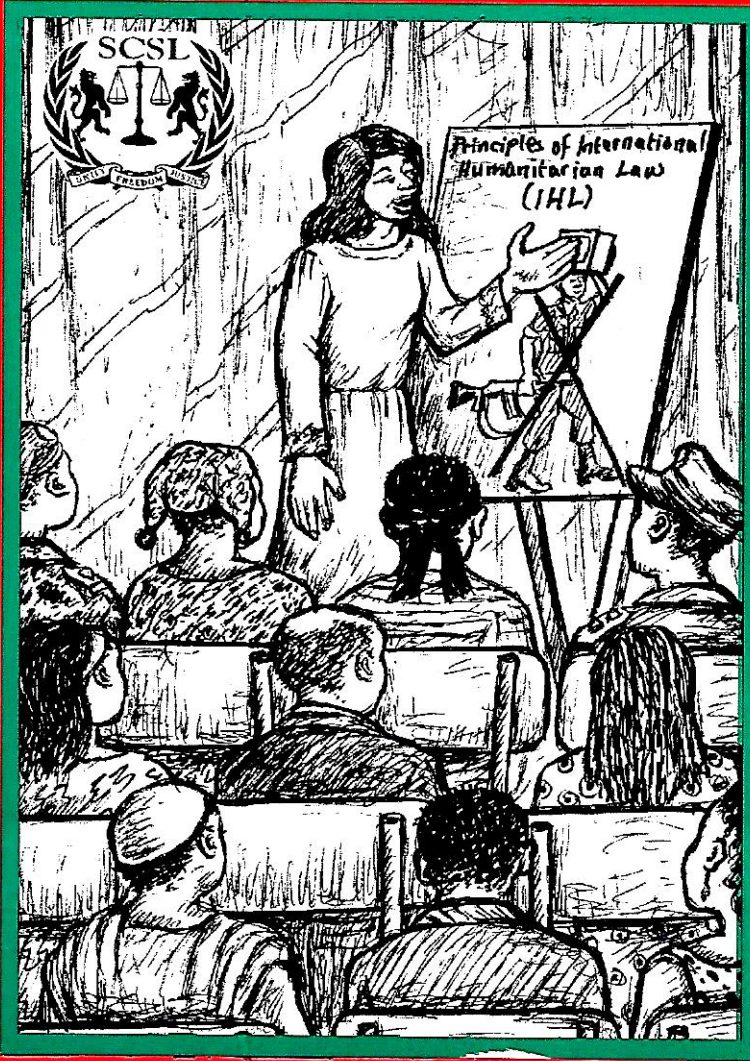


Wetin Na Intanashonal Umaniterian Lo?

International Humanitarian Law Made Simple



Special Court for Sierra Leone Outreach Section

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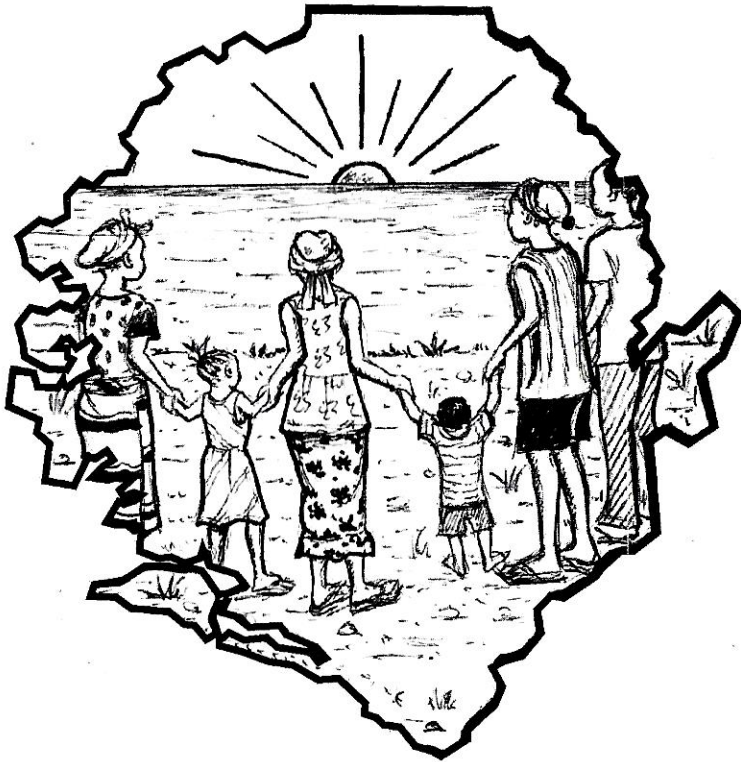
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All Pictures drawn by local artist, Simeon Sesay (30 Smythe Street, Freetown
☎ 030-209287) some of which are based on other pictures illustrating the concept of
IHL

Visit the Special Court website: <http://www.sc-sl.org>

Wetin Na Intanashonal Umaniterian Lo?*

International Humanitarian Law Made Simple



* Krio phrase for "What is International Humanitarian Law?"



