting of protective measures.

Indeed the defence submits that the same reasoning applies mutentis mutandis to the presentation by the prosecution for the factual basis of their Motion to be found at page three (3) under ten (10).

Again defence will submit that paragraph seven (7) of the undated statement of Morie Lengor is fundamentally flawed on ground of lack of particularity and is further devoid of their exact numbers in so far as members of the population are mentioned therein. To that extent, the defence adopt the same reasoning and argument canvassed and relied upon in the preceding paragraphs of its submissions.

Paragraphs 8, 9 and 10 of the undated statement of Morie Lengor suffer from the same and/OR similar drawbacks on grounds of their vagueness and lack of particularity as aforementioned.

The defence therefore submits that the undated statement of Morie Lengor standing on its own without more has not made out a proper case and/OR fulfilled the relevant criteria or litmus test already referred to in the aforesaid recent international Tribunal Case to warrant the granting the orders prayed for by the prosecution for protective measures.

The defence will now turn to addressing the declaration made by one Alan W. White Chief of Investigation for the office of Prosecutor of the Special Court for Sierra Leone dated the 7th April, 2003.

On a careful perusal of paragraph 2 of the said declaration of Alan W. White, it will become clear that he unequivocally declared that the foregoing facts are true and

accurate to the best of his knowledge. The reading by the defence of paragraph I of his declaration no doubt points to and has a direct bearing to the undated statement of Morie Lengor. The defence will further submit that in those circumstances, it is virtually impossible for any weight to be given to the said declaration of Alan W. White which relates to the undated statement of Morie Lengor. Indeed this is serious flawed which goes to the root of the proceedings before the Trial Chamber as it is no business of the Trial Chamber to be engaged in the realm of speculation as to the exact date Morie Lengor's statement was made for the purposes of constituting the facts to be relied upon in the declaration of Allan W. White.

Again, assuming that the Trial Chamber is inclined to go into the merits of the aforesaid declaration of Alan W. White notwithstanding above-mentioned objections and submissions of the defence, the defence further submit that his entire declaration apart from alluding to his credentials and experience in paragraphs 2, 3 and 4 hardly say anything worthy of consideration to warrant the grant of the several orders prayed for in the prosecution's Motion for protective measures.

The defence submits that para 4 of declaration of Alan W. White failed woefully to descend into particulars. To be precise for instance; he talks about his travels in respect of which he had spent a great deal of time in the West African Sub-region conducting investigations and relocating witnesses, who had already had their lives and their families threatened by some of the Defendants who are either indicted or under investigation by the office of the Prosecutor. On a true understanding of the foregoing passage, the defence submit that it is not in any case related to the accused herein Tamba Alex Brima for the simple reason that no specific reference is made to him in particular, but rather to some of the defendants simpliciter.

The defence will further submit that reference to alleged facts raised in paras 5 and 6 respectively of the said declaration of Alan W. White is at best unhelpful, not of moment and can hardly be regarded as tangentially relevant for the purposes of the determination of the orders prayed for in the prosecution's Motion for protective measures in connection with this particular accused person Tamba Alex Brima.

The defence will now turn to Rule 75 of the Special Court's Rules of Procedure and Evidence and Articles 16 and 17 respectively of the Statute of the Special Court for Sierra Leone. Put simply the defence cannot truly be opposed to some of the measures envisaged for the Protection of witnesses and victims having regard particularly to the true and proper constructions of Articles 16 – 17 of the Statute of the Special Court for Sierra Leone and Rule 75 of Rules of Procedure and Evidence. In this connection the defence submit and will canvass at an oral hearing if so granted for the respective Counsel to argue before the trial Chamber that the protective measures so far sought by the prosecution in their said motion go far beyond what is conceivably acceptable within the letter and spirit of Articles 16 and 17 of the Statute of the Special Court for Sierra Leone and Rule 75 of the rules of procedure and Evidence for the Special Court for Sierra Leone. To be precise, the defence object to the relief sought by the prosecution in paragraphs 20 (a), (c), (g), (h) and (k) of their motion for immediate protective measures on the grounds that such measures are clearly oppressive and does violence to the rights of the accused Tamba Alex Brima within the letter and spirit of Article 17 of the Statute of the Special Court for Sierra Leone.

The defence will further rely on a the comparatively recent number of cases which touch and concern the rationale behind protective measures in so far as it deals with the protection of witnesses and victims from threats, to the safety and security to their persons. If oral hearing is ultimately granted the defence will rely on the decision in the recent case of Blaskic delivered on the 5th November 1996 following the decision on the prosecution's motion, requesting protective measures for victims and witnesses rendered by a majority of the Trial Chamber in Tadic on 10 August 1995 which stipulated that for witness protection to be granted, the following five conditions would have to be met:-

- (i) First and foremost, there must be real fear for the safety of the witness or her or his family.
- (ii) Secondly, the testimony of the particular witness must be important to the Prosecutor's case.
- (iii) Thirdly, the trial Chamber must be satisfied that there is no prima facie evidence that the witness is untrustworthy
- (iv) Fourthly, the ineffectiveness or non-existence of a witness protection programme is another point that....has considerable bearing on any decision to grant anonymity
- (v) Finally, any measures taken should be strictly necessary. If a less restrictive measure can secure the required protection, that measure should be applied.

In the celebrated case of The Prosecutor v. Milosevic a decision delivered on the 19th February 2002 it was directly related to the Prosecutor's motion for provisional protective measures having regard to the provisions of Rule 69. As it turned out, the trial Chamber observed rather regrettably that the granting of protective measures albeit started as an exceptional practice is now verging as the accepted practice in proceedings before the tribunal. Indeed although the Trial Chamber placed emphasis on the need to provide adequately for the protection of victims and witnesses, it equally stressed the requirement that the accused be given a fair trial and further emphasised that the Trial Chamber should only proceed to grant protective measures where it is properly shown in the circumstances of each such witnesses that the protective measures meet the standards set out in the statute, rules and expanded in the jurisprudence (para. 28)

Again in the said case of the Prosecutor v. Milosevic, the trial Chamber mentioned three other criteria that should be given consideration in the granting of orders for protective measures for witnesses and victims namely:

- (i) the likelihood that prosecution witnesses will be identified with or intimated once their identity is made known to the accused and his Legal Counsel.
- (ii) The extent to which the power to making protective orders can be used not only to protect individual victims and witnesses in the particular trial, and measures which simply make it easier for the prosecution to bring cases against other persons in the future.
- (iii) The length of time before the trial at which the identity of the witnesses and victims must be disclosed to the accused. What time frame is reasonable will depend on the category of the witnesses.

The defence submits that the protective measures cannot be objectively granted. In the celebrated case of Tadic which decision was delivered on the 10th August 1995, it specifically dealt with the prosecutor's motion seeking protective measures for victims and witnesses. In that case the trial Chamber reached the conclusion that for a victims to qualify for protection "...., there must be real fear for the safety of the witness or his or her family, and that there must be an objective basis to underscore this fear...." It then went on to hold that for "witness to qualify for protection of his identity for disclosure to the public and the media for that matter, the alleged fear be expressed explicitly by the victims and for it to be based on circumstances which can objectively be seen to cause fear.

Indeed, this approach was followed by the trial Chamber in Brajanin v. Talic which was a decision on a motion for protective measures delivered on 3rd July 2000 where it stated at paragraph 26 that “Any fears expressed by potential witnesses themselves that they may be in danger or at risk are not in themselves sufficient to establish any real likelihood that they may be in danger or at risk.... Something more than that must be demonstrated.”

The defence will now seek reliance on the I.C.T.Y relating to the issue of various protective orders of different categorizations in the different cases that has come before it for hearing.

A more liberal approach seems to have been adopted in decision granting motions for protective measures although in some cases a more conservative approach has been adopted by I.C.T.Y. in some of its decisions.

For instance in the case of Prosecutor v. Rutaganda, decision on the preliminary motion submitted by the Prosecutor for protective measures for witnesses, rendered on the 26th September 1996, The trial Chamber based its decision in part on ICTY’s early case law on this subject;

It is to be observed and the defence will submit that the jurisprudence of the international Criminal Tribunal for the former Yugoslavia, notably its decision of 10th August 1994 and November 1995 wherein the Chamber granted a range of measures stopping short of full anonymity.

The defence submits that the existing security situation in Sierra Leone as distinct from the security situation that existed in Rwanda which resulted in the issuing of blanket orders for protective measures do not exist in Sierra Leone at the present moment. Indeed the defence will submit that in Rwanda there were civil unrest raging in that country and the Great Lakes region as a whole and only such measures were available to protect witnesses and victims from that region.

