

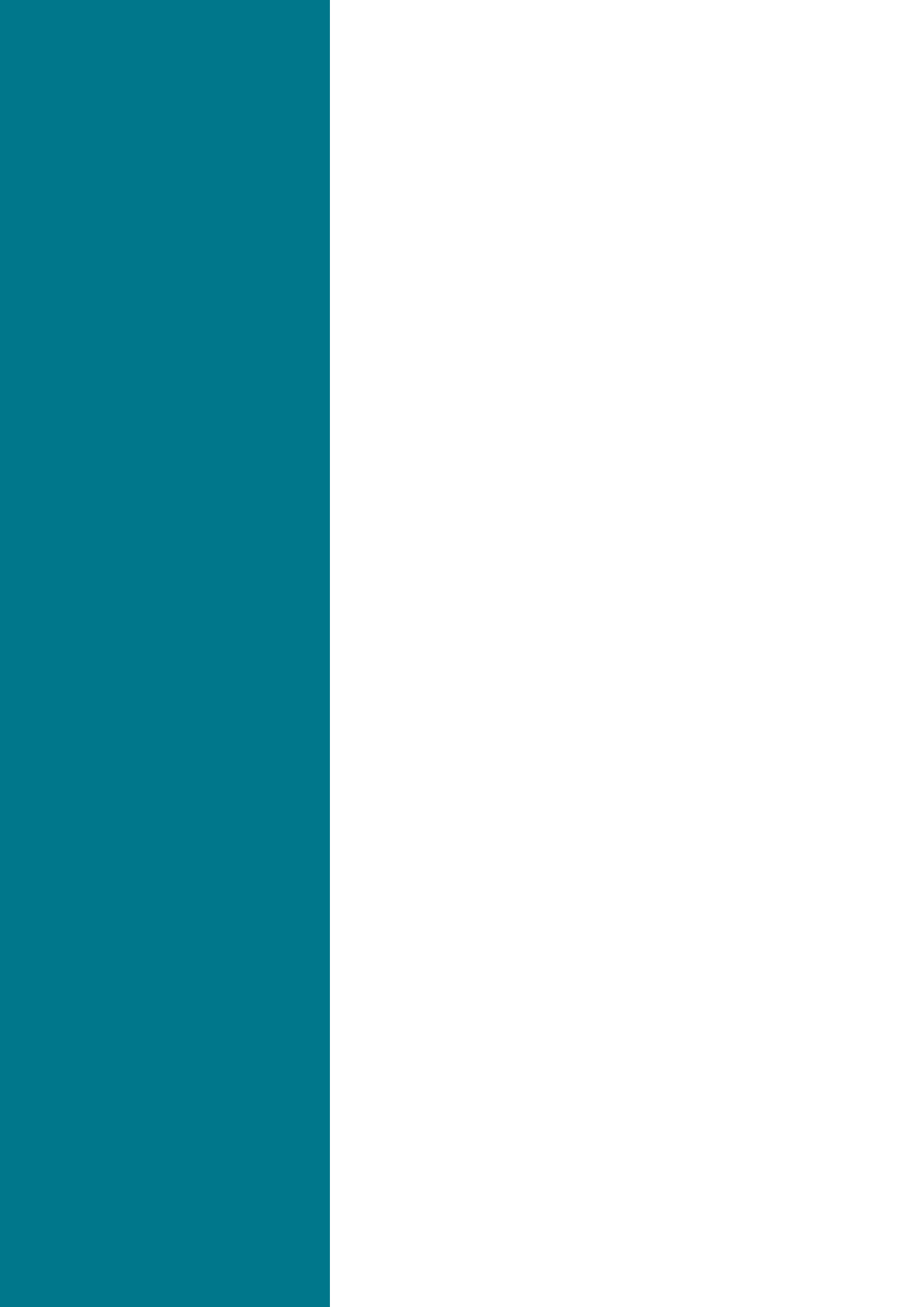
SEVENTH ANNUAL REPORT

of the President of the Residual Special Court for Sierra Leone



January – December 2020





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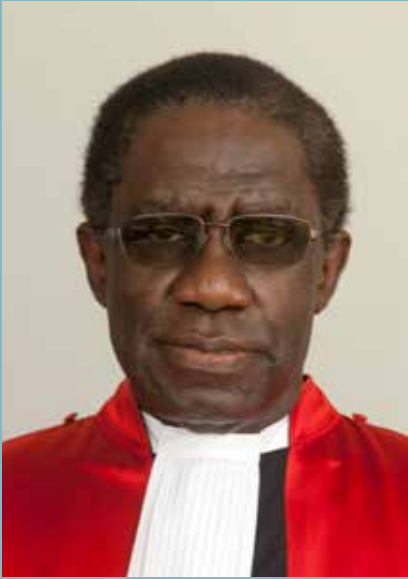


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Justice Jon Moadeb Kamanda

FOREWORD

Your Excellencies, Secretary-General Antonio Guterres and President Dr Julius Maada Bio:

It gives me great pleasure to submit to you the Seventh Annual Report on the activities of the Residual Special for Sierra Leone covering the period 1st January to 31st December 2020.

The Residual Special Court for Sierra Leone (hereafter referred to as “the Residual Special Court” or “the Court”) was established to carry out the functions of the Special Court for Sierra Leone (hereafter referred to as “the Special Court”) after its closure. The Residual Special Court is governed by its own Statute under which it has power to continue the jurisdiction, function, rights and obligations of the erstwhile Special Court. In this respect, the protection and support of victims and witnesses, the enforcement of sentences of convicted persons, and the maintenance and preservation of archives are amongst the Court’s core mandates. The introduction to this Report lays out in greater detail the composition, structure and functions of the Court.

Same as with other countries and institutions the world over, the Coronavirus pandemic (COVID 19) has had its effect on the operations of the Court. Staff at the Court’s offices in Freetown and The Hague have worked remotely from home for a considerable portion of the reporting period.

A particularly noteworthy effect of COVID 19 was the inability of the judges to meet in person to elect a new President and Vice President of the Court at the end of the incumbents’ terms in December 2020. The judges have, consequently, by rule amendment mandated the present holders, Justices Jon Kamanda (President) and Teresa Doherty (Vice President), to continue serving for one more year to 20 December 2021, or as soon as it is possible to hold an election, whichever occurs first.

One core ongoing function of the Residual Special Court is supervising the enforcement of sentence including overseeing the welfare of the Special Court convicted persons: four in Rwanda, one in the United Kingdom, and two in Sierra Leone under conditional early release. In the beginning of the reporting period, there were five Special Court convicted persons serving sentences in the Mpanga Prison in Nyanza, Rwanda and one in HMP Frankland in the United Kingdom. One of the convicted persons serving sentences in Rwanda, the first from the Revolutionary United Front, Augustine Gbao, was recently granted conditional early release and is now serving the remainder of his sentence within his community in Blama, Small Bo Chiefdom in Eastern Sierra Leone. Charles Taylor continues to serve his sentence at the HMP Frankland in the United Kingdom. Allieu Kondewa, former Civil Defence Forces convicted person, continues to serve the remainder of his sentence under conditional early release

in Bo, Southern Sierra Leone. The convicted persons continue to do well amidst the COVID 19 pandemic and none was infected by the virus. A related application by Charles Taylor – “Charles Taylor’s Request for Temporary Transfer to a Safe Third Country to Continue his Imprisonment Due to Massive Outbreak of COVID 19 in the United Kingdom” was dismissed by the Designated Judge on 4 September 2020.

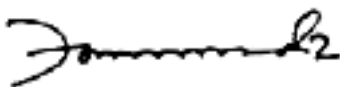
Other ongoing functions such as maintenance, preservation and management of the archives, witness protection and support, responding to requests for assistance to national prosecution authorities and requests for access to the Court’s records continued during the reporting period.

In January 2020 the Registrar and I, together with the judges present in Freetown, had the honour of welcoming Her Royal Highness Sophie, Countess of Wessex of the United Kingdom to the Sierra Leone Peace Museum (a legacy project of the Special Court), as part of a two-day programme of engagements on sexual and gender-based violence and Sierra Leone’s transition to a sustained peace after the civil conflict.

I wish to thank Your Excellencies for your support to the Court. To Justice Miatta Samba who was elected a judge of the International Criminal Court, I say congratulations on behalf of colleagues and the entire Court.

My colleague judges of the Court have given me their generous support for which I remain grateful. My appreciation also goes to several sections of the Court: the Registry, Office of the Prosecutor, the Defence Office and the staff in general.

As we await the return of normal times, I pray that we remain safe and in good health.



Justice Jon Moadah Kamanda

President

INTRODUCTION

The President of the Residual Special Court for Sierra Leone (Residual Special Court) issues this Seventh Annual Report (Seventh Report) pursuant to Article 26(1) of the Statute of the Residual Special Court (Statute) which states:

The President of the Residual Special Court shall submit an annual report on the operation and activities of the Residual Special Court to the Secretary-General and to the Government of Sierra Leone.

The report provides an update on the Residual Special Court's work, including the fulfilment of its primary mandate, and reports on the major activities of all sections of the Residual Special Court, namely the Chambers, the Office of the Prosecutor and the Registry including the Defence office, during the seventh year of its existence. It covers the period from 1 January to 31 December 2020.

PRIMARY MANDATE

The Residual Special Court was established pursuant to an Agreement dated 11 August 2010, between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone (the Agreement). The Agreement was ratified by the Sierra Leone Parliament on 15 December 2011 and signed into law on 1 February 2012.

Pursuant to Article 1(1) of the Agreement:

There is hereby established a Residual Special Court for Sierra Leone (the Residual Special Court) to

carry out the functions of the Special Court for Sierra Leone that must continue after the closure of the Special Court

Article 1(1) of the Statute annexed to the Agreement sets out the competence of the Residual Special Court as follows:

... the Residual Special Court shall: maintain, preserve and manage its archives, including the archives of the Special Court, provide for witness and victim protection and support, respond to requests for access to evidence by national prosecution authorities, supervise enforcement of sentences, review convictions and acquittals, conduct contempt of court proceedings, provide defence counsel and legal aid for the conduct of proceedings before the Residual Special Court, respond to requests from national authorities with respect to claims for compensation and prevent double jeopardy.

Furthermore, pursuant to Article 1(2) of the Statute:

The jurisdiction of the Residual Special Court is limited to persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996. That is, the Residual Special Court shall have the power to prosecute the remaining fugitive Special Court indictee Johnny Paul Koroma, if his case has not been referred to a competent national jurisdiction, and to prosecute any cases resulting from review of convictions and acquittals.