Outreach Mission Statement

The Special Court for Sierra Leone was created to bring to justice those who bear the greatest responsibility for crimes committed in the territory of Sierra Leone during the war. The Special Court's Outreach section was established to link the People of Sierra Leone with the Special Court. Outreach's mission is to promote understanding of the Special Court and respect for human rights and the rule of law in Sierra Leone. Through diverse programs that disseminate information and encourage dialogue, Outreach fosters an environment of two-way communication between the People of Sierra Leone and the Special Court. Outreach facilitates the participation of all Sierra Leoneans in the judicial processes of the Special Court based on equality and mutual respect. Outreach works with all branches of the Special Court. Its relations with the Office of the Prosecutor and the Defence Office are based on the fundamental principles of impartiality and independence.



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Acknowledgements

This booklet was produced by the Outreach section of the Special Court. Outreach would like to thank all sections of the Court that assisted with this project, especially the Office of the Principal Defender, the Office of the Prosecutor and the Registrar's Office.

In addition to the various sections of the Special Court, we would like to thank the International Committee of the Red Cross (ICRC) and the Sierra Leonean Red Cross Society for their input. The ICRC country office in particular took a great interest in the booklet and provided very helpful comments throughout the drafting process.

Foreword

This booklet is produced by the Outreach section of the Special Court. Its aim is to make the Special Court's mission and procedures more accessible to all Sierra Leoneans, especially those in the remote rural areas. The booklet's structure involves several sections where key concepts of International Humanitarian Law are explained in very simple language, accompanied by an illustration which communicates the same message. These illustrations are not meant to be exact representations. Instead, they are meant to communicate concepts which are often quite abstract and complex. This booklet is one of Outreach's many initiatives to provide information, not only about the Special Court itself, but also key issues related to it. The Court hopes that a wider knowledge of important legal concepts relating to the rule of law will form part of its legacy in Sierra Leone.

I would also like to take this opportunity to thank our Outreach Coordinator for her initiative and untiring efforts in building a team that promotes a better understanding of the Special Court. She is continuously engaging with the population of Sierra Leone and explaining what the Special Court is about.

Lovemore G. Munlo, SC
Interim Registrar, Special Court for Sierra Leone
December 2005

Context of operations: Articles from the Statute of the Special Court for Sierra Leone

These are the articles, drawn directly from the Statute* of the Special Court for Sierra Leone*, mandating the Court to prosecute those who allegedly bear the greatest responsibility for violating International Humanitarian Law (IHL)*. They spell out what is prohibited under international law. This booklet will explain in more detail the concepts of International Humanitarian Law - also called the Law of Armed Conflict*.

Article 1

Competence of the Special Court

1. The Special Court shall [...] have the power to prosecute 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, including those leaders who, in committing such crimes, have threatened the establishment and implementation of the peace process in Sierra Leone.

Article 3

Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II

The Special Court shall have the power to prosecute persons who committed or ordered the commission of serious violations of article 3 common to the Geneva Conventions* of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II* thereto of 8 June 1977. These violations shall include:

- a. Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- b. Collective punishments;
- c. Taking of hostages

* see glossary

- d. Acts of terrorism;
- e. Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- f. Pillage;
- g. The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
- h. Threats to commit any of the foregoing acts.

Article 4

Other serious violations of International Humanitarian Law

The Special Court shall have the power to prosecute persons who committed the following serious violations of International Humanitarian Law:

- a. Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- b. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international Law of Armed Conflict;
- c. Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.

Introduction

The conflict in Sierra Leone was characterised by serious violations of the Law of Armed Conflict. The civilian population was the main victim of the war: women were raped or forced into marriage; children were forcefully recruited as soldiers; churches, mosques, private and public buildings were targeted and people were mutilated. This booklet is being published by the Special Court for Sierra Leone to create awareness of the fact that even in a state of armed conflict* certain laws have to be respected. These laws are called International Humanitarian Law or the Law of Armed Conflict. The Law of Armed Conflict is directed at anyone taking part in fighting. It is designed to create a standard of protection that minimises the suffering of people affected by war. It is violations of these laws that are being tried at the Special Court for Sierra Leone. Those who have been indicted allegedly bear the greatest responsibility for such acts.

This booklet is part of the transitional justice efforts undertaken in Sierra Leone. Even though the war in Sierra Leone has come to an end it is still important to promote greater awareness of the Law of Armed Conflict. People should be informed on these principles at all times: during peace times or during an armed conflict. We believe that wide dissemination of information on the Law of Armed Conflict can help prevent such acts occurring in the future and hope this booklet might also serve as guidance for dissemination in other countries.

