

The Trial of Charles Taylor by the Special Court for Sierra Leone: the Appeal Judgment

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THE SPECIAL COURT FOR SIERRA LEONE will release its appeal judgment in the case against the former Liberian President Charles Taylor in The Hague on Thursday, September 26, 2013. This briefing paper summarizes the main issues in the appeal, with hyperlinks to relevant portions of the Open Society Justice Initiative's trial monitoring website: www.charlestaylortrial.org.

The Charges

Charles Taylor, the former president of Liberia, was tried and convicted on 11 charges arising from war crimes, crimes against humanity, and other serious violations of international humanitarian law, committed from November 30, 1996 to January 18, 2002 during the course of Sierra Leone's civil war.

The 11 specific counts against Taylor were:

- Five counts of war crimes: terrorizing civilians, murder, outrages on personal dignity, cruel treatment, looting.
- Five counts of crimes against humanity: murder, rape, sexual slavery, mutilating and beating, enslavement
- One count of other serious violations of international humanitarian law: recruiting and using child soldiers.

The Conviction

On April 26, 2012 Special Court for Sierra Leone (SCSL) judges ruled that Taylor was guilty of aiding and abetting the RUF in all 11 charges, including murder, rape, and pillage. They also convicted the former Liberian president of planning, with former Revolutionary United Front (RUF) commander Sam Bockarie, the attacks on Kono, Makeni, and Freetown, which took place in late 1998 and early 1999.

The judges rejected the defense argument that Taylor was a peacemaker. They noted that while Taylor may have publicly supported the peace process in the region, he privately undermined the negotiations by continuing to support the RUF through financial, operational, and moral support. Notably, the judges did not accept the prosecution claim that Taylor had effective command and control over the RUF rebels, finding him only responsible for aiding and abetting their activities as well as planning attacks.

The Sentencing

The Office of the Prosecutor of the SCSL, originally recommended that Taylor serve an 80 year jail sentence. According to the prosecution, that sentence would be commensurate with the “gravity of crimes and the specific conduct of the accused.”

The defense argued against the high prison term and provided four reasons why Taylor should benefit from mitigating circumstances: that the period of offending was not an extended period, save for use of child soldiers and enslavement that cover a more prolonged period in the indictment Mr. Taylor's role in the Sierra Leone peace process; his voluntary departure from the Liberian presidency in 2003; and his age, being 64 years already at the time of his conviction.

On May 30, 2012, judges at the SCSL sentenced Taylor to a jail term of 50 years after he was convicted of aiding and abetting the commission of serious crimes in

Sierra Leone and the planning of attacks on various towns in late 1998 and January 1999.

The Legal Issues on Appeal

On July 19, 2012 prosecution and defense teams filed notices of appeal, raising several grounds on which they will appeal the findings of the trial chamber, in both the decision on Taylor’s conviction and his sentence.

The Prosecution

Prosecutors raised four grounds on which they appealed the findings of the trial chamber judges. These include the trial chamber’s failure to find Taylor liable for ordering and instigating the commission of crimes, the chamber’s failure to find him liable for crimes committed in certain locations in five districts on the ground that they fell outside the scope of the indictment, and then chamber’s decision to sentence the former Liberian President to a single term of 50 years. Prosecutors argue that the judges in making these findings “erred” in fact and in law.

The Defense

Defense lawyers for Taylor raised 42 grounds on which they say the trial chamber “erred” in fact and in law as they convicted and sentenced Taylor in 2012. Included in the numerous grounds of appeal are findings of the judges that Taylor was involved in planning attacks on Kono, Makeni, and Freetown in late 1998 and early 1999, the chamber’s finding that he assisted the commission of crimes by providing medical assistance to rebel forces in Sierra Leone, that he assisted the commission of crimes by providing a guesthouse for RUF rebels in Liberia, that the jail term of 50 years that Taylor was sentenced to is “manifestly unreasonable,” that the judges “erred” in their failure to consider Taylor’s expression of sympathy as grounds of mitigation, that there were irregularities in the proceedings based on the statement made by the Alternate Judge El-Hadj Malick Sow that there had been no deliberations among the judges, and that Justice Julia Sebutinde’s participation in the proceedings after she had already become a judge of the International Court of Justice was irregular.

For these and several other reasons, defense lawyers for Taylor want the Appeals Chamber to quash the finding of guilt and sentence against Taylor.