In the case of Prosecutor v. Bagosora a decision on the prosecutor’s Motion for the Protection of Victims and Witnesses rendered by the Trial Chamber on 31 October 1997: the Prosecutor sought blanket protective measures for two categories:- those residing in Rwanda and those residing outside Rwanda. In support of the application, the Prosecutor submitted affidavits to the effect that....the security situation in Rwanda is volatile and that by January through to December 1996, 227 genocide survivors and their associates were killed and 56 were injured and that Fisenyi Prefecture, the birth place of the accused is also insecure. The Chamber granted the request and ordered the names and witnesses to be supplied to the Victims and Witnesses Support Unit for appropriate measures to be put in place.

In the Prosecutor v. Nahimana and others a Decision on the Prosecutor's Application to Add Witness X to the list of witnesses for protective measures, 14 September 2001, the Prosecution argued that it was not practicable to provide for the necessary security measures in Arusha and requested that the witness be allowed to testify in The Hague. Although the Chamber held that under the Tribunal Rules, it is permissible to have a change of venue; it was however held on balance that they considered it would be possible to adopt sufficient measures to ensure that witness could testify in Arusha.

In the *Prosecutor v. Carcisse Muvunyi & others, decision on the Prosecutor's Motion for Orders for Protective Measures for Victims and Witnesses to Crimes alleged in the Indictment*, the Chamber had cause to review the security situation affecting concerned witnesses and the affidavit which tends to demonstrate the complexity of the situation in Butare Prefecture. The affidavits emphasized the level of threats in various parts of Rwanda including threats posed by infiltrators from Democratic Republic of Congo.

In respect of witnesses who reside outside Africa, the test established by the Trial Chamber is that "*the present security situation would affect any potential witness even if residing outside the region*".

The defence submits most respectfully that the Motion praying for the protective orders ought to be rejected on the following grounds:

- (i) Case law jurisprudence of the ICTR because the language in Rule 69 and 75 there is highly similar to the language used in the ICTR and Rules.
- (ii) The Prosecution has also attached only one decision rendered by the ICTY and has otherwise made heavy mention of the ICTR jurisprudence.
- (iii) The Prosecution has also not in their affirmations in support of their applications not exhibited witness statements showing that threat to their lives and limbs as expressed but rather lay emphasis on the general security situation.
- (iv) The Prosecution has not further shown in their affirmations in support of the application how the present security situation would affect witnesses who stay outside Sierra Leone.
- (v) They have also not shown that objective situations exist as required over and above express fears of witnesses that warrant the grant of such an order.
- (vi) The Prosecution has not supported the statements made in their affirmations with evidence (such as country report from international human rights organizations, UNAMSIL security update etc) as to the volatile nature of the security situation in Sierra Leone.
- (vii) The Prosecution did not take into account the infringements on the rights of the accused of the wide range of measures sought to protect witnesses and victims.

- (viii) The Prosecution did not consider other less oppressive measures which could achieve the purpose for which protective measures are sought.

The affirmations in support of the Prosecution application (Morie Lengor and Alan White) do not meet the five criteria:- (i) First and foremost, there must be real fear for the safety of the witness or her or his family.

(ii) Secondly, the testimony of the particular witness must be important to the Prosecutor's case

(iii) Thirdly, the trial Chamber must be satisfied that there is no prima facie evidence that the witness is untrustworthy

(iv) Fourthly, the ineffectiveness or non-existence of a witness protection programme is another point that... has considerable bearing on any decision to grant anonymity

(v) Finally, any measures taken should be strictly necessary. If a less restrictive measure can secure the required protection, that measure should be applied.

The Prosecution in inviting the Designated Judge or Trial Chamber to issue protective orders for witnesses and victims did not advert their minds to the fact that the facts which are germane to the jurisprudence of the ICTR (the ongoing war in Rwanda and the surrounding countries of the great lakes) are quite distinct from the situation in Sierra Leone.

The Defence further submits that in determining whether or not the measures for protection sought by the Prosecution infringe the rights of the accused, regard must be had to the jurisprudence of treaty bodies regarding the extent to which rights of the accused to fair trial has been interpreted. This was not the case in the jurisprudence of the ICTR and ICTY as these tribunals were established by General Assembly resolutions and not by treaty as in the situation of the Special Court for Sierra Leone. Therefore, it is submitted by the Defence that the art 3 of the Vienna Convention on the Law of Treaties shall be applicable in interpreting the Rules of the Special Court with special reference to the jurisprudence that has so far been established by the Human Rights Committee of the ICCPR in interpreting the accused's rights to fair trial. Art. 17 of the Statute of the Special Court for Sierra Leone to examine witnesses for him in the same manner as those witnesses against him. This right implies certain guarantees such as public hearings etc. Art. 14 of the ICCPR which is instructive and is the source of Art 17 of the Statute and the Defence submits that the rights of the Accused should be interpreted in accordance with the guidance and jurisprudence of the Human Rights Committee of the ICTR. (See paragraphs 17-30) of Prosecution Attachment in the Prosecutor v.

Tadic, Decision on the Prosecution's Motion requesting Protective measures for Victims and Witnesses.

- (i) The Defence further invites the Trial Chamber to decide upon the Prosecution's Motion and the response for the Defence in the light of the prevailing facts and security situation on the ground in Sierra Leone. The Defence here attaches reports from the United States Department on the human rights situation in Sierra Leone for the year 2003 together with the security update from United Nations Mission in Sierra Leone which clearly brings out the existing human rights situation in Sierra Leone. These attachments show clearly that Government's authority has been established throughout Sierra Leone including but not limited to areas highlighted in the indictments against the two accused persons in respect of whom this response is filed. The Defence does not purport to do human rights assessment in this response but invites the Trial Chamber to consider the possibility of calling more evidence to satisfy itself that the security situation in Sierra Leone is truly volatile as stated by the prosecution in its motion or otherwise.
- (ii) The affirmations submitted by Morie Lengor and Alan White are insufficient and do not rise to the test laid down in the Prosecutor v. Tadic. The tests require positive proof of express fear from the witnesses to the effect that testifying before the Special Court would endanger their lives. No such evidence appears in the affirmations in support of the prosecution's motion. What appears in the affirmations are general statements expressed on behalf of these potential witnesses by the deponents envisaging what will happen to potential witnesses if they testify? In effect, no real fear has been expressed by the Prosecution for the safety of witnesses the prosecution intends to seek protection for.
- (iii) Furthermore, the affirmations in support of the Prosecution's motion do not establish the fact that the testimonies of the witnesses they intend to rely upon are really important to their cases.
- (iv) Furthermore, there is no evidence on the fact of the affirmations that the witnesses the prosecution intends to seek protection for are trustworthy.
- (v) The fact that the affirmations of the two investigators were not supported by an affirmation from the victims and witnesses support units to determine the efficacy or otherwise of the programmes of the victims and witnesses support units.

- (vi) It is submitted that that less restrictive measures than those proposed by the Prosecutor can be used to achieve the intended purpose. There is no evidence that any contact was made with the victims and witnesses support units to consider less oppressive to achieve the purpose intended to be achieved. Other measures here proposed as less restrictive are the following:
- (vii) The prosecution should provide evidence of fears expressed by witnesses within the Jurisdiction and to this extent determine where their fears lie.
 - (viii) Assuming without concluding that witnesses are coming from the areas listed on the indictment within Sierra Leone, evidence should be submitted that these areas are not safe and to what extent.
 - (ix) It is further suggested that if the answers to the above are in the affirmative reference should be made to the Victims and Witnesses Support unit to determine what necessary measures should be put in place to protect witnesses and victims.
 - (x) In light of the fact that no evidence was submitted to the effect that the Victims and Witnesses Protection Unit was not contacted renders the application for protection of witnesses and victims premature at this stage.

The Defence further challenges the granting of the orders for protective measures sought, as has been highlighted in the preceding paragraphs above. The Defence respectfully submits that in the alternative, should the Trial Chamber be inclined to granting the orders sought, disclosure 21 days before the witness testifies at the trial is arbitrary, oppressive and violates the rights of the accused.