What is the Law of Armed Conflict?

The rules that apply in the case of an armed conflict are called the Law of Armed Conflict (also referred to as International Humanitarian Law or the Law of War*). It is aimed at protecting those people who are affected by war. All civilians and those combatants* who are injured or sick and those that have put down their weapons shall not be targets of an attack. This law only applies during armed conflict. It does not regulate when or why force may be used but how it has to be used once a war has started. It has to be respected by all the parties to a conflict (regular soldiers, rebel fighters, civil defence forces and any collaborators - to name a few).

* see glossary

Where did the Law of Armed Conflict originate?

The Law of Armed Conflict is rooted in the rules of ancient civilisations and religions. Warfare has always been governed by certain principles and traditions. It was Henry Dunant*, the founder of the International Committee of the Red Cross (ICRC)*, who came up with the idea of writing down rules on how to conduct a modern war.



Henry Dunant - founder of the ICRC

* see glossary

His intention was to help those who had been injured in a battle. Today the Law of Armed Conflict is governed by agreements between States and by customary rules. The most important rules were laid down in the Geneva Conventions of 1949. Since then further conventions have been negotiated to govern the behaviour of combatants during wars. These conventions have been ratified by the Sierra Leonean Government, including the Geneva Conventions on 10th June 1965, and the first two Additional Protocols on 21st October 1986. The Law of Armed Conflict is binding on all parties to a conflict - whether in an international war between two different states or in an internal conflict like that in Sierra Leone.

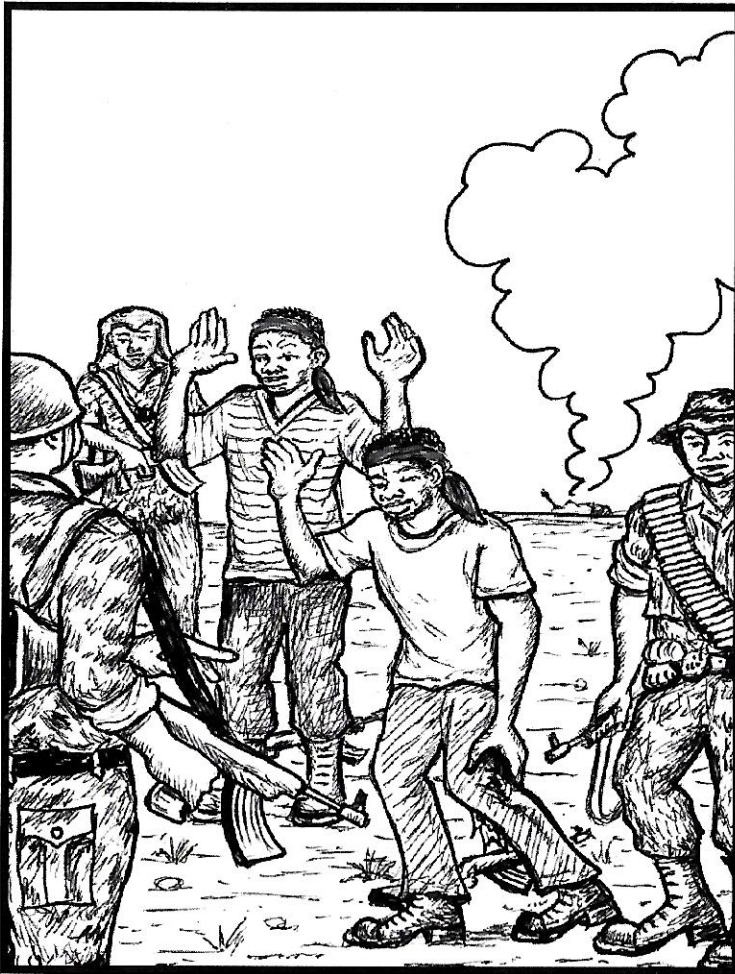
When does the Law of Armed Conflict apply?

The Law of Armed Conflict only applies to armed conflicts. All sides to a war have to follow it equally once a conflict has begun, no matter who started the fighting. The Law of Armed Conflict does not apply during times of peace. When there is no state of war Human Rights Law* must be respected. The Law of Armed Conflict and International Human Rights Law are complementary. Human Rights Law, or at least some of it, protects the individual at all times, in war and peace alike. While the purpose of the Law of Armed Conflict is to protect victims by limiting the suffering caused by war, Human Rights Law seeks to protect the individual and to further his or her development. Provisions protecting human rights are laid down in the Constitution of Sierra Leone and in Human Rights Conventions to which Sierra Leone is a party.

Who is protected?