COMPOSITION AND STRUCTURE

In line with the Agreement, even though the Residual Special Court's principal seat remains in Freetown, it carries out its functions at an interim seat in the Netherlands with a sub office in Freetown for witnesses and victims protection and support. During the reporting period, the Residual Special Court was funded largely by United Nations subvention funds and very limited voluntary contributions.

Pursuant to Article 2 of the Agreement, the Residual Special Court maintained its composition of the Prosecutor, the Registrar and the Chambers consisting of 16 judges on a roster which includes the President. The Residual Special Court also has a Principal Defender whose services are engaged on an *ad hoc* basis. The President and judges continued to work remotely, or at the Court's principal or interim seat as required, and are remunerated on a *pro rata* basis.

SUMMARY OF ACTIVITIES

The Residual Special Court continued to successfully execute its mandate during the period under review. In line with its on-going functions which are managed by its offices in Freetown and The Hague, Residual Special Court activities carried out during the reporting period include:

- (i) Maintenance, preservation and management of the archives in both Freetown and The Hague;
- (ii) Witness protection and support including actively monitoring and providing support (psycho-social assessments, welfare and medical assistance) to former witnesses of the Special Court located in various regions of Sierra Leone and other countries;
- (iii) Several requests for assistance to national prosecution authorities including requests to take statements from convicted persons pursuant to the Practice Direction on the Procedure Following a Request to Take a Statement from a Person in the Custody of the Residual Special Court for Sierra Leone (Practice Direction on Statement Taking);
- (iv) Requests for access to the Court's records pursuant to the Residual Special Court for Sierra Leone: Records and Information Sensitivity, Classification, Changes in Classification, Handling and Access Policy (Access Policy);
- (v) Supervision and monitoring of prison sentences of convicted persons in Rwanda and the United Kingdom pursuant to enforcement of sentences agreements with the respective enforcement states; and
- (vi) Supervision of the terms of conditional early release of one convicted person in Sierra Leone and release of another convicted person who was granted conditional early release in September 2020.

The *ad hoc* functions for which the Residual Special Court will convene or act if required include:

- (i) The trial of Johnny Paul Koroma;
- (ii) Review of convictions and acquittals;
- (iii) Contempt of court proceedings;
- (iv) Defence counsel and legal aid issues;
- (v) Claims for compensation; and
- (vi) Prevention of double jeopardy.



*Justice Jon M. Kamanda,
RSCSL President*

THE OFFICE OF THE PRESIDENT AND CHAMBERS

JUDICIAL AND ADMINISTRATIVE MATTERS

The President, Hon. Justice Jon M. Kamanda, continued to work from the Freetown Office on administrative and judicial issues. During the 2nd quarter of the reporting period, the President worked mostly from home on account of the restrictions imposed by the Government of Sierra Leone due to the COVID 19 pandemic.

Decision on Application for Conditional Early Release – Revolutionary United Front (RUF) Convicted Person Augustine Gbao

On 10 January, the President issued a Decision on the application of the first of three RUF convicted persons serving their prison sentences in Rwanda to apply for determination of eligibility for consideration for conditional early release – (*Prosecutor v Augustine Gbao*, RSCSL-04-15-ES-1338, Decision of the President on Application to Determine Eligibility for Consideration for Conditional Early Release, 10 January 2020, see: www.rscsl.org). Augustine Gbao’s “Application to Determine Eligibility for Consideration for Conditional Early Release” was submitted in December 2019 in accordance with Article 4 of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone (Practice Direction on Conditional Early Release). Having considered the factors outlined in Articles 2 and 3 of the Practice Direction on Conditional Early Release, the President concluded that

he was eligible for consideration for conditional early release pursuant to Article 4, Paragraph (A) thereof. As ordered by the President, on 2 April, the Registrar filed copies of the reports and information received and a portfolio pursuant to Article 5 Paragraphs (A) to (H) of the Practice Direction on Conditional Early Release to assist the President in determining Augustine Gbao’s application for conditional early release. The information and portfolio were also provided to the judges with whom the President consulted on the application, the Prosecutor and the Principal Defender.

The President’s Decision on Augustine Gbao’s “Application for Conditional Early Release” was issued on 8 September - (*Prosecutor v Augustine Gbao*, RSCSL-04-15-ES-1346, Decision of the President on Application for Conditional Early Release, 8 September 2020, see: www.rscsl.org). Based on the record, and having considered the provisions of the Statute, Rules of Procedure and Evidence (Rules) and the Practice Direction on Conditional Early Release, particularly the requirements outlined in Article 8 Paragraph (D), and having consulted three of the judges who imposed the sentence on Augustine Gbao, the President found that Augustine Gbao had shown clear and convincing evidence that he will be a safe member of society and that he will comply with the terms imposed by a Conditional Early Release Agreement. The President found that Gbao had largely behaved properly in prison, not interfered with witnesses, had apologized for his crimes, had shown remorse, had completed sev-

eral educational programmes in prison on international humanitarian law, war crimes, crimes against humanity and human rights. He also received training on the rule of law and on general respect for law and order.

Augustine Gbao was granted conditional early release with a three-month delay for him to undergo specific training geared towards his understanding of and acceptance of responsibility for the harm he inflicted by his crimes and education on the conditions of his early release to ensure that he thoroughly understands the conditions imposed. The President ordered that upon certification of completion of this training by the Registrar, Augustine Gbao was to commence serving the remainder of his 25-year sentence in his community in Blama, Small Bo Chiefdom, Kenema District in the eastern region of Sierra Leone. In that period, he would be subject to strict conditions and close monitoring by the Sierra Leone Police and the Registrar's office.

The President imposed a number of "Special Conditions" in addition to the "General Conditions" set out in the *pro forma* Conditional Early Release Agreement annexed to the Practice Direction on Conditional Early Release. These included a requirement for Augustine Gbao to apologise on radio and television to the victims of his crimes and to the people of Sierra Leone. That apology was to include an acceptance of responsibility for his crimes and the harm they had caused to the peace process. He was also required to express remorse, commit to reconciliation and maintenance of peace in Sierra Leone, not associate with any ex-combatants or other persons convicted by the Special Court, cooperate with the Monitoring Authority (the Sierra Leone Police), obey all orders of the Special Court,

refrain from committing any crime and pose no threat to witnesses. Breach of any of the imposed conditions could lead to re-incarceration for the remainder of the prison term.

On 1 December, the Registrar certified Augustine Gbao's successful completion of the additional training ordered by the President, and confirmed his understanding of the contents of the President's Decision and the Practice Direction on Conditional Early Release. On 4 December, Augustine Gbao signed and executed a Conditional Early Release Agreement in accordance with Article 10 of the Practice Direction



Justice Doherty

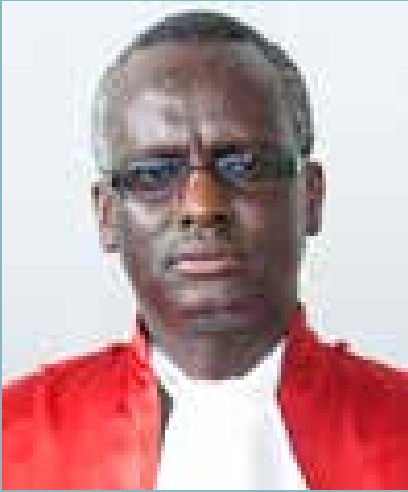
on Conditional Early Release. The President issued a Supervision and Transfer Order in the matter on the same date.

Charles Taylor's Request for Temporary Transfer to a Safe Third Country to Continue His Imprisonment Due to Massive Outbreak of COVID 19 in the United Kingdom

On 15 June, the President received a Motion from Counsel for convicted person Charles Taylor, former President of the Republic of Libe-

ria, entitled "Taylor's Request for Temporary Transfer to a Safe Third Country to Continue his Imprisonment Due to Massive Outbreak of COVID 19 in the United Kingdom" (Taylor Application). On 29 June, the President designated Justice Teresa Doherty to hear and determine all matters arising from the Taylor Application pursuant to Article 13(3) of the Statute and Rule 28 of the Rules. On 1 July, the Designated Judge issued Directions in the Taylor Application. These Directions included *inter alia* an amendment of the title of the proceedings to read "The Application of Charles Ghankay Taylor for Temporary Transfer to a Safe Third Country to Continue His Imprisonment Due to Massive Outbreak of COVID 19 in the U.K." They further instructed Defence Counsel to inform the Court of Charles Taylor's nationality or nationalities and to specify the "third and safe country outside the United Kingdom" to which he sought temporary transfer. These instructions were to be acted upon within eight days of service of the Directions on Charles Taylor. Charles Taylor did not comply. The Prosecutor's Response to the Taylor Application and the Submissions of the Registrar pursuant to Rule 33(B) of the Rules were also re-filed by order of the Designated Judge.

On 1 July, the Principal Defender, acting on behalf of Charles Taylor, filed "Principal Defender's Request for the Withdrawal and/or Recusal of Hon. Justice Teresa Doherty of the United Kingdom (UK) as the Duty Judge on the Application of Charles G. Taylor to be Temporarily Transferred to a Safe Third Country to Continue His Imprisonment Due to the Massive Outbreak of COVID 19 in the UK." (Recusal Application). The Recusal Application sought the recusal and/or withdrawal of Justice Teresa Doherty as Designated Judge on the basis that



Justice Lenaola



Justice Winter



Justice Samba

“the learned Justice is a UK national who had served as a judge in that country and nominated by that country to serve as a judge in the Residual Special Court. The Principal Defender argued that this created an appearance of “bias” akin to a person being a judge in his/her own cause. The Prosecutor’s “Motion Requesting Leave to Respond to the Recusal Request” was filed on 8 July and was granted by the Designated Judge on the same date. In his Response, the Prosecutor opposed the Recusal Application, arguing it should be dismissed as frivolous and raising a non-issue, or denied for lack of merit. The Principal Defender filed a Reply on 14 July.