1. At the risk of sounding repetitious, the Defence submits that the 21 day rule pointed out by the Prosecution in the cases attached to the motion is not informed by any legal reasoning but is rather dictated by the factual circumstances obtaining in Rwanda and its environs at the time. This in our respective view was an attempt by the Trial Chamber to reconcile a balance between the rights of the defence and the need for protective measures for witnesses, based on the factual circumstances at the time. It is submitted that the Trial Chamber of the Special Court for Sierra Leone can depart from the jurisprudence of the ICTR where the circumstances so dictate. The 21 day rule has not been strictly followed by the ICTR in its jurisprudence, and the trial Chamber can so depart based on the fact that the situation in terms of security differs from that of Rwanda and its environs. This 21 day rule, it is further submitted is not dictated by legal reasoning, but an act of balancing in the interests of justice the rights of the defence and the need for protection of witnesses.

2. The Defence submits that the situation in Sierra Leone calls for the use of less restrictive measures as the security situation differs considerably from that of Rwanda. In this regard, the Defence submits that in its attachments, complied by reputable international human rights organizations giving an account of the present human rights and to some extent the security update on Sierra Leone, the Defence therefore invites the Trial Chamber to consider the situation in Sierra Leone in its own particular context, in arriving at a conclusion on whether or not the 21 day rule can be upheld should our challenges on protective measures be overruled.
3. The Statute of the Special Court for Sierra Leone states that the Trial Chamber shall be guided by the jurisprudence of the Supreme Court of Sierra Leone. The criminal procedure of Sierra Leone is adversarial in nature guaranteeing amongst other things that the accused shall face open and transparent trials. The Trial Chamber is invited to seriously consider the procedure and practice under Sierra Leonean law in granting or refusing orders sought and in granting them to consider whether the 21 day rule postulated by the Prosecution constitutes adequate time for the Defence to prepare its case. Particular reference is made to section 192 of the Criminal Procedure Act No. 32 of 1965.

Conclusion

At the risk of sounding repetitious the defence will once again respectfully seek the trial Chamber's indulgence to canvass oral argument before it if it is inclined to so graciously permit before arriving at its ultimate determination on the kind and extent of protective measures based on the application before it fixed by the prosecutor.

SPECIAL COURT FOR SIERRA LEONE

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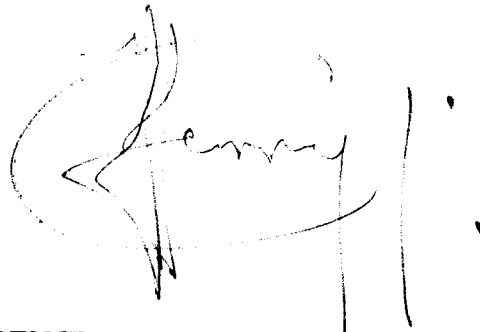
THE PROSECUTOR

V.

**ALEX TAMBA BRIMAH also known as (aka) TAMBA
ALEX BRIMAH aka GULLIT**

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**RESPONSE OF THE DEFENCE TO THE PROSECUTION MOTION FOR
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AND FOR NON-PUBLIC DISCLOSURE**



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To: Haddijatou Kah-Jallow/SCSL@SCSL
cc:
Subject: Security

2 **GENERAL SECURITY:**

The general security situation remained calm and stable during the period under review. The Security and the Force Personnel continue to monitor the situation closely throughout the country. It is advised that travel outside ones sector must be preceded either by a security briefing given by UNAMSIL Security or its Military counterparts.

3 **TRAVEL ADVISORIES:**

a. **Liberia.** The situation along the Liberian/Sierra Leonean border remained unstable, as refugees fleeing from the Liberian war continue to arrive at the border in their numbers amidst reports of heavy fighting in Liberia. It is reported that during the period there was some firing in the refugee camp at Kailahun, which has raised fears among the refugees some of whom have left the camp. There are reports of fighting close to Monrovia. UN Representative and ECOWAS Leaders have expressed concern about the Liberian situation especially on how to get assistance to UN Staff and other workers trapped outside Monrovia.

b. **Ivory Coast.** The Government Forces captured one of the western towns near Man in the rebel held area. The Rebels have accused the Government using Helicopter Gunship in the attack contrary to the ceasefire agreement. This new development has threatened the fragile peace. The Rebels are reported to have met in Man to discuss how to retake the town. There are also reports of new outbreak of fighting in the Eastern town of Boundoukou near the border with Ghana. The 11,000 ECOWAS peacekeeping troops are spread thinly across the country from East to West stretching over 600 km. There is a request for more troops to be added to enable them effectively maintain the ceasefire line.

Staff must receive security clearance before undertaking any official travel to countries classified Phase 1 and above. A comprehensive list is available at the Travel Unit.

4. **THE SECTORS (Up-Country):**

a. **Sector West Area – (Port Loko)**

The situation remained calm and stable during the period under review.

b. **Sector Centre – (Magburaka)**

The situation was assessed to be calm and stable throughout the period under review.

c. **Sector East – (Koidu)**

Reports from UNHCR office at Kailahun update indicates that 10 refugees reported at the Kailahun Way Station. A total of 4754 refugees have so far been transported to the Kenema Way Station.

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Sierra Leone

Country Reports on Human Rights Practices - 2002

Released by the Bureau of Democracy, Human Rights, and Labor
March 31, 2003

Sierra Leone is a constitutional republic with a directly elected President and a unicameral legislature. On January 18, the devastating 11-year civil conflict officially ended when all parties to the conflict issued a Declaration of the End of the War. The Government since asserted control over the whole country, backed by a large U.N. peacekeeping force. Revolutionary United Front (RUF) insurgents, who fought successive governments since 1991, completed disarmament and demobilization. The Civil Defense Force (CDF), a government-allied militia, also disarmed and demobilized, but many CDF members retained informal links to act in concert as a veterans' lobbying group and in their centuries-old role as members of traditional hunting societies. In May peaceful presidential and parliamentary elections were held; Ahmed Tejan Kabbah was re-elected President and his Sierra Leone People's Party (SLPP) won a large majority in Parliament. Many international monitors declared the elections free and fair; however, there were numerous reports of election irregularities and abuses. Since the resumption of the disarmament, demobilization, and reintegration (DDR) process in May 2001, an estimated 72,500 former combatants disarmed; on January 31, the disarmament and demobilization sections of the program were completed. The process of reintegration continued at year's end. The U.N. maintained a force of approximately 17,500 peacekeepers during most of the year. In September the U.N. Security Council decided to begin a gradual withdrawal of U.N. Mission to Sierra Leone (UNAMSIL) troops, to be completed by 2005. The official independent judiciary began functioning in areas abandoned during the war, but there still were sections of the country where the judiciary had not yet returned. The judiciary demonstrated substantial independence in practice but at times was subject to corruption.

Among the Government's security forces, the police officially had primary responsibility for internal order; however, on occasion, the Republic of Sierra Leone Armed Forces (RSLAF) and UNAMSIL shared responsibility with the police in security matters. The RSLAF were deployed to all vital locations and secured the country's borders with guidance and leadership from the British-led International Military Advisory and Training Team (IMATT). The Sierra Leone Police (SLP) were present in all provincial and district capitals. The Government maintained control of security forces throughout the year. During the year, more than 55,000 ex-combatants were registered with the National Commission for Disarmament, Demobilization, and Reintegration (NCDDR). Approximately 31,000 of these ex-combatants were engaged in reintegration program activities, ranging from formal education and vocational skills training to small-scale trade, agriculture, and community development. NCDDR projected that 7,000 more ex-combatants would enter reintegrations programs every 6 months, until all registered combatants had entered the programs. Some members of the security forces committed human rights abuses.

The country had a market-based economy and remained extremely poor; per capita earnings for the population of under 5 million have declined approximately by two-thirds since 1970. The country was rich in natural resources and minerals (particularly diamonds, gold, rutile, and bauxite) and had large areas of fertile land suitable for farming. Mineral extraction and agricultural production began after a virtual standstill during the war; however, the illegal diamond industry continued to operate. There was little manufacturing, and there were few exports; approximately 60 percent of the Government's budget came from foreign assistance.

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Years of fighting and decades of corruption and mismanagement resulted in a devastated infrastructure.

The Government generally respected the rights of its citizens; however, there were serious problems in several areas. With the end of war and demobilization of the RUF and CDF, many systematic and serious human rights abuses ended. During the year, there were no reports of unlawful killings or other abuses by the CDF in support of the Government. RSLAF soldiers at times beat former RUF rebels. Prison conditions improved significantly during the year. The number of deaths in custody declined considerably. On March 1, civil liberties suspended under the Constitution were reinstated when the Government lifted the state of emergency. Members of the SLP continued to arrest and detain persons arbitrarily. There were reports of extortion by police. Prolonged pretrial detention, due to a severe lack of resources in the judicial system, remained a problem. The Government at times limited freedom of speech and the press during the year. Violence in Liberia, which produced an influx of more than 50,000 Liberian refugees, contributed to border areas becoming more unstable. Violence, discrimination against women, and prostitution remained problems. Female genital mutilation (FGM) remained widespread. Abuse of children was a problem; however, numerous children who fought as child soldiers continued to be released and participated in reintegration programs during the year. Residents of non-African descent faced institutionalized political restrictions. Forced labor continued to be a problem in rural areas. Child labor remained a problem. There were reports of trafficking in persons. Sierra Leone was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

There were some reports of abuses committed by former RUF rebels. International aid groups believed that many girls who were abducted by the RUF remained sex slaves during the year. Some young ex-combatants still were dependent on their former RUF commanders for support.