The Law of Armed Conflict mainly protects those who do not take part in the fighting. This includes all civilians and medical or religious personnel belonging to one of the armies. The Law of Armed Conflict also protects those combatants who have stopped fighting - including wounded or sick fighters, those that have surrendered, and prisoners of war*. The motivation for this is that people who are

not actively fighting pose no threat and should therefore be protected.



Wounded or sick fighters have to be cared for

Protection means that they must not be killed or harmed in any way. For example, it is forbidden to rape or mutilate another human being and the houses of civilians must not be targeted. Similarly it is prohibited to attack mosques, churches or any other cultural property.

Wounded and sick people have to be collected and taken care of. Essentially, it is forbidden to cause unnecessary suffering. Because of this, the parties to a conflict must distinguish between military and non-military targets. It is only acceptable to attack military objects and enemy fighters.

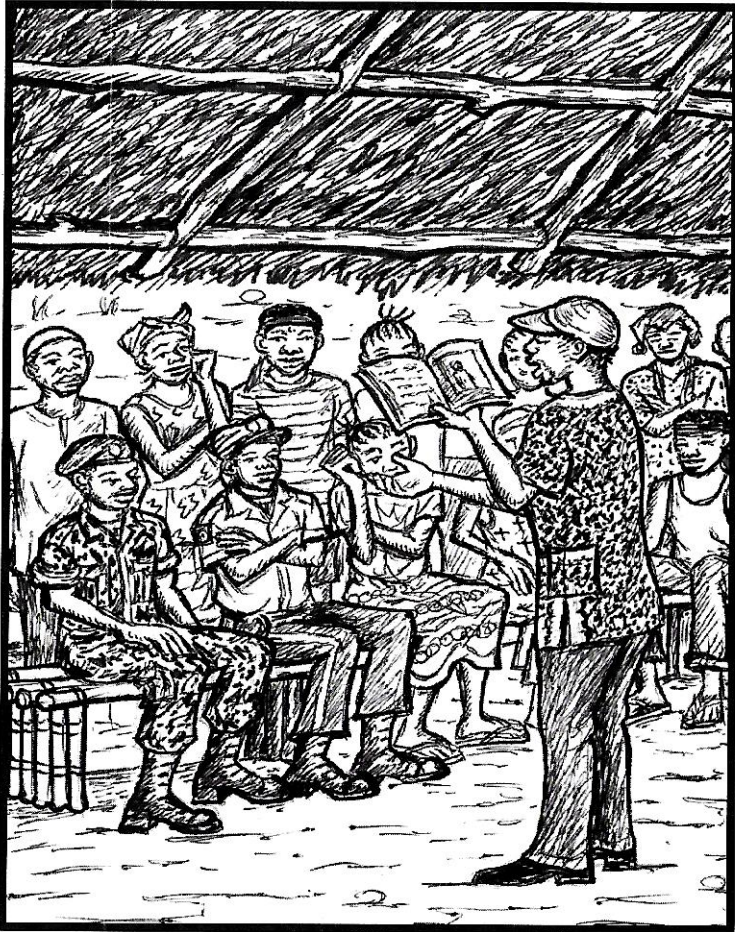


Only military objects may be attacked - not cultural property

What is done to ensure respect for the Law of Armed Conflict?

First of all, States must teach the rules of the Law of Armed Conflict to their armed forces and the general public. They must also prevent people violating these laws and punish them when they do so. For this they have to enact laws providing for the punishment of people who violate the Law of Armed Conflict. This applies to Sierra

Leone and every other country in the world. According to the Geneva Conventions, organisations like the ICRC can monitor the conduct of war. They can report any violations of the Law of Armed Conflict to the warring parties.