On 24 July, Justice Teresa Doherty filed “Statement and Decision on Principal Defender’s Request for Recusal of Justice T. Doherty” stating that the facts relied on by the Applicant were incorrect, presenting the correct facts of her nationality, judicial appointments and nomination to the Residual Special Court, then citing jurisprudence to decline to withdraw from the Taylor Application pursuant to Rule 15(C) of the Rules. On 4 August, the President convened a Chamber pursuant to Article 13(1) of the Statute, which authorizes the President to convene a Trial Chamber consisting of two judges appointed by the Secretary-General and one judge appointed by the Government of Sierra Leone if the need arises. The Chamber, composed of Justices Renate Winter (Presiding), Isaac Lenaola and Miatta Samba, worked remotely to hear and determine the Recusal Application and all matters attendant thereto. On 24 August, the Chamber dismissed the Recusal Application in its entirety - (*In the Matter of the Application of Charles Ghankay Taylor, RSCSL-03-01-ES-1459*, Decision on Principal Defender’s Request for the Withdrawal and/or Recusal

of Hon. Justice Teresa Doherty of the United Kingdom (UK) as the Duty Judge on the Application of Charles G. Taylor to be Temporarily Transferred to a Safe Third Country to Continue His Imprisonment Due to the Massive Outbreak of COVID 19 in the UK, 24 August 2020, www.rscsl.org).

On 26 August, the Designated Judge issued Directions to the Registrar pursuant to Rule 33 requesting the Registrar to inform the Court of the nationality or nationalities of Charles Taylor. The Registrar complied pursuant to Rule 33 on 1 September and informed the Court of Charles Taylor’s nationality on record as Liberian only.

On 4 September, the Designated Judge dismissed the Taylor Application for the several reasons detailed in the Decision - (*In the Matter of the Application of Charles Ghankay Taylor, RSCSL-03-01-ES-1462*, Decision - The Application of Charles G. Taylor to be Temporarily Transferred to a Safe Third Country to Continue His Imprisonment Due to the Massive Outbreak of COVID 19 in the UK, 4 September 2020, www.rscsl.org). The Designated Judge did not consider that there had been any breach of Charles Taylor’s human rights. She found that the relief sought imposed an impossible or disproportionate burden on the authorities when the conditions of his detention already conform to all which “are judged ... reasonably, expected to avoid that risk,” and that he had not made a case warranting a direction for his transfer by the Court.

Complaint from Convicted Persons in Rwanda

The President received a letter of complaint dated 1 July, signed by four of the Special Court convicted persons serving their sentences at



Courtesy call on Attorney-General and Minister of Justice.

Mpanga Prison in the Republic of Rwanda. In the complaint, convicted persons Issa Hassan Sesay, Ibrahim Bazy Kamara, Santigie Borbor Kanu and Morris Hassan Kallon alleged a threat to their lives made by the Director of Mpanga Prison and the Commissioner-General of the Rwanda Correctional Service. They also alleged a breach of Paragraphs 4, 5, 6 and 11 of the Memorandum of Understanding between the Special Court and the Government of the Republic of Rwanda, dated 2 October 2009. In consequence of the said allegations, the convicted persons asked the President of the Court to set up an independent panel to investigate their complaints, or relocate them to Sierra Leone or any other country in West Africa where they would serve the rest of their sentences under more humane conditions guaranteed under international standards.

The President acknowledged their letter and requested an inquiry into the allegations to be conducted by the Registrar at the conclusion of which a report was to be submitted

to him. The Registrar conducted an investigation by virtual means and interviewed relevant persons including highly placed officials of the Government of the Republic of Rwanda, senior management of the Rwanda Correctional Services and the Mpanga Prison and Special Court convicted persons in Rwanda. On 20 August, the Registrar submitted a report with ten annexes on the outcome of the investigations to the President. In a letter dated 7 September addressed to the convicted persons, the President informed them that having carefully considered the Registrar's Report and a confidential report from the International Committee of the Red Cross (ICRC), he had found no merit in the allegations made and that accordingly, their request to be transferred to Sierra Leone or any other country in West Africa was denied.

Requests from National Prosecution Authorities

In collaboration with the Registrar, the President handled requests for

questioning of Special Court convicted persons by foreign states in accordance with the Practice Direction on Statement Taking. In February, the President granted the request of a state to interview two of the Court's convicted persons in connection with domestic proceedings that had been initiated.

The President also received a request from a state for judicial authorization to access judicial records of the Residual Special Court pursuant to the Access Policy. The President consulted with the Registrar, Prosecutor and Principal Defender as appropriate, the result of which was the granting of access to public judicial records but denial of same for confidential judicial records.

OTHER CHAMBER ACTIVITIES

Plenary Consultations and Rule Amendments

In June, the Registrar submitted a memo to the President, presenting him with various options for his consideration in determining an

appropriate format for holding a plenary of judges in 2020 to elect a new President upon the expiration of the two-year term of the incumbent President and Vice President in December 2020. The President and Vice President, in consultation with the Registrar, held remote deliberations with the judges (via email) on the possibility of hosting an in-person plenary for the judges to attend in December 2020. On 21 August and pursuant to Rule 6(A) (ii) of the Rules, the Registrar gave formal notice of a proposal by Justice Shireen Avis Fisher for amendments to Rule 18 and Rule 20 of the Rules on Election of the President and the Vice President, to the judges, the Prosecutor, the Principal Defender and to the Sierra Leone Bar Association. On 7 September, the Registrar submitted a Memo to the President and Vice President of the Court, presenting them with the responses to the proposed adoptions/amendments to Rules 18 and 20. These were circulated to the roster of judges for their consideration when voting on the proposed amendments.

On 20 October, the President of the Court sent an interoffice memo to the Registrar informing her of the adoption of the proposed amendments to Rules 18 and 20 of the Rules by a simple majority of 12 judges. The President of the Court directed the immediate publication of the adopted amendments, pursuant to Rule 6(D) of the Rules. These rule amendments extended the two-year term of the incumbent President and Vice President of the Court until a plenary can be convened for the judges to attend in person, or until 20 December 2021 (whichever occurs first).

Distribution of Copies of Sixth Annual Report

In June, in coordination with the Registry, copies of the Sixth Annual

Report of the Residual Special Court (2019 Annual Report) were distributed electronically to the Parties – the Secretary- General of the United Nations and His Excellency the President of the Republic of Sierra Leone, the diplomatic community and other organizations/partners of the Court in New York, The Hague and Freetown. This was followed by distribution of hard copies, which was delayed due to the COVID 19 pandemic.



Courtesy call on Inspector-General of Police.

Courtesy Calls on the Newly Appointed Attorney-General and Minister of Justice and the Inspector-General of Police

The President paid separate courtesy calls on the newly appointed Attorney-General and Minister of Justice (Hon Anthony Y. Brewah) and Inspector General of the Sierra Leone Police (Mr Andrew Sovula) during the period under review. The meetings were primarily to congratulate them both on their appointments, brief them on the activities of the Court and thank them for the continued cooperation and support of the Government of Sierra Leone and Sierra Leone Police, respectively.

Consultation on Re-appointment of Registrar

The President was consulted by the Under-Secretary for Legal Affairs of the United Nations for and on behalf of the Secretary- General and gave his concurrence to the re-appointment of the Residual Special Court Registrar upon expiration of her term of office in September 2020.

PRESENTATIONS/ENGAGEMENTS

On 22 January, the President and Registrar welcomed the Countess of Wessex of the United Kingdom on a visit to the newly refurbished Sierra Leone Peace Museum as detailed in the Registry Section of this Report.

In January and February, Justice Renate Winter engaged the following countries in her capacity as Vice President of the United Nations Committee on the Rights of the Child (CRC) during the reporting period: Belarus and Hungary (on child marriages among minorities), Costa Rica and Cuba (on child soldiers), Rwanda (on child marriages taking place due to customs, and child soldiers), Palestine and Djibouti (on child soldiers and child marriages allowed by religion), Madagascar (on child marriages taking place due to customs), Cuba (on child soldiers), Somalia and Gambia (on child marriages allowed by religion, and child soldiers), Zambia, Micronesia and Tuvalu (on child marriages taking place due to customs). Justice Winter also chaired a seminar for judges from the Republic of Georgia on the international legal system at the Supreme Court in Tbilisi.

Justice Shireen Avis Fisher represented the President and the Residual Special Court at the Internation-



Courtesy call on Inspector-General of Police.

al Criminal Court (ICC) opening session and seminar held on 23 January in The Hague, the Netherlands. The session was opened in the main courtroom in which all the ICC judges, prosecutors and several representatives of the defence and Victims' Bar were present. The court principals and the President of the ICC Bar Association spoke of their hopes for the future of the Court. The keynote speaker was the Rt Honorable Patricia Scotland, Commonwealth Secretary-General, who pledged the continued support for the ICC and the cause of International Justice on behalf of herself and her organization, and promised to continue to urge those Commonwealth members who had not signed the Rome Statute of the International Criminal Court to do so. In February, Justice Teresa Doherty joined Justice Renate Winter at the Supreme Court in Tbilisi, Georgia in a seminar for Georgian judges. Justice Doherty spoke on the procedures for appointment of judges to the international courts, and gave the contrasting numbers of male to female judges on the tribunals and courts in both the international and

regional courts. Justice Doherty contrasted earlier appointments to such courts as the ICC to current attitudes to qualifications that are sought in appointees. In other sessions, she spoke on the application of the international treaties and conventions in domestic courts and on the procedures adopted and applied to protect victims and witnesses in the international tribunals which



Courtesy call on Attorney-General and Minister of Justice.

can be applied in domestic courts. Other speakers spoke about the international conventions applicable in Georgia, in particular the Council of Europe Convention on Preventing and Combatting Violence Against Women and Domestic Violence (Istanbul Convention).

In March, Justice Teresa Doherty also gave a talk to a St Columba women's church group of Northern Ireland on her work and on the development of international criminal law by the Special Court.

In August, Justice Teresa Doherty wrote a preface to the book *Intersections of Law and Culture at the International Criminal Court* edited by Professors Fraser and McGonigle of Leiden University, the Netherlands. It is a compendium of works by various writers on the impact of culture in the ICC. Justice Doherty emphasised the diversity of customs and cultural norms which may impact on witnesses giving evidence, and how judges must be aware of these in their assessment of evidence. She showed that these issues might not only arise in the ICC, but



*Courtesy call on Chief Justice
Desmond B Edwards.*

have arisen, in her experience, in both the Special Court and in the national courts. She illustrated her points from actual experiences, for example, how a word may have a different meaning for the speaker, the listener, counsel and judges or that culture may not permit a person to use certain words or expressions.