There was no cross-border conflict between rebel forces and the Guinean military. During the year, there were incursions into the country by Liberian combatants. At times the combatants looted villages and abducted inhabitants, reportedly to use them as porters.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Unlike in the previous year, there were no reports that forces operating in support of the Government committed unlawful killings.

No action was taken against the CDF members responsible for the June 2001 killing of three civilians during an attack in Kono district or the June and July 2001 retaliatory attack by the RUF that resulted in three deaths.

No action was taken against the members of the security forces responsible for the following incidents in 2000: The May and June killings of 27 persons in the towns of Makeni, Magburaka, and Kambia; the July killing of civilians in Bunumbu during a helicopter gunship attack; and the July execution of an RUF fighter who allegedly was trying to surrender.

Two persons were killed during a demonstration, and alleged eyewitnesses claimed UNAMSIL troops were responsible for the killings (see Section 2.b.).

There were a number of deaths in custody during the year (see Section 1.c.). In September one RUF member who was indicted for murder died in custody.

No action was taken against the members of the Economic Organization of West African States (ECOWAS) Monitoring Group (ECOMOG) responsible for the January 2000 stabbing death of a civilian in a market and the April 2000 killing of an ex-Sierra Leone Army (SLA) soldier.

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Unlike in the previous year, there were no reports that RUF members were responsible for killings during the year or killed ex-combatants who had fled the group. There also were no reports of mutilations that led to deaths by rebel groups.

In March RUF leader Foday Sankoh and 49 RUF co-defendants were indicted with 16 counts of murder and 54 counts of shooting with intent to commit murder in connection with the 2000 incident outside Sankoh's residence in Freetown in which 20 persons were killed and 80 persons were injured. Thirty-one members of an ex-SLA splinter group called the West Side Boys were charged with 11 counts of murder and 11 counts of robbery with aggravation in connection with incidents that took place in Port Loko District in 1999 and 2000. Sankoh, the 49 former RUF rebels, and the indicted West Side Boys remained in detention awaiting trial at Pademba Road Prison at year's end.

No action was taken against the RUF for the following incidents in 2001: The July killing of 22 persons in an attack on the village of Henekuma; the August killing of 2 persons in an attack on the village of Seria, in Koinadugu district; and the death of four former RUF members, allegedly under orders from RUF chairman Issa Sesay.

No action was taken against the RUF rebels responsible for the following killings in 2000: The April and May killings of U.N. peacekeepers; the May killings of journalists Kurt Schork and Miguel Gil Moreno; the June killings in the attack on Port Loko; and the August killing of nine civilians in the village of Folloh. Although the Special Court for Sierra Leone was expected to examine these incidents, no further action was taken by year's end.

An international forensic investigation team visited alleged mass gravesites throughout the country, including several sites in the Port Loko district. Local residents claimed that the victims were civilians executed by ex-Armed Forces Revolutionary Council (AFRC)/RUF members in 1999. Human Rights Officers from UNAMSIL and representatives from the Special Court for Sierra Leone also visited several suspected mass gravesites. In February a former RUF member reported that he had witnessed 75 CDF members killed in an "execution house" in Kailahun in 1998.

Unlike in the previous year, the Guinean army did not attack any part of the country. The Guinean army continued to occupy disputed territory in Yenga, Kailahun District. There was no further verification of reports that Guinean soldiers bombed and shelled villages in the Kambia District in 2001, killing or injuring many civilians, and no action was taken against Guinean soldiers who allegedly carried out these attacks. One Guinean commanding officer was relieved from command after leading an attack against a just-demobilized column of RUF soldiers at a disarmament site at Rokupr, Kambia District in May 2001.

There was no action taken against Guinean armed forces that reportedly participated in the following killings in 2001: The January helicopter gunship attack on the town of Kamakwie that reportedly killed 12 civilians; the February incident of Guinean artillery fire that allegedly killed 4 civilians in Sabuya; the February killing of a 3-year-old girl in the village of Rokel; and the May killing of a small child in Rokupr.

b. Disappearance

With the demobilization and disarmament of the RUF, there were no reports that RUF rebels abducted children, women, or men as slaves or soldiers; however, some women and children remained in captivity during the year. The RUF did not exert significant control over the civilian population in any area of the country. The U.N. estimated that rebel forces abducted approximately 20,000 persons throughout the country during the 1991-1999 period. More than 10,000 victims were released and went through a formal reintegration process; most of those released were children. Many others escaped; however, former RUF rebels continued to hold some persons, including women and children as laborers or sex slaves at year's end. Some human rights monitors said that some of the women remained with their captors during the year due to a lack of viable options and intimidation by their captors (see Section 5). According to child protection officers from nongovernmental organizations (NGOs), the Government was hindered severely by a lack of resources and has taken little action to secure their release. The Ministry of Social Welfare, Children, and Gender maintained a database, with the help from UNICEF, which attempted to track children separated from their families during the war.

There were no developments in the following disappearances in 2000: The February abduction of 11 passengers by the RUF from a bus near Masiaka; the July disappearance of a foreign worker following an attack by the West Side Boys; the July abduction of 18 persons by the West Side Boys during an attack on a bus; and the August kidnaping of 15 persons by the RUF during an attack on the village of Folloh. 24.7

During the year, Liberian combatants abducted persons in the country. For example, on July 16, armed Liberian combatants abducted 28 persons from the villages of Mandavalahun, Sange, and Kolu in Kailahun District. The combatants captured 31 villagers in the raid, but 3 escaped. On July 25, an armed group from Liberia abducted 18 persons during a raid of the village of Kokobu, Kailahun District. The Liberian combatants were thought to be using the villagers primarily as porters for looted goods. RSLAF performed frequent border patrols to deter such attacks, and UNAMSIL maintained a heavy presence in Kailahun District; however, the border with Liberia was very porous, and cross-border raids were difficult to stop completely.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, there was one unconfirmed report of soldiers beating a person. There also were reports that police accepted bribes and extorted money from motorists. Unlike in the previous year, there were no reports that the CDF beat or otherwise abused persons on behalf of the Government. The conduct of the RSLAF continued to improve following reorganization and increased training.

On February 12, two uniformed RSLAF soldiers allegedly beat two former RUF combatants in the presence of two police officers. The police officers allegedly did not intervene and accepted bribes from the soldiers. RSLAF officials said that the two soldiers were former SLA members and no longer were in military service. An SLP official in the Criminal Investigations Division said that the men were RSLAF members and made a formal request to the RSLAF to identify the perpetrators.

During the year, there were frequent reports that SLP officers took bribes at checkpoints, stopped and falsely charged motorists with violations, and impounded vehicles in order to extort money. Unlike in the previous year, there were no reports that drivers were beaten if they refused to pay.

Unlike in the previous year, there were no reports that the military or the CDF manned roadblocks and bridges to extort money. There was no further information on the disciplinary action taken against an SLA soldier who in 2001 reportedly beat a driver who refused to pay at a roadblock on the road from Kabala to the Guinean border.

There was no action taken against the CDF members responsible for beating, raping, or otherwise abusing the persons in the following cases from 2000: The May and June injuring of 50 persons during gunshot attacks on the towns of Makeni, Magburaka, and Kambia; the July raping of 3 women who were accused of transporting goods to rebel-held areas; the August beating of 2 truck drivers because they could not produce the requested bribe; and the October beating of a journalist.

There was no action taken against the relatives of the Minister of Transport and Communication who allegedly beat a journalist, Mustapha Bai Attila, in 2000.

No one was injured by landmines during the year; very few landmines were used in the 11-year conflict.

A policeman allegedly raped a minor girl at the Jembe refugee camp. SLP personnel were removed from the camp during the investigation; however, the alleged perpetrator died and the case was closed.