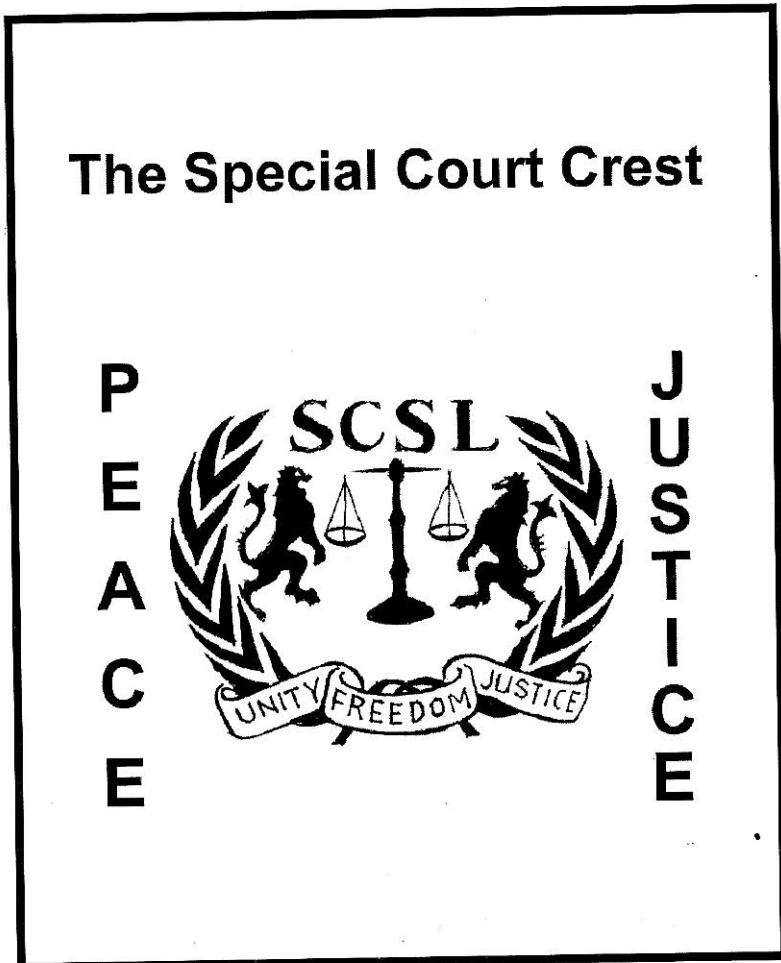


A state has to teach about the rules of the Law of Armed Conflict

When a State does not punish people who have committed serious violations of the Law of Armed Conflict this can be done at an international level. To ensure that the responsible people are brought to justice the *International Criminal Court** was established. It is also possible for courts to be established that only deal with the violations committed in a single conflict. One example for this is the *Special Court*

* see glossary

for *Sierra Leone (SCSL)* which is based on an agreement between the Government of Sierra Leone and the United Nations. Other examples are the *International Criminal Tribunal for Rwanda (ICTR)* and the *International Criminal Tribunal for Yugoslavia (ICTY)*.



The Special Court for Sierra Leone: no peace without justice

It is important to remember that no amnesty can be given for the most serious violations of the Law of Armed Conflict. Even if a State grants such an amnesty

2. It is forbidden to kill or injure any combatant of the enemy forces when he/she has surrendered or given up fighting. It is possible to keep him/her as a prisoner of war. As such he/she has to be treated humanely.



It is forbidden to kill or injure fighters that have surrendered

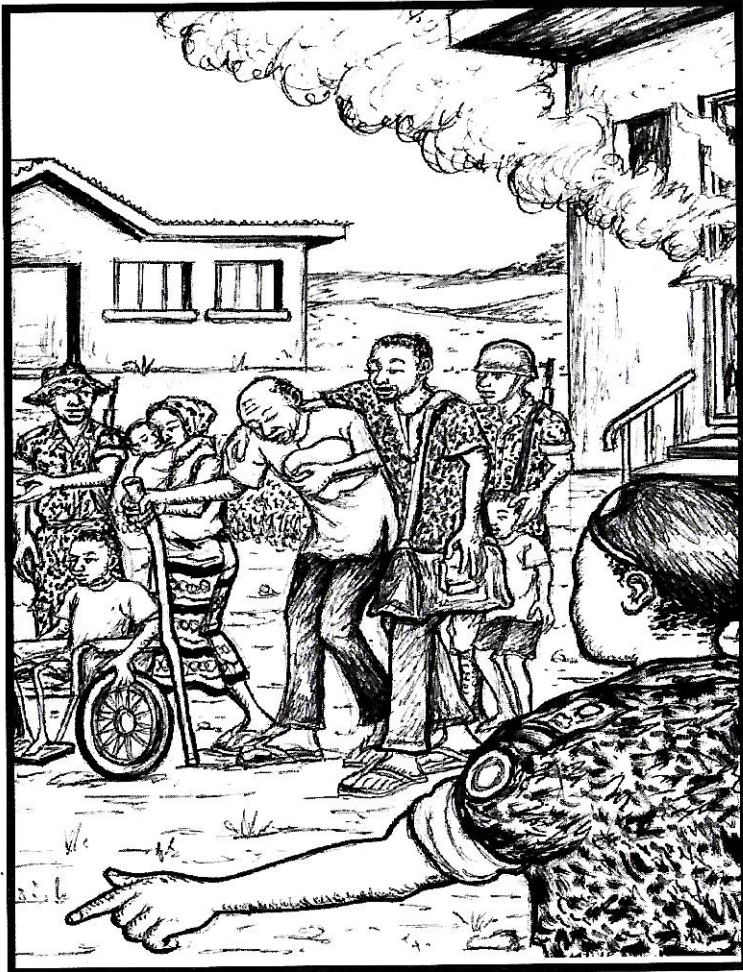
3. **The wounded and sick shall be collected and cared for** by the party which is in control of the relevant area. To ensure that the wounded and sick can be treated properly, medical personnel or transporters and hospitals may not be targeted. The Red Cross, Red Crescent and Red Crystal* signify that such operations are in progress and must be protected from attack. Misusing these symbols for military purposes constitutes a violation of the Law of Armed Conflict.