Justice Doherty also wrote a chapter in a book titled *Identity and Diversity on the International Bench: Who is the Judge?* It was published by Pluricourts and the University of Oslo in September 2020. Her chapter was entitled “The Contribution of Women Judges and Prosecutors to the Development of International Criminal Law.” It notes that, in common with national courts, few female judges were appointed to the benches of the first international criminal tribunals, and that this reflected a negative attitude toward women judges in many national jurisdictions. Also, judges from some common law jurisdictions brought attitudes concerning crimes of sexual violence which came from the British colonial legal systems and which were continued after independence. The appointment of women judges to the International Criminal Tribunal for the former Yugoslavia (ICTY), International Criminal Tribunal for Rwanda (ICTR) and Special Court resulted in an active contribution by them to the development of international criminal law, as is shown in those courts’ jurisprudence. Women judges have been noted for advancing the existing law through interpretation of international law and its application to the evidence before the court. The chapter also notes that with the appointment of women investigators and prosecutors, more prosecutions for crimes of sexual violence were laid before the tribunals. This was important, as it progressively developed a field of law that had until then not been ad-

judicated upon before international courts. Other contributors to the book include Justice Navi Pillay and Justice Liznaard of the International Tribunal for the Law of the Sea.

Justice Miatta Maria Samba was elected to serve as a judge in the ICC from 2021 to 2030 on 21 December. Justice Samba, a distinguished judge of the Sierra Leone Court of Appeal, is one of six judges appointed to the Residual Special Court by the Government of Sierra Leone. Her tenure of office at the ICC commences in the spring of 2021. The President and Registrar congratulated Justice Samba on behalf of the Court.

Justice Andrew Hatton concluded a four-year term of office as Dean of the Judicial College and Director of Judicial Training in the United Kingdom on 1 September, and returned to full-time sitting as judge at the Bradford Combined Court, where he is dealing with criminal and family cases. During his tenure as Dean, Judge Hatton conducted trainings with the Judiciary of Sierra Leone in which judges of the Residual Special Court participated.

On 16 December, the Senior Legal Officer in Chambers participated in a roundtable discussion on the jurisprudential legacy of the Special Court in a well-attended symposium organized by the Centre for International Law and Policy in Africa (CILPA). The symposium, which was held at the Sierra Lighthouse Hotel in Aberdeen, Freetown brought together lawyers, academics and civil society activists to discuss various facets of the legacy of the Special Court. The Registrar made a brief statement on behalf of the Court. Also in attendance and participating in the roundtable discussions were the Principal Defender and the Prosecution Legal Adviser/Evidence Officer.

THE OFFICE OF THE PROSECUTOR

The Office of the Prosecutor functioned partially normally during the year under review due to the COVID 19 pandemic situation. The Prosecutor worked wholly remotely during the period while the Prosecution Legal Adviser worked partially remotely.

THE PROSECUTOR

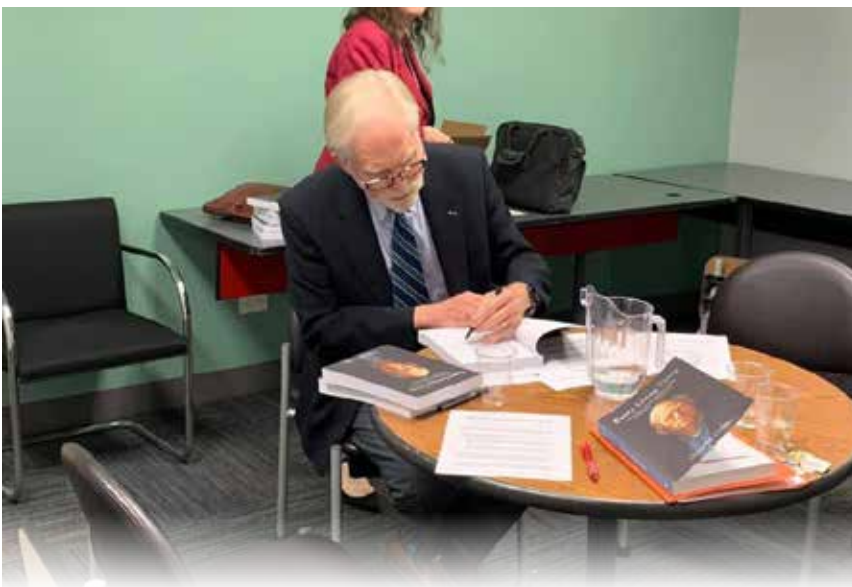
On 25 February, the Prosecutor and the Registrar were hosted by the New York University School of Professional Studies Center for Global Affairs (CGA) in a panel to discuss the legacy of the Special Court. Also participating in the panel was the first Special Court Prosecutor, David M. Crane. The panel, titled “The Little Court That Did – The Legacy of the Special Court for Sierra Leone,” was moderated by CGA Professor Jennifer Trahan, and introduced by CGA Adjunct Professor Andras Vamos-Goldman, who also had served as founding chair

of the Special Court Management Committee. The panel examined the accomplishments and legacy of the Special Court, as well as its remaining work in its “residual mechanism” phase. The panel additionally showcased David Crane’s recently published book, *Every Living Thing: Facing Down Terrorists, Warlords, and Thugs in West Africa – A Story of Justice*, which recounts his years as first Chief Prosecutor of the Special Court.

On 4 March, the Prosecutor interviewed centenarian Nuremberg War Crimes Prosecutor Ben Ferencz at his home in Florida. The meeting was intended to elicit from Ben Ferencz highlights of his recollection on his work as a prosecutor at Nuremberg and their relevance to the Special Court’s work, a modern war crimes court. Material from this interview was to be used in Residual Special Court’s pending project on writing the Special Court’s lega-



Prosecutor James Johnson



Former Special Court Prosecutor David Crane autographing his book.



Prosecutor, Registrar - Panel Discussion on Legacy of Special Court hosted by NYU.

cy. During the year, the Prosecutor worked on issues requiring close coordination and direction in research with his Legal Adviser. These include addressing ongoing requests for assistance, coordinating with a national investigative authority on matters relating to an Office of the Prosecutor-Special Court (OTP-SCSL) relocated witness, and preparing a response to convicted prisoner Charles Taylor's "Prosecutor v Charles Ghankay Taylor: Taylor's Request for Temporary Transfer to a Safe Third Country to Continue his Imprisonment Due to Massive Outbreak of COVID 19 in the United Kingdom," (Taylor Application as reported in the President's Office and Chambers section above).

The Prosecutor and his Legal Adviser also worked on filing a response to a motion by the Principal Defender for the Withdrawal and/or Recusal of Justice Teresa Doherty, the Designated Judge presiding on the Taylor Application.

In May, following receipt of information indicating a potential breach of the OTP-SCSL's confidentiality code for present and former staff which may have exposed witnesses and sources to risk of danger, the Prosecutor appointed an Independent Investigator to conduct a preliminary inquiry relating to a particular alleged incident, and make recommendations. The inquiry, intended to last about a month, was yet to be concluded by the end of the reporting period due to unexpected difficulties being faced regarding cooperation from sources and witnesses.

On 8 August, the Prosecutor participated in a webinar commemorating the 75th Anniversary of the signing of the London Agreement and Charter of the International Military Tribunal (Nuremberg Charter). The webinar included Ben Ferencz, the only living Nuremberg Prosecutor, and other panellists from New York, London and Nuremberg.

On 22 October, the Prosecutor participated in the Mid-Year Meeting of the American Society of International Law by moderating a panel on "The Future of International Criminal Law."

CONDITIONAL EARLY RELEASE

Following the President's decision on Augustine Gbao's application for determination of eligibility for consideration for conditional early release on 10 January, the Prosecutor directed the Prosecution Legal Adviser to proceed on a mission trip to Sierra Leone to contact prosecution witnesses and victims and ascertain their views, including any concerns they may have about their security relating to the application. During the mission (27 January – 10 February), the Prosecution Legal Adviser interviewed 20 witnesses across the country. The Prosecutor subsequently incorporated the information collected in his written submissions to the President under

Article 5 Paragraph (G) of the Practice Direction on Conditional Early Release.

REQUESTS FOR ASSISTANCE/ INFORMATION

During the year under review, the Office of the Prosecutor received and responded to a total of seven new requests for assistance from national prosecution authorities. In addition, the Prosecutor continued to engage with the Registrar in a collaborative effort to provide responses on follow-up issues from an ongoing situation involving an OTP-SCSL protected witness. Among the follow-up issues were requests by the national prosecution authority concerned to interview four Special Court convicted persons in prison. The Prosecutor filed responses expressing his views on three of the requests to the President. In light of the commencement of criminal proceedings by that national prosecution authority against the former witness, the Office of the Prosecutor has continued to provide responses/assistance to requests for information on a rolling basis. This assistance continued to the end of the reporting period. Among the follow-up requests handled by the Office of the Prosecutor were two from other national prosecution authorities on matters that had previously been responded to.

ARCHIVING

The audit of physical prosecution records kept at the Dutch National Archives (Audit Digitization Project) begun in 2019 was completed in the third quarter of the year under review. In addition to ensuring accuracy in the descriptive information on individual files, the exercise also focussed on scanning records not previously scanned into the database. The exercise had not included adding descriptive notes or

enriching the metadata on the records being scanned into the TRIM database. A follow-up project for this, put forward by the Consultant Archivist, was approved by the Prosecutor and was already underway by the end of the reporting period.

OTHER ACTIVITIES

In June, the Prosecution Legal Adviser was one of four panel members invited to speak in a webinar organised by the British Nigerian Law Forum (BNLF) on the topic “International Justice and Africa.” The Prosecution Legal Adviser spoke on the jurisprudential achievements of the Special Court and their benefits for advancing international justice in Africa. He also shed light on the work of the Residual Special Court.

In June, July and September the Prosecution Legal Adviser, working together with Registry-contracted Legal Officer Melissa Ruggiero, held virtual meetings with their counterpart legal officers at embassies and missions in The Hague. The meetings, which covered Ghana, El Salvador, Morocco, Costa Rica, Chile, Botswana, Algeria, Georgia and Bangladesh, were part the Residual Special Court’s ongoing fundraising efforts. The meetings typically involved providing a briefing or information update about the work and achievements of the Special Court and its successor, the Residual Special Court.

The Office of the Prosecutor benefitted from the assistance of an intern, Laura Graham, from the United States of America. She provided assistance to the Independent Investigator in his preliminary inquiry on the suspected breach of the OTP-SCSL’s confidentiality code for former staff, and wrote drafts on legal issues likely to be raised before the Court by convicted persons.