During the year, there were reports that UNAMSIL soldiers raped persons. For example, on June 26, a UNAMSIL soldier allegedly raped a 14-year-old boy in Jui, Western Area. Although there was strong circumstantial and physical evidence that the rape occurred, 10 days after the alleged rape a UNAMSIL investigation did not find convincing physical evidence to validate the boy's allegation. The UNAMSIL soldier later was sent home, and UNAMSIL sent details of the

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allegations and findings to the soldier's government.

In April two UNAMSIL soldiers allegedly raped a woman in Joru, Kenema District. International human rights monitors talked to eyewitnesses who supported the victim's claim. UNAMSIL representatives said they carried out an investigation, although international human rights monitors claimed that the investigation was insufficient. UNAMSIL instituted a Personnel Conduct Committee to receive complaints on conduct impropriety. The UNAMSIL Human Rights Section held training sessions for peacekeepers on sexual abuse.

No action was taken against the ECOMOG employee who injured a person during an argument over a stolen vehicle in 2000.

Unlike in the previous year, there were no beatings, rapes, or abductions of women or refugees committed by organized groups of former combatants; however, it was likely that such crimes were committed by individual ex-combatants including former RUF rebels. In previous years, the RUF committed numerous abuses, including abductions, torture, beatings, and rapes, including gang rapes. There also were no reports of deliberate mutilations during the year. UNAMSIL began systematic investigations of amputees, tracking and monitoring individual amputation cases and compiling statistics. U.N. officials and humanitarian organizations estimated that hundreds if not thousands of persons, including children, had one or both limbs amputated over the decade-long conflict. There were no more reports of RUF rebels carving the initials "RUF" into the skin of civilians. During the year, a U.S.-based plastic surgeon removed the "RUF" scars from many victims.

In September Foday Sankoh and 49 other RUF members appeared in High Court. The trial was postponed throughout the year, and the cases of Sankoh and his co-defendants had not been heard (see Section 1.a.).

No action was taken against RUF rebels who committed human rights abuses in 2001, including extortion, beatings, and rapes. No action was taken against RUF members who in April 2001 beat and killed a woman and beat her stepson in Seidu, Kono District.

There was no reported action taken against the RUF rebels who beat, raped, or otherwise abused the persons in the following cases from 2000: The February beating of 15 RUF combatants who tried to join the disarmament process; the March abduction and injuring of Aaron Kargbo and Aruna Sherrif, both Adventist Development and Relief Agency staff members; the April and May abduction of U.N. peacekeepers; and the May injuring of at least 1 civilian during a confrontation between British paratroopers and RUF rebels at Lungi Lo.

There were no developments on the unconfirmed reports that Guinean troops operating in the country amputated the limbs of suspected RUF members in 2001.

Prison conditions improved significantly during the year. International human rights monitors who visited Pademba Road maximum-security prison reported that conditions there were good, with adequate access to food, medical care, recreation, and vocational skills training. In July human rights monitors reported that prisons in Bo and Moyamba were generally good; however, a prison in Kenema suffered from overcrowding, and access to medical facilities was limited. In October a rebuilt detention facility opened in Kono District. Many of the problems that remained in prisons were a result of the poor state of the judicial system. A large backlog of cases led to problems with overcrowding. The Pademba Road prison, which was designed for 325 prisoners, routinely housed hundreds more. There were no reports that prisoners were held incommunicado, although it was government policy to forbid family visits to prisoners at Pademba Prison except in exceptional circumstances and on a case-by-case basis. According to international monitors, the mortality rate in Pademba Prison was within acceptable actuarial norms. Male and female prisoners were housed separately. Adults and juveniles were incarcerated together. Conditions in the holding cells in police offices were extremely poor. Pretrial detainees were held with convicted prisoners. There were no reports that prison guards tortured or beat former RUF members in prison. There was no further investigation into the March 2001 killings at Pademba Prison.

International monitors, including UNAMSIL and the International Committee for the Red Cross (ICRC), had unrestricted access to visit Pademba Prison and other detention facilities. The ICRC and UNAMSIL doctors visited and monitored the health of former RUF leader Foday

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Sankoh, who was said to be in poor health. At least one local human rights group claimed that it could not get unrestricted access to the prisons.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. The law requires warrants for searches and arrests in most cases. There were adequate judicial protections against false charges, and detainees had the right of access to family or counsel, although family visits were restricted at maximum-security Pademba Prison (see Section 1.c.). On March 1, the Government lifted the state of emergency, under which many of these protections were suspended. Some detainees had not been informed of their legal status, and had no access to legal advice. There were provisions for bail and there was a functioning bail system. Many criminal suspects were held for months before their cases were examined or formal charges were filed. A number of prisoners in custody had not seen a judge since 1999 and 2000 (see Section 1.e.).

Following the demobilization of the CDF, there were no reports that CDF members arrested or detained persons during the year.

In July and August, four Liberian children were detained without charge at Pademba Road Prison and then released.

Following the lifting of the state of emergency, a large number of persons detained without charge were released or charged accordingly. At year's end, there were 18 persons who were detained for more than 2 years without charge; 17 were former SLA members and 1 was a former SLP officer.

On September 25, the Government expelled David Bropley, a Liberian ex-combatant, to Denmark for conducting "activities incompatible with his refugee status." Bropley had been in detention for 1 month prior to his expulsion.

The Government did not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary continued to function only in part of the country. The judiciary began to reestablish operations in areas that were abandoned during the war, although there still were large parts of the country without judicial institutions. The judiciary demonstrated substantial independence in practice but at times was subject to corruption.

The judicial system consisted of the Supreme Court, appeals courts, and a high court whose justices were chosen by the President. Local courts administered traditional law with lay judges; appeals from these lower courts moved to the superior courts.

Although the Constitution and the law provide for a speedy trial, in practice the lack of judicial officers and facilities often produced long delays in the judicial process. Trials were usually fair; however, there was evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training. In 2000 the Armed Forces of the Republic of Sierra Leone (Amendment) Act reinstated the right of members of the armed forces to appeal a sentence handed down by a court-martial to the Court of Appeal.

Traditional justice systems continued to supplement extensively the central government judiciary in cases involving family law, inheritance, and land tenure, especially in rural areas. In Kono District there were reports that former CDF and Movement of Concerned Kono Youth (MOCKY), held informal courts to settle disputes among area residents, typically those who were not satisfied with the results of the legal judicial system. MOCKY representatives denied these reports and said that they catalogued disputes and brought them for referral to the proper authorities.

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There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution and law prohibit such practices, and government authorities generally respected these prohibitions in practice.

In March the government lifted the state of emergency, under which the Government permitted searches without warrants and established a nightly curfew.

In February former RUF commanders in Tongo Fields, Kenema District reported that youths from the Lower Bambara chiefdom tried to drive them out of the area. The ex-RUF commanders alleged that the youths were former CDF members under the influence of the Acting Paramount Chief. The youths allegedly harassed persons in Tongo Fields and imposed fines and taxes.

On July 6, approximately 100 persons destroyed dozens of homes in Kokwima, Kono District. Local chiefs and MOCKY allegedly carried out the attacks in an effort to rid the Kono area of non-Kono persons. MOCKY representatives claimed that individuals from Tankoro, Kono District destroyed the homes because police had failed to respond to reports that the dwellings were being used to traffick drugs. An individual who owned land on which many of the homes were built said that the only homes spared belonged to Konos.

Unlike in the previous year, there were no instances of rebel forces invading, looting, or destroying private property.

Unlike in the previous year, there were no reports that rebel forces kidnaped and forcibly conscripted children (see Section 5).

There was no action taken on unconfirmed reports that in March 2001 RUF fighters forcibly conscripted civilians in Makeni into the Poro Society, one of several secret societies in the country tied to indigenous beliefs and rituals, and forced them to join the RUF.

On July 21, five armed Liberians reportedly looted the villages of Kokobu and Gbandoma.

Unlike in the previous year, there were no reports that Guinean troops destroyed private property or burned homes.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government at times limited these rights in practice. During the year, there were no bans on any newspapers, and no radio station was shut down for failure to pay fees. Unlike in the previous year, security forces did not harass journalists. The written press and radio generally reported on security matters, corruption, and political affairs without interference.

More than 50 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent of the Government, and several were associated with opposition political parties. The number of newspapers fluctuated weekly. Many contained sensational, undocumented stories and repeated items carried by other newspapers. Newspapers openly and routinely criticized the Government and its officials, as well as the rebel forces.