Appeals Chamber Precedents

In previous cases at the SCSL, Appeals Chamber judges upheld the convictions and sentences of RUF and Armed Forces Revolutionary Council (AFRC) Commanders in Sierra Leone. However, judges have also overturned lower

sentences imposed by the trial chamber and increased the sentences of commanders of the Civil Defense Forces (CDF).

It is unclear whether the recent controversial decision in the case against General Momčilo Perišić at the International Criminal Tribunal for Yugoslavia (ICTY) Appeals Chamber will have an impact on Taylor's appeal. The ICTY Appeals Chamber reversed a trial chamber conviction of Perišić by holding that "specific direction" is required for an aiding and abetting conviction to stand when the accused aider and abettor is remote from the location of the crimes. In Taylor's case, in addition to planning RUF and AFRC attacks which constituted part of the invasion of Freetown in early 1999, he was also convicted of aiding and abetting crimes committed in Sierra Leone while he was based in Liberia. The SCSL Appeals Chamber has not ruled on the "specific direction" requirement in the context of aiding and abetting as defined by ICTY judges in the Perišić judgment, although it is one of the grounds Taylor's defense raised on appeal.

What Happens After the Appeal Judgment is Delivered on September 26?

If the Appeals Chamber upholds, reduces, or increases the 50 year jail term to which Taylor has been sentenced, he will remain in prison. Throughout the appeal process, Taylor has been serving his sentence at a detention facility in The Hague. If the appeals chamber judges uphold all or part of the trial chamber's conviction, the remainder of Taylor's sentence will be served in a British prison, as provided for in a previous agreement between the United Kingdom and the Special Court for Sierra Leone.

If the Appeals Chamber reverses Taylor's conviction on all charges, he will be allowed to walk out of court as a free man. Any decision of the Appeals Chamber would be final and will not be subject to further appeal.

Timeline of Significant Events

March 7, 2003: Charles Taylor, then president of Liberia, is indicted by the SCSL on 17 initial counts (under seal), later reduced to 11.

August 11, 2003: Taylor steps down and goes into exile in Nigeria.

March 26, 2006: Taylor is arrested and handed over to the SCSL.

April 3, 2006: Taylor pleads not guilty before judges in Freetown, Sierra Leone.

June 30, 2006: The trial is transferred to The Hague for security reasons.

June 4, 2007: The trial opens with prosecutor's [opening statement](#). Taylor does not attend and dismisses his defense team.

January 7, 2008: First prosecution witness is called.

January 30, 2009: Final Prosecution witness concludes his testimony.

July 13, 2009: The defense delivers its [opening statement](#). Defense counsel Courtenay Griffiths says Taylor is not guilty and claims that the trial is a western conspiracy against the former Liberian President.

July 14, 2009: Taylor testifies in his own defense.

August 5, 2010: Supermodel Naomi Campbell testifies under subpoena.

August 9, 2010: Hollywood actress Mia Farrow testifies for the prosecution, followed by Carol White, Naomi Campbell's former agent.

November 12, 2010: Defense [formally rests its case](#).

January 10, 2011: Defense files a motion seeking an [investigation into leaked United States Government cables](#) by the whistle blowing website WikiLeaks about Taylor's trial. This issue leads to the defense's final brief being initially rejected because it was submitted late, and to the defense lawyer refusing to make final oral submissions and walking out of court in protest.

February 8, 2011: Prosecution presents its closing arguments.

March 9, 2011: Defense presents its [closing arguments](#).

March 11, 2011: Judges [officially close the trial phase](#) of the case after three and a half years. The judges retire to begin deliberations for a final judgment in the Taylor trial.

February 9, 2012: Judges unanimously reject a defense request to reopen the case to allow consideration of a UN report on Sierra Leone.

April 26, 2012: Judgment is announced at the Special Court for Sierra Leone in The Hague. [Taylor is found guilty](#) of aiding and abetting on all 11 charges and for planning attacks in Kono, Makeni, and Freetown.

May 30, 2012: [Judges sentence Taylor](#) to 50 years in prison for the crimes he was found guilty of committing.

July 19, 2012: Prosecution and defense [file notices of appeal](#).

September 26, 2013: Appeals Chamber will issue appeal judgment at the Special Court for Sierra Leone in The Hague.

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