Registrar Binta Mansaray

THE REGISTRY

In accordance with Article 15 of the Statute, the Registrar provided assistance to the respective organs and carried out the administration and servicing of the Residual Special Court. The following activities were conducted between 1 January and 31 December.

WITNESSES AND VICTIMS SECTION (WVS)

In the first quarter, the Witnesses and Victims Section of the Residual Special Court (WVS) in Freetown actively monitored and provided support to 72 former witnesses of the Special Court located in various regions of Sierra Leone and in other countries. The support provided includes psycho-social assessments, welfare and medical assistance to vulnerable witnesses. The WVS also continued to maintain updated information with respect to witnesses, such as their legal status, entitlements, and requirements for extensions of stay in the states where some have been relocated. In addition, WVS maintained contact with relevant authorities and agencies that provide support to the Court's witnesses.

In March, Sierra Leone's President declared a 12-month public health emergency to tackle the COVID 19 pandemic. Following the outbreak of COVID 19, the witness protection team switched to providing limited support to witnesses to a large extent by phone. The WVS staff provided information to protected witnesses and victims on COVID 19, and advised them on steps to take in the event of an infection or other medical complaints, based on guidelines issued by the Government of Sierra Leone.

Under the leadership and supervision of a witness expert, and at the request of a state hosting one of the Residual Special Court relocated witnesses, the WVS conducted a threat assessment of the witness and his family in two countries in the West African sub-region. In coordination and consultation with the Registrar and the Prosecutor, the witness expert submitted a report of the assessment to the relevant state in early March.

On 10 March, Gibril Massaquoi, a Sierra Leone national and former Special Court witness, was arrested in Tampere, Finland by the Finnish police, who suspect that he committed war crimes and crimes against humanity in Liberia between 1999 and 2003. The crimes he allegedly committed include murder, sexual violence, and the recruitment and use of child soldiers. Gibril Massaquoi testified before the Special Court in the Armed Forces Revolutionary Council (AFRC) case in 2005.

ENFORCEMENT OF SENTENCES

The Residual Special Court continues to monitor the enforcement of sentences imposed by the Special Court, pursuant to enforcement of sentences agreements with relevant states.

Following the death of convicted person Alex Tamba Brima in 2016 and the completion of Moinina Fofana's 15-year sentence in May 2018, seven Special Court convicted persons continued to serve their sentences in three countries in 2020—five in Rwanda (Issa Hassan Sesay, Morris Kallon, Augustine Gbao,

Ibrahim Bazy Kamara, Santigie Borbor Kanu), one in the United Kingdom (Charles Taylor) and one in Sierra Leone (Allieu Kondewa) on conditional early release.

As detailed in the Office of the President and Chambers section, on 10 January, the President issued his public decision pursuant to Article 4 of the Practice Direction on Conditional Early Release, in which he determined that Augustine Gbao was eligible to apply for consideration for conditional early release. On 25 February 2009, Augustine Gbao was found guilty on 14 of the 18-count indictment for war crimes, including acts of terrorism, collective punishments, murder, outrages upon personal dignity, cruel treatment and pillage, and crimes against humanity, which included extermination, murder, rape, sexual slavery, forced marriage, other inhumane acts and enslavement; and other serious violations of international humanitarian law, namely attacks against United Nations peacekeepers. On 26 October 2009, the Special Court Appeals Chamber overturned his conviction for collective punishments, but confirmed his 25-year sentence.

Following the President's public decision of 10 January, the Registrar's Office opened consultations with the Mpanga Prison authorities and other stakeholders to obtain information necessary for the compilation of the Registrar's Portfolio as ordered by the President, and pursuant to Article 5 of the Practice Direction on Conditional Early Release. The Registrar's Office also consulted with stakeholders in Sierra Leone, including the Sierra Leone Police, which serves as the Monitoring Authority for conditional early release.

WVS staff, short-term contractors and civil society representatives

undertook separate field missions in different parts of Sierra Leone to meet with victims, witnesses, local authorities and community members to compile information required for the submission of the Registrar's Portfolio on Augustine Gbao's application for conditional early release. The missions also created an opportunity to further educate the witnesses and victims about the Residual Special Court conditional early release rules and policy. All field missions were completed, and reports prepared by March.

On 2 April, the Registrar submitted information received and a portfolio to the President in accordance with the provisions of Article 5 Paragraphs (A) to (H) of the Practice Direction on Conditional Early Release. On 8 September, the President granted Augustine Gbao's application for conditional early release, subject to a three-month delay, during which time he undertook specific training geared to his understanding and acceptance of responsibility for the harm he inflicted by his crimes. The training was conducted virtually by the Principal Defender's Office in collaboration with the Director of Prisons and the Rwanda Correctional Services Liaison Officer for Residual Special Court matters. Upon certification by the Registrar that Augustine Gbao had completed this training, the President issued a Transfer and Supervision Order, following which he was transferred to serve the remainder of his 25-year sentence in his community in Blama, Small Bo Chiefdom, Sierra Leone. Augustine Gbao will serve his conditional early release under strict conditions laid out in the Practice Direction, and additional conditions imposed by the President. He was required to report weekly to the Monitoring Authority for the first six months, and then once every two weeks for the remainder of the duration of the

conditional early release period.

RWANDA

With regard to enforcement of sentences in Rwanda, the Registry continues to work closely with the Rwanda Correctional Services to monitor the enforcement of sentences of the five remaining convicted persons at Mpanga Prison in Rwanda. Additionally, through the Defence Office, the Residual Special Court continues to respond to specific requests from the convicted persons.

With reference to the complaints made by convicted persons as detailed in the President's Office and Chambers Section, the Registrar served the President's finding on the convicted persons, and the relevant authorities in Rwanda and Sierra Leone. The Registrar also opened consultations with the Mpanga Prison authorities, the convicted persons, the Principal Defender and other relevant parties, with respect to implementing the recommendations contained in the Report on the Inquiry adopted by the President.

The International Committee of the Red Cross (ICRC), which serves as the independent monitoring authority for convicted persons serving their sentence in Rwanda, submitted its confidential report to the President of the Court in August. The Report presents their findings on the annual inspection visit to Mpanga Prison, which took place in July 2020.

UNITED KINGDOM

Charles Taylor, the former President of Liberia, continues to serve his sentence in the United Kingdom for planning and aiding and abetting the commission of war crimes and crimes against humanity in Sierra Leone during the armed con-

flict that ended in 2002. During the course of 2020, the Registrar continued to coordinate, as necessary, with prison authorities and the Defence Office on various matters relevant to Charles Taylor's service of sentence.

In early March, the Residual Special Court Prison Adviser conducted the Court's annual visit to the United Kingdom and met with prison officials and Charles Taylor.

SIERRA LEONE

Since July 2018, Allieu Kondewa has continued to serve his conditional early release in his community in Bo, in the Southern Province of Sierra Leone. The Office of the Registrar continues to work closely with the Sierra Leone Police and the Principal Defender to monitor his compliance with the terms and conditions of his release. No incident was reported over the reporting period as Allieu Kondewa has been complying fully with the terms and conditions of his conditional early release. Provided he continues to strictly comply with all of his conditions, Allieu Kondewa will remain on conditional early release until completion of his sentence in 2023.

ASSISTANCE TO NATIONAL AUTHORITIES

In keeping with the aspect of its mandate relating to the provision of assistance to national prosecuting authorities, the Residual Special Court received and responded to several requests for assistance from national authorities in 2020.

Following the President's decision in February, granting the request of a state to interview two of the Court's convicted persons as reported in the Office of the President and Chambers Section above, the Registrar in consultation with the pris-

on authorities in Rwanda and the Requesting Authority ensured that logistical arrangements were made to facilitate the interview of the two convicted persons. A second request was received from the Requesting Authority to once again interview the five convicted persons in Rwanda. The request was forwarded to the convicted persons and their counsel. The President, Prosecutor and Principal Defender were notified of the Request. No response from the convicted persons was received by the end of the reporting period.

During the second and third quarters, the Registrar, in consultation with the Office of the Prosecutor, a witness expert and the Principal Defender, continued to provide assistance to states requesting information from the Court in connection with domestic investigations and proceedings.

MAINTENANCE OF ARCHIVES AND COURT MANAGEMENT

The archivists continued to archive all Special Court final documents and data and identify and correct gaps in the record.

The original archives of the Residual Special Court continue to be maintained at the Dutch National Archives (*DNA*) in The Hague. The archiving team has additionally responded to requests and provided information internally and to external parties that have expressed interest in the work of the Court. Such requests relate to, *inter alia*, judicial filings before the Special Court. In The Hague, the archivists continued to audit, review and scan the records of the Office of the Prosecutor. They also responded to queries regarding employment verification and access to information. Reproduction of the Public Archives continued in

Freetown in order to make records available to the public in Sierra Leone. The implementation of a project for making them accessible to the public in Sierra Leone commenced in 2020 and it will be completed in the first quarter of 2022. The project is funded by the Canadian Government.

THE PUBLIC ARCHIVES AND SIERRA LEONE PEACE MUSEUM PROJECT

The Public Archives of the Special Court, alongside the records of the Truth and Reconciliation Commission, continue to be located at the Sierra Leone Peace Museum. The Museum serves as a centre for the promotion of human rights, and a historical and memorial site to honour the victims of the 11-year armed conflict that took place in Sierra Leone in the 1990s. After the launching of the refurbished Sierra Leone Peace Museum in Freetown on 10 December 2019, the Museum continued to receive visitors in the first quarter of 2020 before it closed to the public as a result of the COVID 19 pandemic.

Her Royal Highness Sophie, Countess of Wessex of the United Kingdom, visited the Sierra Leone Peace Museum in January. The Countess was welcomed by the Residual Special Court President and judges in Freetown, along with the Registrar. The visit was part of the Countess' two-day programme of engagements focusing on addressing sexual and gender-based violence, as well as exploring how Sierra Leone has successfully transitioned to a sustained peace after the 11-year armed conflict. This includes learning about the role of the Special Court and the Truth and Reconciliation Commission in bringing justice to survivors of the conflict, in particular survivors of sexual violence. The Countess was given a tour of



UK's Countess of Wessex tour of the Peace Museum.



UK's Countess of Wessex tour of the Peace Museum.



UK's Countess of Wessex tour of the Peace Museum.



Countess of Wessex signing visitor's book.