The Independent Media Commission (IMC) regulated independent media outlets. Although it was an independent body, some media observers alleged that the Government influenced it. In March the IMC ordered the editor of the African Champion newspaper to stop publication and cease editorial functions for 2 months in response to two articles printed on February 6 and 11 that accused President Kabbah's son of using a Consul's diplomatic status to escape import duties. The IMC said the editor, Mohammed Koroma, had to cease publication until an investigation was complete. Koroma ignored the demand on the grounds that the IMC did not

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have the legal right to demand his suspension. The IMC charged Mohamed Koroma to the High Court, but the case had not been heard by year's end.

In November Paul Kamara, editor of the For Di People newspaper, was sentenced to 6 months in prison for defaming a local judge. The court sent a letter to the President recommending the banning of the paper for 6 months, however, the ban was not implemented by year's end. International press rights groups called for the repeal of the criminal libel law under which Kamara was charged.

There was no action taken against police forces that detained and interrogated the editor of the Democrat newspaper in February 2001.

There was no further development on the rumors of "killing squads" that allegedly targeted a list of seven journalists in September 2001.

Due to low levels of literacy and the relatively high cost of newspapers and television, radio remained the most important medium of public information. Several government and private radio and television stations broadcast; both featured domestic news coverage and political commentary.

In February the IMC instituted a \$2,000 (4 million Leones) annual license fee for single channel radio stations. Radio journalists and media monitors claimed that this fee was prohibitively expensive, and if enforced would limit severely the number of independent radio stations. The IMC threatened to close any radio station that did not pay the fee. At year's end, no stations had been closed.

The parastatal Sierratel communications company exercised a monopoly over Internet access in the country. The lack of competition and the poor condition of telephone lines often made Internet connectivity problematic.

The Government did not restrict academic freedom. All institutions of higher learning were open during most of the year; however, university infrastructure destroyed during the conflict was not yet restored fully by year's end.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

Several large demonstrations took place during the year, including demonstrations involving thousands of persons before the May elections. Although some demonstrations were marred by violence, most were relatively peaceful. At times UNAMSIL forces backed up government security forces in dealing with demonstrations.

The Government did not ban any demonstrations during the year.

On July 18, two persons were killed in demonstrations relating to the death of a well-known Fullah moneychanger in Freetown. A large crowd took the body of the moneychanger from the morgue and paraded it in the streets. UNAMSIL troops were deployed to key areas in central Freetown for security reasons. According to UNAMSIL, when the crowd became aggressive, UNAMSIL troops employed a combination of persuasion, crowd dispersal tactics, and firing of warning shots in the air. A consortium of domestic human rights NGOs investigated the incident and determined through alleged eyewitness accounts that UNAMSIL troops directly fired into the crowd, killing two civilians. A UNAMSIL investigation into the incident found no conclusive evidence as to how the individuals were killed.

RUF members who opened fire on demonstrators in 2000, killing at least 20 persons and injured 80 others, remained in detention at year's end (see Section 1.a.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. There were numerous civic, philanthropic, and social organizations, and

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the registration system was routine and nonpolitical. No known restrictions were applied to the formation or organization of the 16 opposition political parties and the more than 60 registered civic action NGOs. In 2001 21 political parties were registered; during the year, 16 political parties were registered. Some parties were integrated into other parties, such as the Grand Alliance Party. In 2001 the RUF alleged that the Government prevented the establishment of an RUF political party as called for in the Lome Accord. However, during the year the RUF registered as a political party, changed their name to the Revolutionary United Front Party (RUFF), and fielded presidential and parliamentary candidates.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice; however, there were frequent reports that SLP officers manned roadblocks and stopped motorists to extort money from travelers (see Section 1.c.). Unlike in the previous year, there were no reports of RUF rebels or CDF members manning roadblocks.

Approximately 247,000 internally displaced persons (IDPs) remained at year's end. Some IDPs were housed in camps, but many lived in Freetown. Residents who feared that their homes would not be safe strongly resisted government attempts to close IDP camps. The large influx of IDPs and the lack of resources caused tension between local residents and IDPs; however, there were no reported incidents of violence. There were numerous reports that refugees and IDPs returned to find their homes occupied.

Approximately 135,000 refugees repatriated during the year. An estimated 70,000 persons remained in refugee camps in Guinea and Liberia; smaller numbers remained in Cote d'Ivoire, the Gambia, Ghana, and other countries and were likely to integrate locally in those countries.

Unlike in the previous year, there were no cross-border actions by the RUF in Guinea that contributed to the return of refugees from Guinea. Unlike in the previous year, there were no reports that the RUF raped, abducted, and killed refugees returning to the country from camps in Guinea.

The law does not provide for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, in practice the Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other organizations on repatriation matters and continued to provide first asylum to an increasing number of Liberians who had fled the conflict in their home country. UNHCR reported that more than 50,000 Liberian refugees entered the country by year's end. Some camps such as Jendema Camp at times were not able to provide adequate food or shelter for the influx of refugees, which caused border areas to become unstable. However, at year's end, conditions in all camps were described as adequate.

The U.N. conducted an investigation into reports in 2001 of widespread sexual abuse of refugees in the Mano River Union, including Sierra Leone. The U.N. investigation found no evidence to support earlier claims of widespread abuse, but did confirm the report of the rape of a 14-year old returnee in Jui (see Section 1.c.). Other international aid workers reported that several cases of abuse and exploitation of refugees by aid workers took place throughout the year.

The Liberian border officially closed at times during the year due to the civil conflict in Liberia; however, authorities permitted refugees, returnees, and other persons to move between the two countries regularly. There were some unconfirmed reports of bribery or coercion at border crossing points, although UNHCR reported that the Government did not hinder or refole those seeking asylum. At year's end, the border was open for all travel.

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There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides for the right of citizens to change their Government; however, the May elections were marred by some irregularities.

In 2001 the Government extended the term of Parliament and the President by 6 months in response to the "state of war" in the country. In December 2001, Parliament voted to amend the Constitution in order to modify the electoral system. The amendments also extended President Kabbah's term of office until July. On March 29, Parliament was dissolved until the May elections.

During the year, the Government facilitated the RUF's re-registration as a political party, the RUF. The Government did not allow Foday Sankoh to run as the RUF Presidential candidate, citing a law that required candidates to be registered to vote and to file personally their candidacy with the National Electoral Commission (NEC). RUF leadership said that Sankoh's registration was not possible because he was in government custody. The RUF alleged that the Government unfairly was trying to ward off a potential threat in the elections, because Sankoh had considerable name recognition and support in the country.

On January 24, the Government began voter registration for the May elections; however, there were reports that the Government's voter registration efforts were unbalanced, with more support going to areas that were dominated by the SLPP. There were widespread reports of underage voter registration.

On May 14, presidential and parliamentary elections were held. Eleven political parties were represented in the elections. President Kabbah of the SLPP was reelected with 70 percent of the popular vote. The RUF fielded presidential and parliamentary candidates but performed poorly, winning only 1.7 percent of the vote. In Parliament the SLPP won 83 seats; only 2 other parties won seats. Only the SLPP was represented in the Cabinet after two cabinet members, who were earlier considered to be independent, joined the SLPP following the elections. Many international monitors declared the elections free and fair; however, there were credible reports of significant abuse of incumbency, manipulation of vote counting, and partisan action by the NEC. There also were reports of voter coercion by party bosses and traditional leaders. These abuses reportedly did not affect substantially the overall outcome of the election.

There were reports of significant problems on election day. Voter eligibility rules were changed during the course of election day. Early in the day, voters whose names did not appear on registration lists but who held voter cards were allowed to vote. Later in the day, the NEC changed the rule, which led to confusion in some polling stations. One district, Pujehun, reported a 104 percent voter turnout. In the southern and eastern districts, results showed that opposition parties received zero votes in some areas, which was not credible given the observed participation in the election of opposition supporters in those districts.

Locally elected councils and a traditional chieftain system controlled local government. Local elections, which were to have taken place in 1999, again were postponed.

It was estimated that approximately 40 percent of women in the country voted and represented 13 percent of the candidates in the May elections. Sixteen women won seats in the 112-seat Parliament. There were three women in the Cabinet and one in the Supreme Court. A significant number of women were employed as civil servants.

No statistics were available concerning the distribution of votes among minorities. Only citizens could vote. The Constitution restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Since legal requirements for naturalization effectively denied citizenship to many long-term residents, a large number of persons of Lebanese origin, who were born and resided in the country, could not vote (see Section 5). There was a small percentage of the Lebanese population who had been naturalized and did vote, although the exact figure was unknown. There were no ethnic Lebanese members of Parliament.