The wounded and sick have to be cared for

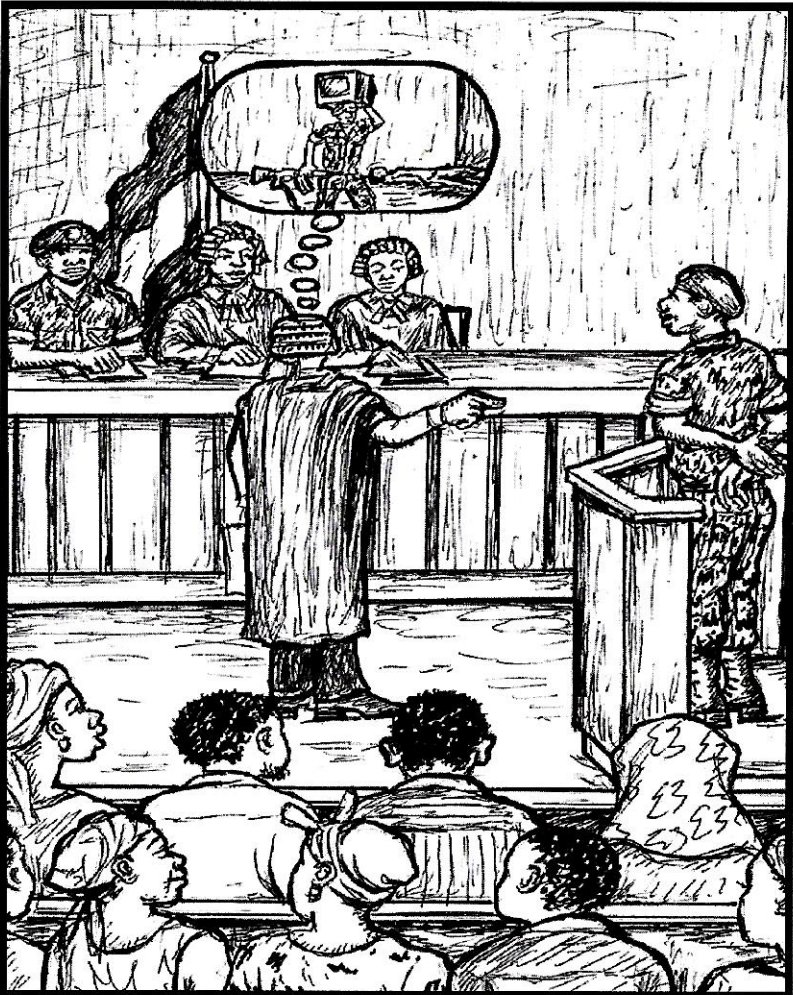
* see glossary

4. Captured fighters and civilians who live in an area under the control of the enemy are entitled to **respect for their lives, dignity and personal convictions**. They have to be protected against all acts of violence and reprisals. They also have the right to communicate with their families and to receive assistance.



Captured fighters and civilians living in an area under control of the enemy have to be treated with respect

5. **Guarantees of a fair trial** shall be respected at all times. This means that no one shall be held responsible for an act he/she has not committed, nor shall he/she be tortured or treated in a cruel or degrading manner.



Accused persons must receive a fair trial

6. The means of warfare have to be used to **avoid suffering** as much as possible. It is prohibited to use weapons or methods of warfare that cause unnecessary suffering. For example, it is forbidden to rape women or girls and use this as a method of warfare.



Rape or other forms of sexual violence must not be used as a means of warfare

7. Parties to a conflict have to **distinguish between the civilian population and combatants** at all times. The civilian population and its property are not to be abused as targets for attacks. Attacks shall be directed solely against military objects. It is for example forbidden to burn the houses of civilians or to recruit children as soldiers.



The civilian population and its property may not be used as targets for an attack

Conclusion

The Law of Armed Conflict clearly spells out rules that apply at all times during a conflict. It is aimed at reducing the negative effects a war has on the people and countries involved. It is not designed to stop fighting or to create peace. As emphasised in the preceding sections it can be said that the Law of Armed Conflict seeks to guarantee humane treatment even in situations where people are fighting each other.

When Henry Dunant first came up with the idea of writing down certain rules so that the wounded of a conflict could be cared for, he wanted to reduce the suffering caused by war. Every society has written laws or customary rules which apply in conflict situations between two people. These ideas have been expanded and applied on an international level. No person should suffer more in a war situation than is necessary. Everyone has the right to protection when he/she is not actively engaged in the hostilities. In order to receive this treatment when he/she is out of combat, every fighter has to comply with his/her duties under the Law of Armed Conflict when he/she is engaged in military operations.