VISIT OF THE COUNTESS TO THE PEACE MUSEUM



the Museum by the Registrar. She viewed the Public Archives and she received briefings on the content of the archives. The Countess also viewed war-related materials showcasing crime scenes, stories of survivors of multiple atrocities such as rape and sexual violence, photos of individuals who were convicted by the Special Court for bearing the greatest responsibility for the commission of those crimes. The Countess held a face-to-face meeting with survivors of sexual violence. She also used the Museum as a venue for holding some of the other meetings on her agenda. She concluded her tour of the Museum by signing the visitor's book.

Also, in January, a delegation of Sierra Leone Human Rights Commissioners led by the Chair visited the Museum. They toured the Museum and among others viewed the archives, war-related artefacts, and the Truth and Reconciliation Commission National Vision Project.

Students of the International Secondary School in Freetown who expressed interest in learning about the war, its aftermath and transitional justice also visited the Museum in the first quarter.



Visit of Sierra Leone Human Rights Commissioners to the Sierra Leone Peace Museum.

In December, under the Outreach and Peace Museum Project funded by Finland, the Registry organized school visits to the Museum. The objective of the visit was to apprise young pupils in upper primary and secondary schools with information about the war, its causes, and the work of the Truth and Reconciliation Commission as contained in the Public Archives at the Museum. The outreach contractors gave the pupils short lectures in groups of 60, while observing public health protocols. The students asked questions about the causes of the war, the crimes committed and the per-

petrators. They were given a guided tour of various sections of the Peace Museum including artefacts, war crime scenes, war victims, and replicas of the mode of dress of the warring factions RUF, AFRC and Civil Defence Forces (CDF).

A total of 188 students from the following schools visited the Museum in December: Albert Academy, Annie Walsh Memorial Secondary School, Amariah Municipal Secondary School, Bishop Johnson Memorial Secondary School, King Fahad Islamic Secondary School, Ahmadiyya Muslim Secondary School, Government Rokel Secondary School, Sierra Leone Muslim Congress Secondary School, Ansarul Islamic Secondary School, Oxford International High School, and the Sierra Leone International Mission School.

Thirty-five members of a university student group called "Life after University" from Fourah Bay College also visited the Museum. They were briefed on the work of the Museum and the work of the Court by the Senior Legal Officer in Chambers.



Visit of Sierra Leone Human Rights Commissioners to the Sierra Leone Peace Museum.

VISITS OF SCHOOLS TO THE PEACE MUSEUM







Staff in Freetown.

STAFFING

While the Residual Special Court functions as a streamlined organization with minimal staff, its operations continue to require a diversity of skills to manage the workflow of its mandate.

The Registrar retained the services of certain individuals who have previously worked for the Special



Prosecution Legal Adviser.

Court, at a minimal or no cost. In 2020, these included a press officer, a detention officer and a communication and information technology services officer, all of whom were brought in as needed to complete a variety of tasks and projects.

In February, due to the Court's shortage of personnel, the Registrar requested the services of a former staff member who now works with the International Residual Mechanism for Criminal Tribunals (IRMCT), to serve as Residual Special Court Legal Officer to supervise the interview of two of the convicted persons in Rwanda, in accordance with the Practice Direction on Statement Taking. The interview was conducted in February by the Requesting Authority, with respect to allegations of war crimes which may have been committed in the Republic of Liberia from 1999 to 2003.

Also in the first quarter, short-term contractors were hired to assist the Office of the Prosecutor, Defence Office and the Registrar's Office

with the conduct of field missions to seek and document the views of various stakeholders on Augustine Gbao's application for conditional early release.

In May, at the recommendation of the Prosecutor, an intern from Case Western University was recruited to assist the Office of the Prosecutor in the execution of its mandate. Two interns from Case Western University were also recruited to assist with legal research and drafting required for the Residual Special Court's Legacy Project. The two interns held virtual interviews with both current and former principals of the Special Court and Residual Special Court, and completed their assignment in August. At the end of their assignment a farewell meeting was held with the interns to thank them for their contribution to the work of the court.

In July, an associate legal officer was recruited to assist Justice Teresa Doherty, who was designated by the President to hear and determine "Taylor's Request for Temporary



Contractors in Freetown.

Transfer to a Safe Third Country to Continue His Imprisonment Due to Massive Outbreak of COVID 19 in the United Kingdom” (Taylor Application).

In August, a legal officer was recruited to assist the Chamber convened to determine the “Principal Defender’s Request for the Withdrawal and/or Recusal of Hon. Justice Teresa Doherty of the United Kingdom (UK) as the Duty Judge on the Application of Charles G. Taylor to be Temporarily Transferred to a Safe Third Country to Continue His Imprisonment Due to the Massive Outbreak of COVID 19 in the UK.”

STAFF ON A ROSTER

In addition to a roster of defence counsel, the Registry continues to maintain a roster of former Special Court staff, created pursuant to Article 15(4) of the Statute.

FULL-TIME STAFF

The Residual Special Court office in The Hague continues to be served by a small team consisting of archivists, an office manager, a legal

officer, an associate legal officer, a budget and finance officer, and a prosecution legal adviser.

Residual Special Court staff positions in Freetown include three full-time witnesses and victims protection staff, an associate defence legal officer, an office administrator and a cleaner. In New York, a liaison officer continues to serve on a part-time basis.

FACILITIES

Interim Seat in The Hague and Branch Office in Freetown

The Residual Special Court continues to share its seat and administrative and technical platforms with the IRMCT pursuant to the Memorandum of Understanding on Administrative and Technical Sharing Arrangements between the two institutions.

On 22 July, the Registrar held meetings with Registrar Aboubacar Tambadou, the newly appointed Registrar of the IRMCT. They discussed the ongoing cooperation under the administrative platform sharing ar-

rangements between the Residual Special Court and IRMCT.

In Freetown, the Residual Special Court continues to occupy a portion of the former Special Court site and shares the site with the Commission of Inquiry established by the Government of Sierra Leone, the Law Reform Commission, the refurbished Sierra Leone Peace Museum and the Sierra Leone Law School.

ADMINISTRATIVE STRUCTURE AND FRAMEWORK

In February the Registry, in consultation with the IRMCT Audio Visual Director and with the approval of Justice Shireen Avis Fisher, wrapped up the tutorial video on how to use the compilation of jurisprudence of the Special Court titled *Bearing the Greatest Respon-*



Liaison, New York Office.

sibility: Select Jurisprudence of the Special Court for Sierra Leone. The tutorial video featuring Justice Fisher, has been uploaded to the Court’s website.

Since March, the Residual Special Court offices in The Hague and in Freetown combined both remote and in-person working methods due to the COVID 19 pandemic. Consultations were held between the Registrar and the IRMCT on measures to be adopted in response to the pandemic. Such measures included the designation of fo-



Staff in The Hague.

cal points for information-sharing purposes. In order to ensure the continued safety and well-being of Residual Special Court staff and contractors, the United Nations Administrative Guidelines for Offices on the Novel Coronavirus (COVID 19) pandemic, Guidelines of the United States Centre for Disease Control, Guidelines of the Government of the Kingdom of the Netherlands National Institute for Public Health (RIVM) and Guidelines of the Government of Sierra Leone were adopted.

The Residual Special Court staff in The Hague office, with the exception of the archivists, commenced working remotely on 16 March due to the spread of the COVID 19 virus in the Netherlands in line with the local RIVM recommendations. As the Coronavirus situation rapidly continued to deteriorate, all staff, including archivists, were directed to work from home by the end of that week. Staff continued to work remotely to the greatest extent possible with a view to reduce the physical presence in The Hague office to a minimum, in line with administrative guidelines to emphasize flexibility for staff while trying to maintain operational effectiveness. Since the pandemic started, all public health protocols and guidelines have been

disseminated to judges, principals of the Court, staff, contractors, counsel and witnesses of the Court through the IRMCT broadcast, the Residual Special Court broadcast, a TREE CALL SYSTEM, telephone and other communication channels. As reported earlier, in mid-March,



Associate Defence Legal Officer



Senior Legal Officer, Chambers

following news of the spread of the COVID 19 in countries bordering Sierra Leone, the Government of Sierra Leone started applying stringent measures including travel restrictions, in order to prevent the spread of the disease. As a result, the Residual Special Court office in Freetown started implementing all necessary protective measures recommended by the government such as wearing of face masks, setting up of hand washing stations and providing hand sanitizers for staff members and visitors.

The Registrar continued to brief the Chair of the Oversight Committee, the President of the Court, the Prosecutor and the Principal Defender on the Residual Special Court’s response to the COVID 19 pandemic. The Chair of the Oversight Committee and the President conveyed their best wishes for the safety and good health of the judges and all staff during this difficult period. The Registrar and the Principal Defender were in close consultation with Rwanda Correctional Service and HMP Frankland in the United Kingdom regarding their respective responses to COVID 19.

The Residual Special Court’s offices in The Hague and in Freetown continued to execute the Court’s man-

date in the third and fourth quarters. Staff who could work remotely continued to do so. The archiving team, which could not completely work remotely, resumed work on an alternate office attendance schedule to carry out aspects of the archiving tasks requiring their physical presence at the office. The witness protection team continued to provide support to witnesses to a large extent by phone.

Due to COVID 19 and travel restrictions both in the United States of America and in the Netherlands, the Registrar continued to work remotely from the United States of America throughout the second quarter and for most of the third quarter.

FINANCIAL SITUATION

Budget

In February, a United Nations subvention grant was received in the amount of 2,537,000 United States Dollars to supplement the Court's funding for its budgetary period from 1 January to 31 December 2020, as a bridging financial mechanism. The United Nations General Assembly further expressed serious concern over the adverse financial situation facing the Residual Special Court and requested the Secretary-General to take direct measures including intensifying his fundraising efforts to seek voluntary contributions and to report thereon to the General Assembly at its 74th session.

In May, the Residual Special Court's budget of 2,867,100 United States Dollars for Financial Year (FY) 2021 was submitted to the Oversight Committee. In July, the Oversight Committee approved the budget in the amount of 2,856,250 United States Dollars, following budget discussions in which the Registrar and

Budget Officer participated, and a reduction in the travel budget.

