

Special Court for Sierra Leone
Press and Public Affairs Office

PRESS RELEASE

Freetown, Sierra Leone, 1 June 2004

Appeals Chamber rules recruitment of child combatants a crime under international law

The Appeals Chamber of the Special Court for Sierra Leone, in a majority decision, held Monday that the recruitment of child soldiers was a crime throughout the period of the Court's temporal jurisdiction.

The Special Court is mandated to try those deemed to bear the greatest responsibility for atrocities committed in Sierra Leone after 30th November 1996.

Defence Counsel argued on behalf of Sam Hinga Norman, who is currently in the Court's custody in Freetown, argued that it was not a crime under international law to recruit child soldiers at the time of the acts alleged in the indictment.

The Justices looked at both customary law and international conventions in reaching their conclusion.

In a summary of the decision, the Appeals Chamber stated:

"Prior to November 1996, the prohibition on child recruitment had crystallized as customary international law, as demonstrated by the widespread recognition and acceptance of the norm prohibiting child recruitment in these international instruments, reiterated in the 1990 African Charter on the Rights and Welfare of the Child."

The Appeals Chamber found that child recruitment was criminalized before it was explicitly set out as an international crime in treaty law and certainly by the time frame relevant to the indictments. "The principle of legality and the principle of specificity are both upheld".

Justice George Gelaga King, in a separate opinion, found that the Defence had failed in its duty to explain what it meant by "at the times relevant to the indictment". For this reason, Justice King felt unable to grant the declaration requested.

In a dissenting opinion, Justice Geoffrey Robertson found that the recruitment of child soldiers was not a crime under international criminal law until July 1998 with the adoption of the Rome Statute that established the International Criminal Court.

The Preliminary Motion was dismissed in accordance with the decision of the majority which means that alleged members of the Civil Defence Forces, whose trial begins in Freetown on Thursday, will face charges of child recruitment under Article 4(c) of the Court's Statute as set out in the indictments against them.

#END