The mandate of the Special Court for Sierra Leone is not simply to try those allegedly bearing the greatest responsibility for the crimes committed during the war. In cooperation with other institutions of the Sierra Leone Government and civil society, it also has a duty to teach people about the rule of law. Certain core rules assuring the respect for human beings must be followed at all times - even in the extreme situation of an armed conflict.



The Special Court has a duty to teach about the rule of law

Eight frequently asked questions concerning IHL

These are questions that were asked during Outreach town hall meetings nationwide attended by a mixed audience. The answers provided are typical for those given by Outreach staff at such an event.

1. When did Sierra Leone ratify the Geneva Conventions?

Sierra Leone ratified the Geneva Conventions on 10th July 1965 and the two Additional Protocols on the 21st October 1986.

2. What is the difference between "war crimes" and "crimes against humanity"?

War crimes are violations of the law and customs of war. They are committed in times of war only. Crimes against humanity can be committed during war time or in peace time.

3. What is the difference between International Humanitarian Law and Human Rights Law?

International Humanitarian Law applies during war time, while Human Rights Law mainly applies during peace time, though some core Human Rights are always applicable.

4. How can one be indicted for a crime under international law?

Indictments for international crimes, like the ones under the mandate of the Special Court, follow thorough investigation by competent investigators. When the prosecutor is satisfied with the evidence he has collected he will write an indictment. The indictment must be approved by a judge before the indictee may*

* see glossary

be arrested. Violations of the Law of Armed Conflict can be prosecuted before national or international courts.

5. Who enforces International Humanitarian Law?

All States that have ratified the Geneva Conventions shall enforce International Humanitarian Law. There are also international tribunals, like the Special Court for Sierra Leone, or the International Criminal Court that enforce this law.

6. Is there a distinction between international and non-international conflicts?

International conflicts are wars between combatants of two or more States. Non-international (internal) conflicts are wars between a State and a non-state organised armed group.

7. If an enemy is shot in active combat and falls down, does International Humanitarian Law allow an individual to finish him/her off in an event where he/she is still capable of harming the stated individual?

If an enemy combatant is disabled that would be enough. "Finishing" him/her off would be a crime. It is the responsibility of combatants to collect and care for the wounded or sick and for those that have laid down their weapons.

8. Does the international community expect all of us to be educated and know about International Humanitarian Law?

You do not need to be educated to know about International Humanitarian Law, It is based on common sense. For example you should know that you cannot kill or harm innocent civilians.

Glossary

Additional Protocols	The first two Additional Protocols are agreements that were added to the Geneva Conventions in 1977: they relate to the protection of victims of armed conflicts; the third was added in 2005 and introduces the Red Crystal as a new emblem
Armed Conflict	An Armed Conflict is characterised by the use of deadly violence between combatants; also referred to as war
Combatant	A combatant is a soldier or guerrilla member who is fighting in a war; also referred to as fighter; Combatant is a term used in the Geneva Conventions where it has a more detailed meaning
Geneva Conventions	The Geneva Conventions consist of four treaties formulated in Geneva, Switzerland; they set international standards for humanitarian concerns during conflicts
Henry Dunant	Henry Dunant was the founder of the International Committee of the Red Cross and winner of the Nobel Peace Prize in 1901 (born 08/05/1828 in Geneva, Switzerland; died 30/10/1910)
Human Rights	Human Rights seek to protect us from being abused by others; they protect life and freedom of every person and forbid inhumane treatment like torture

Indictment

An indictment is a formal written statement alleging that a person has committed a crime; it is drawn by a prosecutor and presented to a court - at the SCSL it is drawn by the Prosecutor of the Special Court

International Committee of the Red Cross (ICRC)

The ICRC has the mandate to protect and assist victims of an armed conflict; it is also the guardian of the Geneva Conventions. Its main guiding principles are: neutrality, impartiality and independence

International Criminal Court (ICC)

The International Criminal Court was established in 2002 as a permanent tribunal to prosecute individuals for genocide, crimes against humanity, and war crimes

International Humanitarian Law (IHL)

International Humanitarian Law is another term for the Law of Armed Conflict or Law of War; its purpose is to regulate the methods and means of warfare and to protect the victims of war

Law of Armed Conflict

Law of Armed Conflict is another term for International Humanitarian Law or the Law of War

Law of War

Law of War is another word for the Law of Armed Conflict or International Humanitarian Law