In coordination with the United Nations Office of Legal Affairs and the Controller's Office, a request for subvention towards the Residual Special Court's 2021 budget was submitted to the United Nations in September 2020. In October, pursuant to the request for subvention, the Registrar made a written presentation to the Advisory Committee on Administrative and Budgetary Questions regarding the Residual Special Court budget. The Advisory Committee held its silent hearing on 21 October to consider the subvention request and raised a series of questions to which a written response was submitted. The Fifth Committee approved a subvention of 2,537,000 United States Dollars towards the Court's 2021 budget.

AUDIT

The audit of the Residual Special Court 2019 accounts, which was scheduled for September 2020, was postponed until 2021 due to the COVID 19 pandemic travel restrictions.

FUNDRAISING AND DIPLOMATIC RELATIONS

During 2020, the Oversight Committee and the Registrar held a series of discussions concerning ongoing efforts to secure means of funding for the Residual Special Court. The Registrar often participated in the Oversight Committee meetings, virtually, and the Liaison Officer in New York also participated in such meetings.

On 1 May, the United Nations Secretary-General addressed letters to all United Nations Member States to seek voluntary contributions for the financing of the Residual Special Court. In June, the Government of Sierra Leone sent a letter of appeal to the African Group to seek voluntary contributions on behalf of the Court.

The COVID 19 pandemic made in-person fundraising meetings impossible. Virtual fundraising efforts continued in order to broaden the donor base and garner financial support. From January to December 2020, Residual Special Court Prosecutor, Registrar, the Prosecution Legal Adviser and the Registry Legal Officer, held bilateral fundraising meetings in The Hague, New York, Freetown and Brussels with officials from a total of 47 United Nations Member States. These include Algeria, Bangladesh, Belgium, Botswana, Canada, Cambodia, Cameroon, Chile, China, Costa Rica, Czech Republic, Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Ghana, Honduras, Iceland, India, Iraq, Ireland, Japan, Kenya, Morocco, Netherlands, Niger, Nigeria, Norway, Paraguay, Russia, Serbia, St. Vincent & the

Grenadines, Senegal, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom, United States, Vietnam and Yemen.

The Residual Special Court held a combined total of 70 bilateral meetings in 2020. This includes meetings held with the former and current Registrars of the *IRMCT* to explore the possibility of cost reduction of the administrative sharing arrangements between the two entities and to share information on matters of mutual interest. Following these meetings, letters were further distributed to representatives from each mission and organisation to thank them for the meeting and reiterate the Court's financial challenges.

In 2020, the Residual Special Court received a total of 73,542 United States Dollars in voluntary contribution as core funding and 43,000 Euros for non-core activities. In August, the court received a commitment of 247,639 Canadian Dollars for a special project aimed at preserving and promoting the legacy of the Residual Special Court. In December, a pledge of 99,000 United States Dollars was received from Germany for both core and non-core activities.

OVERSIGHT COMMITTEE

The tenure of Ms Catherine Boucher as Chair of the Oversight Committee came to an end in July. Ms Boucher served as Chair of the Oversight Committee and representative of the Canadian Mission since 2016.

On 23 July, the Oversight Committee held their annual meeting

with the Court virtually, via Zoom. Due to the COVID 19 pandemic and associated travel restrictions, the Oversight Committee members could not travel to The Hague to meet in person with the Residual Special Court staff and principals.

The following members of the Oversight Committee attended the virtual annual meeting: Ms Catherine Boucher, Chair of the Oversight Committee and representative of the Canadian Mission to the United Nations, Ms Hanna Dreifeldt Laine, representative of the United Nations Office of Legal Affairs (OLA), Ms Dziana Pranichnikara, representative of the OLA, Ms Amy Townsend, representative of the United Kingdom Mission to the United Nations, Ambassador Michael Kanu, Deputy Permanent Representative of the Sierra Leone Mission to the United Nations, Ms Elizabeth Grosso, representative of the United States Mission to the United Nations, Ms Lise-lot Egmond, representative of the Netherlands Mission to the United Nations, Ms Hawanatu Kebe, representative of the Sierra Leone Mission to the United Nations and Mr David Cohen, Residual Special Court Liaison Officer in New York.

The President, Prosecutor, Registrar, Principal Defender and staff from The Hague and Freetown offices participated in the virtual meeting to discuss the Court's ongoing work and the difficulty in securing funding for the Court due to the impact of COVID 19 pandemic on the economy of governments around the world. Members of the Oversight Committee expressed their appreciation to the Residual Special Court staff for their hard work and for continuing to fulfil the Court's mandate despite many challenges posed by the pandemic. The meeting was an opportunity to bid farewell to Ms Catherine Boucher, following the end of her tenure as

Chair of the Oversight Committee. The Court's principals and staff thanked Ms Boucher for her commitment and support for the work of the Residual Special Court. Members of the Oversight Committee expressed their deepest gratitude to Ms Boucher for her dedication and leadership as the Chair of the Committee, plus her contributions to the operations and work of the Residual Special Court. They also assured their continued support to the Residual Special Court and efforts at securing a subvention for the Court.

OTHER DIPLOMATIC EVENTS

Over the course of the year, the Registrar and the Prosecutor attended a number of diplomatic events. Since March, the Registrar's activities were mostly virtual because of the COVID 19 pandemic.

On 15 January, students from The Hague Academy of International Law visited the Court to learn about its work. On 24 January, the Associate Legal Officer in the office of the Registrar accompanied Justice Shireen Avis Fisher to pay a courtesy call on the newly appointed Ambassador of Canada to the Netherlands. Justice Fisher spoke about the work of the Residual Special Court, and thanked Canada for their continued support.

On 31 January, on Justice Shireen Avis Fisher's recommendation, the Residual Special Court in The Hague welcomed graduate students in international law from the National University of Ireland at Maynooth. They were received by the Registrar, who briefed them on the operations of the Special Court and Residual Special Court. The students asked questions about the procedure for conditional early release of convicted persons. They were also interested in knowing

more about the refurbished Sierra Leone Peace Museum.

In the first week of February, the Registrar was invited by EU4Justice as an expert in court management to conduct capacity building on communication standards and strategies for employees of the various court systems of the Republic of Georgia. The objective of the training was to strengthen the internal and external communications necessary to deliver justice in an expeditious, fair and impartial manner. The Registrar visited Georgia together with another expert who also served as a trainer. During their visit, they held consultations with the High Council of Justice of Georgia.

From 25-26 February, the Prosecutor and Registrar paid a courtesy visit to the Oversight Committee and gave an update on the work of the Court. Similar visits were paid to the Canadian, Dutch, Estonian, Nigerian and United Kingdom missions.

In March, in accordance with the Dutch government's regulations and preventive measures to stop further spreading of the COVID 19 virus, the Registrar suspended all public group visits to The Hague branch. Groups that were scheduled to visit the Residual Special Court and others that subsequently expressed interest were informed accordingly.

On 29 June, the Registrar participated in a virtual consultative conference on "Prosecuting Crimes against Humanity and Sexual Violence in the Gambia." The meeting was organized by Human Rights Watch in partnership with national partners in the Gambia. It was attended by over 50 participants, including ministers, diplomats, victim representatives, members of the Gambian Human Rights Commission, both international and national non-governmental

organisations, and civil society. The objective of the meeting was to assist the Gambian government in its consideration of possible options for a mechanism to hold perpetrators of crimes against humanity and sexual violence during the Yayah Jammeh era accountable, should the Gambian Truth, Reconciliation and Reparations Commission (TRRC) make such a recommendation. The meeting was conducted via Microsoft Teams, and lasted for over three hours.

On 14 July, following several consultations with Dr. Annie Bunting, Associate Professor of Law & Society at York University in Toronto, Canada, the Residual Special Court agreed to collaborate on the Odo Wa project. The collaboration would entail providing, on behalf of the Sierra Leone Peace Museum, an in-kind contribution of up to 3,550 United States Dollars to a proposed project aimed at enhancing the advocacy for justice for survivors of sexual and gender-based violence. The collaboration would promote the legacy of the Residual Special Court. The in-kind contribution will be provided in the form of part-time services of one Outreach Coordinator and an assistant for a period of one month. The Court will also provide a meeting space and storage facility for one week.

In November, while in Freetown, the Registrar paid a courtesy call on the Attorney General and Minister of Justice of the Republic of Sierra Leone. She also paid a courtesy call on the Chief Justice of the Republic of Sierra Leone.



Principal Defender Ibrahim Yillah

DEFENCE OFFICE

During the period under review, the Defence Office carried out a number of functions pursuant to Rule 45 of the Rules. These functions were carried out amidst COVID 19 preventive measures which had been imposed by national governments to control or stop its spread. The Defence Office had regular communications with Special Court convicted persons currently serving their sentences in the United Kingdom and Rwanda, prison authorities as well as *pro bono* counsel assigned to the respective convicted persons. These communications were mainly concerned with matters relating to the general welfare of the convicted persons and the conditions of detention applicable to their countries of detention. The Defence Office also monitored closely the implementation of the terms and conditions of Allieu Kondewa's sentence in Sierra Leone following the President's Decision on his application for conditional early release.

The Defence Office also filed a number of applications and responses before the President relating to various subjects. These include the Defence Motion seeking Charles Taylor's transfer from the United Kingdom to a third safe country, Defence Motion seeking the recusal of Justice Teresa Doherty and Augustine Gbao's conditional early release application as already reported in the President's Office and Chambers Section above.

DEFENCE MOTION SEEKING THE TRANSFER OF CHARLES TAYLOR TO A SAFE THIRD COUNTRY

On 15 June, the Defence Office

together with Charles Taylor's *pro bono* counsel filed a motion seeking Charles Taylor's temporary transfer to a safe third country due to the massive outbreak of COVID 19 in the United Kingdom and its potential impact on his health, (Taylor Application). Charles Taylor had expressed grave concern that the high rate of COVID 19 infections in the United Kingdom at the time posed a serious threat to his life. Charles Taylor's fears were compounded by the fact that a man of his age was far more susceptible to the virus. The Designated Judge, however, declined to grant the motion for the reasons contained therein.

DEFENCE MOTION SEEKING THE RECUSAL OF JUSTICE TERESA DOHERTY AND OTHER RELATED FILINGS

In July 2020, the Defence Office, acting on Charles Taylor's instructions, filed a motion seeking the recusal of Justice Teresa Doherty as the judge designated by the President of the Court to hear the Taylor Application. In the estimation of the Defence, the appointment of a United Kingdom judge to determine a matter that concerned the United Kingdom raises issues of conflict of interest. The application was however rejected by the Court, on the basis that the nationality of the judge was not a relevant consideration in seeking the recusal of a judge.