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Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. More than 30 human rights NGOs were registered with NFHR, although only approximately 20 of these were said to be active. The majority of domestic human rights NGOs focused on human rights education, while only a few NGOs actively monitored and reported human rights abuses. The Campaign for Good Governance (CGG) oversaw widespread monitoring activities and has monitored human rights abuses in every province since 2000. CGG also undertook a conflict-mapping exercise that recorded more than 1,000 testimonies of victims and perpetrators of abuses during the war. The final report of this exercise was given to the Truth and Reconciliation Commission (TRC) and Special Court for use in carrying out these two institutions' respective mandates.

For the first time in years, human rights monitors were able to travel freely in previously rebel-held areas. Intensive reporting, data collection, and investigations started in these formerly inaccessible areas. Representatives of various international NGOs, foreign diplomats, the ICRC, and U.N. human rights officers were able to monitor trials and to visit prisons and custodial facilities during most of the year; however, the Government on occasion attempted to restrict such visits (see Section 1.c.).

UNAMSIL continued to operate regional human rights offices in the provincial capitals of Bo and Makeni in addition to the UNAMSIL Human Rights section in Freetown.

In July the U.N. Special Court for Sierra Leone, whose role is to try those who "bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law," began operations and was given 3 years to complete its mandate. By year's end, investigations had begun and construction had begun on court facilities in Freetown. It was not known when the first indictments would be made.

The TRC provided a forum for publicly airing the grievances of victims and the confessions of perpetrators from the civil war. The TRC began with three interim secretariats who initiated preparations for eventual public hearings. The TRC was delayed, partly by a lack of funding, but was expected to begin public hearings in March 2003. In the interim, commissioners and staff began an education campaign throughout the country. The TRC suffered from management problems that delayed the Commission's start date and resulted in the dismissal of nearly the entire interim secretariat staff. OHCHR provided an interim administrator in December to oversee a renewed hiring process. On December 4, 70 statement takers began collecting narratives throughout the country.

The U.N. and numerous NGOs, both domestic and international, continued to educate and sensitize the population about the TRC and the Special Court for Sierra Leone, and the Government supported these efforts.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination against women and provides for protection against discrimination on the basis of race and ethnicity; however, residents of non-African descent, particularly the Lebanese community, faced institutionalized political restrictions on the acquisition of citizenship.

Women

Domestic violence against women, especially wife beating, was common. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygyny was common. Women suspected of marital infidelity often were subjected to physical abuse. Frequently women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives' partners, the beatings often continued until the woman named several men even if there were no such

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relationships. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

Rape was recognized as a societal problem and was punishable by up to 14 years imprisonment. Cases of rape were underreported and indictments were rare, especially in rural areas. There were reports that former rebel forces continued to force women and girls to act as sex slaves. Medical or psychological services for rape victims were very limited. There were reports of the sexual abuse of refugees in refugee camps (see Section 2.d.).

FGM was practiced widely at all levels of society, although with varying frequency. The less severe form of excision was practiced. UNICEF and other groups estimated that 80 to 90 percent of women and girls had undergone the practice; however, local groups believed that this figure was overstated. FGM was practiced on girls as young as 5 years old. No law prohibits FGM. A number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects. However, active resistance by women's secret societies, in which FGM commonly occurred as part of initiation rites, countered the well-publicized international efforts against FGM.

On July 31, SLP officers arrested 10 women in Freetown in connection with the death of a 14-year-old girl following an FGM rite. The girl reportedly was found lying on the ground, bleeding from her genital area. All 10 women were suspected to be members of the Bundu secret society.

Prostitution was widespread. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves and their children.

The Constitution provides for equal rights for women; however, in practice women faced both legal and societal discrimination.

In particular their rights and status under traditional law varied significantly depending upon the ethnic group to which they belonged. The northern Temne and Limba tribes gave greater rights to women to inherit property than did the southern Mende tribe, which gave preference to male heirs and unmarried daughters. In the Temne tribe, women could not become paramount chiefs; however, in the Mende tribe, there were several female paramount chiefs. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas, women performed much of the subsistence farming and had little opportunity for formal education.

Women were active in civic and philanthropic organizations. Domestic NGOs such as 50/50 and Women's Forum raised awareness of gender equality and women's issues and encouraged women to enter politics as candidates for Parliament.

Children

The Government was committed to improving children's education and welfare; however, it lacked the means to provide them with basic education and health services. The Ministry of Social Welfare, Gender, and Children's Affairs had primary responsibility for children's issues.

The law requires school attendance through primary school. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency; most were not rebuilt by year's end. A large number of children received little or no formal education. Schools were financed largely by formal and informal fees, but many families could not afford to pay them. The average educational level for girls was markedly below that of boys, and only 6 percent of women were literate. At the university level, male students predominated.

FGM was performed commonly on girls (see Section 5, Women).

More than 6,000 child soldiers served alongside adults on both sides during the civil conflict, but in greater numbers on the rebel side. Some observers estimated that there were almost twice that many child soldiers. In 2001 the recruitment of children for military service by the CDF and the kidnaping and forced conscription of children into rebel forces ceased.

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The National Commission for Disarmament, Demobilization, and Reintegration listed 6,845 demobilized child combatants. Girls represented 8 percent of demobilized child soldiers, and 30 percent of reunified noncombatant separated children. Because U.N. and human rights monitors estimated that girls represented 50 percent of those abducted during the war and there were reports that the rebels released disproportionate numbers of boys, these groups fear that many girls continued to be held as sex slaves. UNICEF reported in August that almost 7,000 children, including nearly 5,000 ex-combatants and nearly 2,000 noncombatant separated children, had been reunified with their families. More than 3,500 children of both groups were engaged in formal and informal education programs. Others were in special transitional centers, which were designed to help provide for their unique mental and emotional needs prior to reunification with their families. There continued to be reports that some families and communities rejected the returnees because of their perceived involvement in rebel atrocities. Child protection agencies reported that hundreds of boys and girls did not participate in the formal demobilization process. Locating the families of released child combatants often was difficult, and some did not want to assume responsibility for their children, some of whom were mentally and emotionally incapable of rejoining their families.

Persons with Disabilities

There was no outright discrimination against persons with disabilities in housing or education; however, given the high rate of general unemployment, work opportunities for persons with disabilities were few. Public facility access and discrimination against persons with disabilities were not considered public policy priorities. Although a few private agencies and organizations attempted to train persons with disabilities in useful work, there was no government policy or program directed particularly at persons with disabilities. No law mandates accessibility to buildings or provides assistance to persons with disabilities. In May the Government made some effort to facilitate access to voting for persons with disabilities, particularly for the blind.

Some of the numerous individuals maimed in the fighting, or had their limbs amputated by rebel forces, received special assistance from various local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help them acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to ex-combatants, who received assistance through the demobilization process. Although the Lome Accord also called for the creation of a special fund to implement a program for rehabilitation of war victims, the fund had not yet been established by year's end. Attention to amputees increased the access of other persons with disabilities to health care and treatment.

National/Racial/Ethnic Minorities

The ethnically diverse population consisted of at least 13 ethnic groups. These groups all spoke distinct primary languages and were concentrated outside urban areas; however, all ethnic groups used Krio as a second language. Little ethnic segregation was apparent in urban areas. Interethnic marriage was common. The two largest ethnic groups were the Temne in the north and the Mende in the south. Each of these groups was estimated to make up approximately 30 percent of the population. There were reports of interethnic tension (see Section 1.f.).

Ethnic loyalty remained an important factor in the government, the armed forces, and business. Complaints of ethnic discrimination in government appointments, contracts, military commissions, and promotions were common.

Residents of non-African descent faced institutionalized political restrictions (see Section 3). Legal requirements for naturalization, such as continuous residence in the country for 15 years or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many long-term residents, notably members of the Lebanese community.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association, and in practice, workers had the right to join independent trade unions of their choice. Approximately 60 percent of the workers in urban

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areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers have met with little success. All labor unions generally joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership, but membership numbers declined as a percentage of all workers because of the virtual collapse of the small manufacturing sector. Police and members of the armed services were prohibited from joining unions.

The Trade Union Act provides that any five persons may form a trade union by applying to the registrar of trade unions, who has statutory powers under the act to approve the creation of trade unions. The registrar could reject applications for several reasons, including an insufficient number of members, proposed representation in an industry already served by an existing union, or incomplete documentation. If the registrar rejected an application, the decision could be appealed in the ordinary courts, but applicants seldom took such action.

The law does not prohibit antiunion discrimination against workers or employer interference in the establishment of unions; however, there were no reports of such cases during the year. An employee fired for union activities could file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions were made to a tribunal.