Prisoner of War (POW)	A Prisoner of War is a combatant who falls into the hands of an enemy power during an international armed conflict; prisoners of war have to be treated humanely
Red Cross/ Red Crescent/ Red Crystal	The Red Cross/Red Crescent/Red Crystal are protected emblems which, under the Geneva Conventions, are to be placed on medical vehicles, buildings and personnel to protect them from military attack on the battlefield
Special Court for Sierra Leone (SCSL)	The SCSL was established by an agreement between the Government of Sierra Leone and the United Nations. It is to try those who allegedly bear the greatest responsibility for war crimes and crimes against humanity committed during the war in Sierra Leone after 30th November 1996; based in Freetown
Statute	A statute is a written law which prohibits, commands or declares something; on an international level it usually establishes an institution (like the Special Court) and explains how it shall be run

Establishment of the Court

- June 2000** The Government of Sierra Leone wrote to the United Nations Secretary General, Kofi Annan, requesting assistance in setting up a war crimes tribunal
- August 2000** The United Nations Security Council passed Resolution 1315 requesting the Secretary General to begin the process of establishing the Special Court for Sierra Leone
- January 2002** The UN and the Government of Sierra Leone signed an agreement establishing the Special Court
- March 2002** Sierra Leone's Parliament passed the Special Court Agreement (Ratification) Act 2002, that makes the Special Court official under Sierra Leonean law
- April 2002** The UN Secretary General appointed the Registrar, Robin Vincent (UK) and the Prosecutor, David Crane (USA)
- July 2002** The United Nations and the Government announced the eight Judges appointed to the Trial and Appeals Chamber respectively
- August 2002** The Registrar and Prosecutor arrived in Freetown; construction of the Court, the establishment of its administrative functions and investigations began
- December 2002** The eight Judges of the Special Court were sworn in
- March 2003** The judges amended the Rules of Procedure and Evidence for the Special Court, which regulate the conduct of a trial and the operations of the Court; first set of indictments were issued and the indictees were arrested and taken into detention
- June 2004** The CDF trial started (accused: Norman, Kondewa, and Fofana) before Trial Chamber I; Judges: Boutet, Itoe, Thompson
- July 2004** The RUF trial started (accused: Sesay, Kallon, and Gbao) before Trial Chamber I; Judges: Boutet, Itoe, Thompson
- March 2005** The AFRC trial started (accused: Brima, Kamara, and Kanu) before Trial Chamber II; Judges: Doherty, Lussick, and Sebutinde

Crimes as stated in the indictments of the SCSL

This is a list of the crimes allegedly committed by the defendants belonging to the various factions as stated in the indictments

Crimes allegedly committed by the defendants belonging to the CDF

- Unlawful killings
- Physical violence and mental suffering
- Looting and burning
- Terrorizing the civilian population and collective punishments
- Use of child soldiers

Crimes allegedly committed by the defendants belonging to the RUF

- Terrorizing the civilian population and collective punishments
- Unlawful killings
- Sexual violence
- Physical violence
- Use of child soldiers
- Abductions and forced labour
- Looting and burning
- Attacks on UNAMSIL personnel

Crimes allegedly committed by the defendants belonging to the AFRC

- Terrorizing the civilian population and collective punishments
- Unlawful killings
- Sexual violence
- Physical violence
- Use of child soldiers
- Abductions and forced labour
- Looting and burning

The Judges of the Special Court for Sierra Leone:

Appeals Chamber

Justice A. Raja N. Fernando (Sri Lanka)

Appointed by the Secretary-General of the United Nations

Justice George Gelaga King (Sierra Leone)

Appointed by the Government of Sierra Leone

Justice Emmanuel Ayoola (Nigeria)

Appointed by the Secretary-General of the United Nations

Justice Renate Winter (Austria)

Appointed by the Secretary-General of the United Nations

Justice Geoffrey Robertson QC (U.K.)

Appointed by the Government of Sierra Leone

Trial Chamber I

Justice Pierre G. Boutet (Canada)

Appointed by the Secretary-General of the United Nations

Justice Benjamin Mutanga Itoe (Cameroon)

Appointed by the Secretary-General of the United Nations

Justice Rosolu John Bankole Thompson (Sierra Leone)

Appointed by the Government of Sierra Leone

Trial Chamber II

Justice Teresa Doherty (Northern Ireland)

Appointed by the Secretary-General of the United Nations

Justice Julia Sebutinde (Uganda)

Appointed by the Secretary-General of the United Nations

Justice Richard Lussick (Samoa)

Appointed by the Government of Sierra Leone

The Prosecutor of the Special Court for Sierra Leone:

Desmond de Silva QC, (United Kingdom)

Appointed by the Secretary General in 2005 to replace David Crane

The Principal Defender of the Special Court for Sierra Leone:

Vincent Nmehielle (Nigeria)

Appointed in 2005 to replace Simone Monasebian

The Registrar of the Special Court for Sierra Leone:

Lovemore G. Munlo SC, Interim Registrar (Malawi)

Appointed by the Secretary General in 2005 in an interim capacity to replace Robin Vincent

A Special Court for Sierra Leone Publication
December 2005



The Special Court website: <http://www.sc-sl.org>