CONDITIONAL EARLY RELEASE OF AUGUSTINE GB AO

The Defence Office assisted with the preparation and filing of convicted person Augustine Gbao's



Augustine Gbao with Rwandan Prison Officials and the Associate Defence Legal Officer before his departure from Rwanda.

“Application for Conditional Early Release.” Following the “Decision of the President on Application to Determine Eligibility for Consideration for Conditional Early Release” dated 10 January 2020, the Defence Office in collaboration with a consultant conducted series of interviews with former RUF combatants and other people resident in communities in the Northern, Southern and Eastern Provinces and the Western Area of the Republic of Sierra Leone, in fulfillment of certain orders contained in the President’s decision.

The Defence Office filed submissions on behalf of Augustine Gbao requesting that he be granted conditional early release. Attached to the application were Augustine Gbao’s public apology to the victims of his crimes and the people of Sierra Leone, his admission to his role in the commission of the crimes for which he was convicted and reports from the prison authorities in Rwanda about his compliance with detention rules. This request was granted by the President on the condition that Augustine Gbao completes a

three-month training on how he should be expected to conduct himself whilst serving the remainder of his prison term in Sierra Leone.

On 10 September, the Defence Office and relevant authorities in Rwanda conducted the training, and upon its completion and cer-

tification by the Registrar, Augustine Gbao was released to the home state to commence service of the remainder of his 25-year sentence in his community in Blama, Small Bo Chiefdom, Kenema District in the Eastern Province of Sierra Leone, subject to strict conditions and close monitoring. On 20 December, the Associate Defence Legal Officer accompanied Augustine Gbao to Sierra Leone.

During the conditional early release process, the Defence Office in collaboration with the Registry undertook outreach activities in different communities including those where Augustine Gbao sought to reside, published his apology to the people of Sierra Leone, his acceptance of his role in the crimes for which he was convicted by the then Special Court and the conditions under which he would be released.

REQUEST ON BEHALF OF ALLIEU KONDEWA

On 12 March, the Defence Office submitted a request to the Registrar



Augustine Gbao being welcomed by his family members on arrival in Blama Town.

for permission to be granted to Allieu Kondewa to travel to his village to engage in farming activities for a period of one month. This request was granted by the Registrar.

In November 2020, and as part of its monitoring duties, the Defence Office conducted on-the-spot checks on Allieu Kondewa and found that he was in compliance with the terms of his conditional early release.

INVESTIGATION OF COMPLAINTS BY SPECIAL COURT PRISONERS IN RWANDA REGARDING THEIR CONDITIONS OF DETENTION

Special Court prisoners in Rwanda submitted complaints to the President of the Court alleging, among other things, threats to their lives made by the Director of Mpanga Prison and the Commissioner General of the Rwanda Correctional Services. Subsequently, the President of the Court directed the Registrar to undertake an inquiry into the allegations. The Defence Office participated fully in the inquiry and in collaboration with the convicted persons' *pro bono* counsel to protect their rights.

TRAINING OF SPECIAL COURT CONVICTED PERSONS IN RWANDA PURSUANT TO RESIDUAL SPECIAL COURT PRESIDENT'S DIRECTIVE

On 20 August, the President rejected as unfounded the allegations of the convicted persons in Rwanda and recommended a series of trainings to be conducted for them by the Defence Office in consultation with their *pro bono* counsel in respect of issues relating to general prison administration.

Between 5 and 12 December, the Principal Defender conducted virtual trainings sessions in which the

convicted persons were counselled on various issues including prison rules, the laws and orders of the Rwandese prison authorities, Rwandese criminal law and issues relating to general prison administration.

ASSIGNMENT OF PRO BONO COUNSEL

On 23 March, on the request of Issa Hassan Sesay, the Defence Office assigned a Sierra Leonean *pro bono* counsel, Lansana Kortor Kamara to join the Sesay *pro bono* legal team. In addition, acting on the request of Ibrahim Bazy Kamara, the Defence Office assigned another *pro bono* counsel, Andrew Daniels, a Ghanaian, to the Bazy defence team.

CORONAVIRUS (COVID 19) ADVISORY

The Defence Office had constant engagements with the Residual Special Court Registry, the Mpanga Prison authorities and all Special Court convicted persons and legal teams to address complaints/concerns raised by them regarding COVID 19 preventive measures. The Defence Office also took similar measures on COVID 19 regarding Allieu Kondewa in Sierra Leone and Charles Taylor in the United Kingdom.

The Defence Office shall continue to discharge its responsibilities under the Rules and pursuant to any future directives by the President and Registrar of the Court.

ANNEX I

Overview of the 2020 Residual Special Court Budget

The Registrar submitted the Residual Special Court 2020 Budget to the Oversight Committee for their consideration and approval. The proposed Fiscal Year 2020 Budget was USD2,899,500.

Fiscal Year 2020 Budget

To manage the non-judicial residual functions and the judicial and other proceedings, the budget for the Residual Special Court's operations for 2020 is USD2,899,500. Further breakdown of the 2020 figure is as follows: permanent staffing costs (USD1,489,000), which includes income tax liability of (USD38,000); and operational costs (USD1,410,500). The operational costs include IRMCT administrative support services (USD379,700) and the annual cost for enforcement of sentences of the five remaining SCSL convicted persons in Mpanga Prison, Rwanda.

Non-Judicial and Judicial

Requirements by Object of Expenditure

(United States Dollars)

Object of expenditure	Non Judicial	Judicial	Total Budget
Posts	1,060,100	109,400	1,169,500
Common Staff Cost	258,500	23,000	281,500
Compensation to Judges	49,800	129,700	179,500
Consultants and experts	31,500	0	31,500
Travel	110,300	158,000	268,300
Contractual service	539,700	50,000	589,700
General operating expenses	310,000	61,500	371,500
Supplies and materials	15,000		15,000
Acquisition of furniture and equipment	5,000		5,000
	2,367,900	531,600	2,899,500

ANNEX II

Residual Special Court Judges and Personnel Nationalities 2020

JUDGES

Austria	1
Botswana	1
Canada	1
Ireland	1
Kenya	2
Samoa	1
Sierra Leone	6
Uganda	1
United Kingdom	1
United States of America	1
Total	16

PRINCIPALS

Sierra Leone	2
United States of America	1
Total	3

STAFF

Nigeria	1
Sierra Leone	10
Somalia	1
Total	12

SHORT-TERM CONTRACTORS

Brazil	1
Canada	1
Pakistan	1
Seychelles	1
Sierra Leone	9
United Kingdom	2
United States of America	5
Total	20

INTERNS

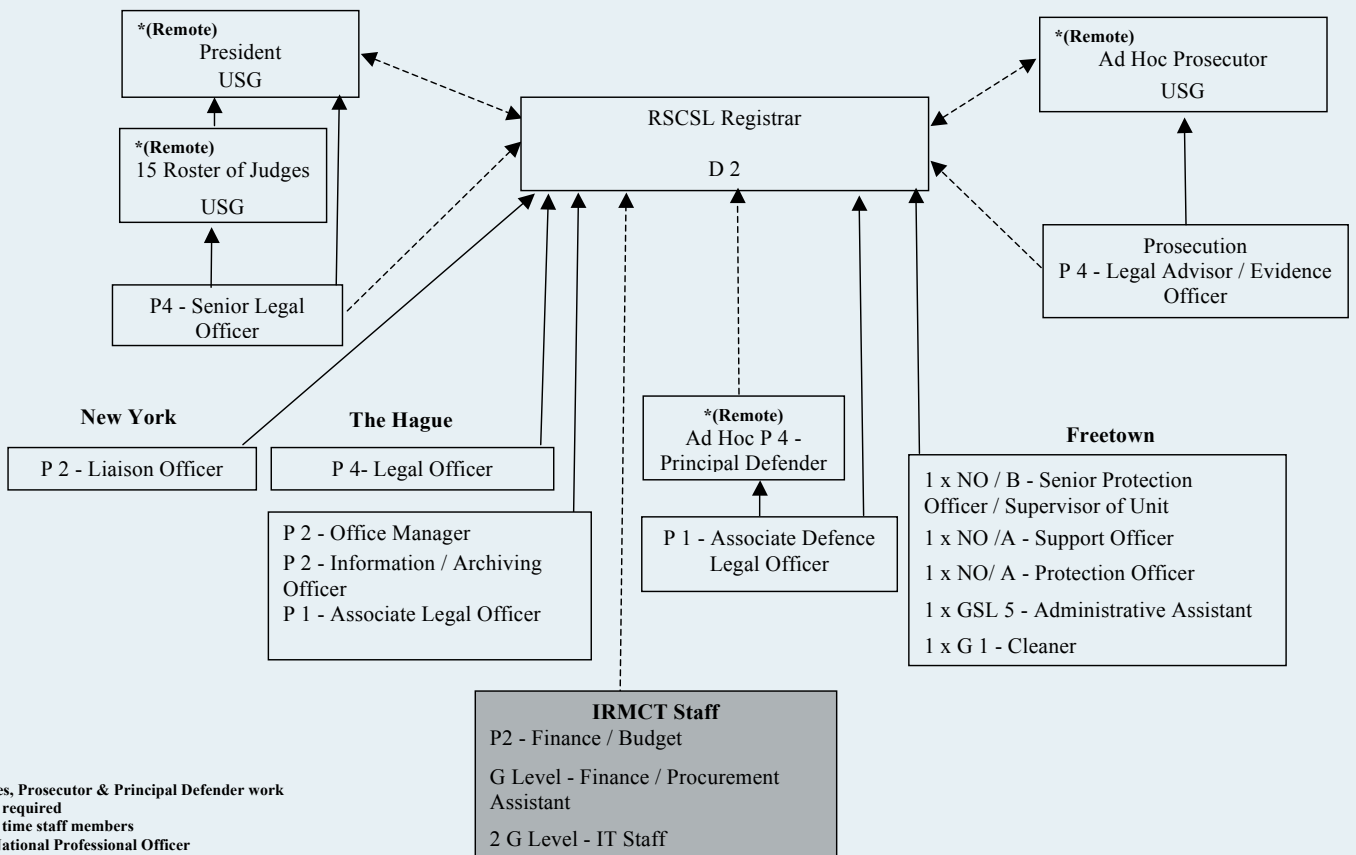
United States of America	3
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Grand Total	54
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ANNEX III



RESIDUAL SPECIAL COURT FOR SIERRA LEONE ORGANOGRAM 2020



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