Unions were free to form federations and to affiliate internationally. The SLLC was a member of the International Confederation of Free Trade Unions (ICFTU).

b. The Right to Organize and Bargain Collectively

The Regulation of Wages and Industrial Relations Act provides the legal framework for collective bargaining. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. Most enterprises were covered by collective bargaining agreements on wages and working conditions. The SLLC provided assistance to unions in preparations for negotiations; in the case of a deadlock, the government could intervene. The Industrial Court for Settlement of Industrial Disputes began hearing cases in 2000; although most cases involving industrial issues continued to go through the normal court system, the Industrial Court heard more than 50 cases during the year.

Workers had the right to strike, although the Government could require 21 days' notice. There were several significant strikes in the public sector during the year. Most notably teachers and doctors went on strike over wages and unpaid salaries in the form of work stoppages and sick-outs. Teachers, doctors, and nurses went on strike during the year. Teachers struck in January, and nurses and doctors struck in February and March. According to the president of Sierra Leone Nurses' association, the Government eventually accepted 80 percent of the nurses' demands. Workers from Sierratel, a telecommunications parastatal, went on strike over refunds of pension benefits.

No law prohibits retaliation against strikers, even for a lawful strike; however, the Government did not take adverse action against the employees and paid some of them back wages.

There were no export processing zones (EPZs).

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced and bonded labor, including by children; however, forced labor remained a problem. Under the Chiefdom's Council Act, individual chiefs could impose forced labor as punishment, and have done so in the past. They also could require members of their villages to contribute to the improvement of common areas. This practice occurred only in rural areas. There was no penalty for noncompliance. There were reports of some bonded labor, possibly including labor by children, in rural areas.

Some women and girls, although in significantly less numbers than before, allegedly remained as sex slaves with former RUF rebels (see Section 5). There were reports that former RUF commanders continued to force children to mine diamonds (see Section 6.f.).

Liberian forces abducted persons for forced labor (see Section 1.b.).

d. Status of Child Labor Practices and Minimum Age for Employment

The official minimum age for employment was 18 years; however, children between the ages of 12 and 18 years could work in certain non-hazardous occupations, provided that they had parental consent. Due to a severe lack of resources, the Government was unable to implement these laws.

Children routinely assisted in family businesses and worked as petty vendors. Adults employed a large number of street kids to sell, steal, and beg. In rural areas, children worked seasonally on family subsistence farms. Hundreds of children, including those 10 years old and younger, mined in alluvial diamond fields. A majority of these children worked for relatives; however, some reportedly worked for former RUF commanders.

Because the adult unemployment rate remained high, few children were involved in the industrial sector. Foreign employers hired children to work as domestic laborers overseas at extremely low wages and in poor conditions. The Department of Foreign Affairs and International Cooperation was responsible for reviewing overseas work applications to see that no one under the age of 14 was employed for this purpose; however, the reviews were not effective.

The Constitution prohibits forced and bonded labor by children; however, such practices continued to exist (see Section 6.c.).

e. Acceptable Conditions of Work

The minimum wage was approximately \$10.50 (21,000 Leones) per month; it had not been adjusted since 1997. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. Most workers supported an extended family, often including relatives who were displaced by the insurgency in the countryside. It was common to pool incomes and to supplement wages with subsistence farming and child labor (see Section 6.d.).

The Government's suggested workweek was 38 hours, but most workweeks exceeded that figure.

Although the Government set health and safety standards, it lacked the funding to enforce them properly. Trade unions provided the only protection for workers who filed complaints about working conditions. Initially a union could make a formal complaint about a hazardous working condition; if this complaint were rejected, the union could issue a 21-day strike notice. If workers were to remove themselves from dangerous work situations without making a formal complaint, they risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, and there were reports that persons were trafficked from and within the country. Child prostitution was a problem (see Section 5). With the end of the war and the demobilization of child soldiers, trafficking in persons lessened significantly. The Government acknowledged unconfirmed reports of limited trafficking within and from the country; however, it lacked resources to address the problem adequately. There were no figures available on the extent of the trafficking problem.

During the year, the Government compelled the RUF to disarm, demobilize, and release its child soldiers; however, there were concerns that a significant number of children remained with their captors. It was likely that small groups of previously captured women and girls continued to be forced to act as sex slaves (see Section 5).

Unlike in the previous year, there were no reports that rebels abducted persons to work as servants or laborers in the diamond fields; however, there were reports that former RUF commanders continued to use children to mine diamonds. The Government had not yet asserted complete control over the diamond fields by year's end.

In July Liberian soldiers abducted men, women, and children and used them as porters and other unknown purposes (see Section 1.b.).

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SPECIAL COURT FOR SIERRA LEONE

**Before: Judge Bankole Thompson
Designated Judge**

Registrar: Robin Vincent

Date filed: 23rd April, 2003

THE PROSECUTOR

Against

ALEX TAMBA BRIMAH also known as (aka) TAMBA ALEX BRIMAH

aka GULLIT

CASE NO. SCSL – 2003 – 06 -PT

**CORRECTIONS TO THE RESPONSE OF THE DEFENCE TO THE PROSECUTION
MOTION FOR IMMEDIATE PROTECTIVE MEASURES FOR WITNESSES AND VICTIMS
AND FOR NON-PUBLIC DISCLOSURE**

Office of the Prosecutor:

**Lue Cote, Chief of Prosecutions
Brenda J. Hollis, Senior Trial Counsel
Nicholas Brown-Marke, Prosecutor**

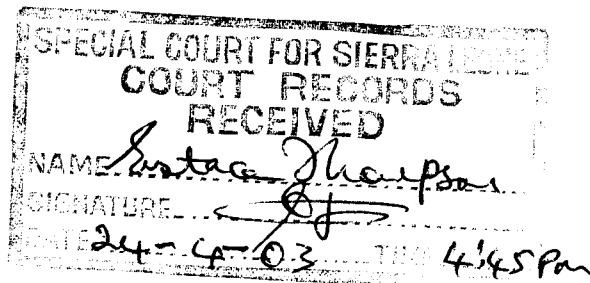
Defence Counsel:

Terence Michael Terry

**CORRECTIONS TO THE RESPONSE OF THE DEFENCE TO THE PROSECUTION
MOTION FOR IMMEDIATE PROTECTIVE MEASURES FOR WITNESSES AND VICTIMS
AND FOR NON-PUBLIC DISCLOSURE DULY REGISTERED AND FILED ON TUESDAY
22ND APRIL 2003 AT THE REGISTRY OF THE SPECIAL COURT FOR SIERRA LEONE**

The following pages, paragraphs and lines in respect of the Response filed by Counsel for the above accused on Tuesday 22nd April 2003 to the application made by the Prosecution Protective measures have been accordingly corrected and the corrected position is herein reflected as stated below:-

- (i) Page two (2) paragraph one (1), sub-paragraph two (2) lines six (6) and eight (8) respectively – in line (6) six the correct word is “merely” and in line eight (8) the correct word is “inclined”.
- (ii) Page three (3) paragraph four (4) line one (1). The phrase now reads – “mutatis Mutandis”
- (iii) Page four (4) paragraph one (1) lines five(5) and (6) – The phrase now reads – “Indeed this a serious flaw.”
- (iv) Page five (5) paragraph one (1) line six (6) – The word is “construction”
- (v) Page five (5) paragraph two (2) line one (1) the Letter ‘a’ after on – is deleted.
- (vi) Page twelve (12) paragraph one (1) line four (4). The word is compiled and not complied.



SPECIAL COURT FOR SIERRA LEONE

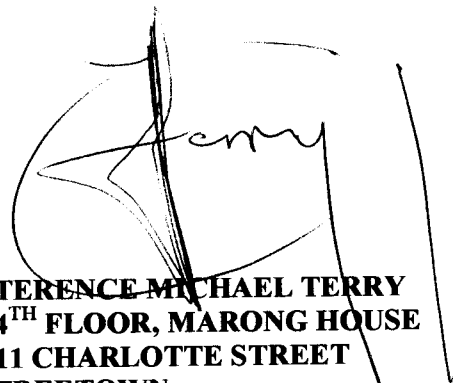
THE PROSECUTOR

V.

**ALEX TAMBA BRIMAH also known as (aka) TAMBA
ALEX BRIMAH aka GULLIT**

CASE NO. SCSL – 2003 – 06 -PT

**CORRECTIONS TO RESPONSE OF THE DEFENCE TO THE
PROSECUTION MOTION FOR IMMEDIATE PROTECTIVE MEASURES
FOR WITNESSES AND VICTIMS AND FOR NON-PUBLIC DISCLOSURE**



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