

Case No. SCSL-2003-01-T

THE PROSECUTOR OF THE SPECIAL COURT V. CHARLES GHANKAY TAYLOR

Wednesday, 16 May 2012 09.30 a.m SENTENCING HEARING

TRIAL CHAMBER II

Before the Judges: Justice Richard Lussick, Presiding

Justice Teresa Doherty Justice Julia Sebutinde

For Chambers: Ms Doreen Ki ggundu

Ms Diana Goff
Ms Helen Worsnop
Ms Yael Rothschild
Ms Elizabeth Budnitz
Ms Rebecca Browning

For the Registry: Ms Fidelma Donlon

Ms Rachel Irura Ms Zainab Fofanah

For the Prosecution: Ms Brenda J Hollis

Mr James C Johnson
Mr Nicholas Koumjian
Mr Mohamed A Bangura
Ms Nina Tavakoli
Ms Ruth Mary Hackler
Ms Leigh Lawrie
Mr Christopher Santora
Ms Kathryn Howarth
Ms Ula Nathai-Lutchman
Mr James Pace

Mr James Pace Mr Cóman Kenny Ms Danielle Fritz

For the accused Charles Ghankay Taylor: Mr Courtenay Griffiths, QC

Mr Terry Munyard
Mr Morris Anyah
Ms Logan Hambrick
Ms Alexandra Popov
Mr Michael Herz
Ms Szilvia Csevar
Ms Habibatou Gani
Ms Carly Lenhoff
Mr James Kamara

Office of the Principal Defender: Ms Claire Carlton-Hanciles

	1	Wednesday, 16 May 2012
	2	[Sentencing Hearing]
	3	[Open Session]
	4	[Accused Present]
09:31:52	5	THE REGISTRAR: The Special Court for Sierra Leone is
	6	sitting in an open session for Sentencing Hearing in the case of
	7	the Prosecutor versus Charles Ghankay Taylor, Justice Richard
	8	Lussi ck presi di ng.
	9	PRESIDING JUDGE: Good morning. We will take appearances
09:32:36	10	first, please.
	11	MS HOLLIS: Good morning, Mr President, Your Honours,
	12	opposing counsel.
	13	For the Prosecution today, Brenda J. Hollis,
	14	Nicholas Koumjian, Mohamed A. Bangura, James C. Johnson,
09:32:55	15	Ruth Mary Hackler, Leigh Lawrie, Nina Tavakoli,
	16	Christopher Santora, Kathryn Howarth, Ula Nathai-Lutchman, James
	17	Pace, Cóman Kenny, and our intern, Danielle Fritz.
	18	PRESI DI NG JUDGE: Thank you.
	19	MR GRIFFITHS: Good morning, Your Honours, counsel
09:33:19	20	opposi te.
	21	For the Defence today, myself, Courtenay Griffiths, Queen's
	22	Counsel. With me, Mr Terry Munyard, Mr Morris Anyah, Ms Logan
	23	Hambrick, co-counsel. We are also joined by Ms Claire
	24	Carlton-Hanciles, who is the Principal Defender, and also our
09:33:43	25	legal assistants Michael Herz, Szilvia Csevar, Alexandra Popov,
	26	Habibatou Gani, and also Carly Lenhoff, our intern, and finally
	27	James Kamara, our team administrator.
	28	PRESI DI NG JUDGE: Thank you.
	29	Well, we have two preliminary matters to mention. The

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2 huge judgement. The Trial Chamber had aimed at having it 3 published last Monday. However, the technicians who were 4 formatting the judgement for publication have had challenges due to the voluminous size of the judgement, and they was not able to 09:34:31 5 meet the Monday dead-line. 6 7 However, they have guaranteed that the judgement will be 8 ready for publication before close of business this Friday. 9 Now, the second matter is as follows: Before proceeding today, it gives us no pleasure to have to place on record some 09:34:58 10 explanation for the extraordinary situation which occurred at the 11 12 end of the previous sitting of the Trial Chamber on 26th of 13 April, 2012, on which date the Trial Chamber delivered its 14 summary judgement. 09:35:25 15 On that date, at the conclusion of the proceedings, the 16 Alternate Judge, without any notice to the Trial Chamber, 17 proceeded to deliver his own opinions from the bench on the judgement that had just been delivered on these proceedings and 18 19 on the Special Court itself. What the Alternate Judge did was in 09:35:56 20 contravention of the agreement, the Statute, and the Rules which 21 govern this Court and amounted to misconduct. 22 The purpose of attaching an Alternate Judge to a Trial 23 Chamber is that he can be designated to replace a sitting Judge 24 if that Judge is unable to continue sitting. See Article 12 of 09:36:23 25 the Statute. No such designation has been made in the present 26 Further, during the proceedings, the Alternate Judge may case. 27 pose questions through the Presiding Judge, but there is no other 28 entitlement for an Alternate Judge to speak during court

first matter is the delivery of the full judgement, which is a

proceedings. See Rule 16 bis (B). Moreover, an Alternate Judge

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does not have any say in decisions of the Trial Chamber. He is 1 2 obliged to be present during deliberations off the Trial Chamber, 3 but he is not entitled a vote thereat. See Rule 16 bis (C). It 4 follows that it was wrong for the Alternate Judge, who has not been designated to replace a sitting Judge, to offer an opinion, 09:37:15 5 whether dissenting or concurring, on a judgement of Trial 6 7 Chamber. 8 The behaviour of Judge Sow was referred by the Council of 9 Judges to a plenary meeting of the Judges of the Special Court. We three Trial Chamber Judges abstained from voting at that 09:37:34 10 pl enary. 11 12 I will now read onto the record the resolution of the 13 pl enary. 14 Resolution on complaint by Trial Chamber II against Justice 09:37:57 15 Malick Sow. The Judges of the Special Court for Sierra Leone sitting on the 7th and 10th of May, 2012, in the 17th plenary of 16 17 Judges, pursuant to Rule 15 bis (B) of the Rules of Procedure of 18 Evidence of the Special Court which mandates the Council of 19 Judges who refer an allegation of unfitness of a Judge to sit to 09:38:27 20 the plenary if it determines that, one, the allegation is of a 21 serious nature, and two, that there appears to be a substantial basis for same. 22 Pursuant also to Rule 24(iii) of the Rules, which provides 23 24 that the Judges shall meet in plenary to decide upon matters relating to the internal functioning of the Chambers and the 09:38:53 25 26 Special Court, seized of the complaint by the Judges of Trial 27 Chamber II, dated 26th of April, 2012, against Justice Malick

Sow, Alternate Judge, considering the response of Justice Malick

Sow, dated the 1st of May, 2012, to the complaint, having also

- 1 considered the views and recommendations of the Judges on the
- 2 matter and the response of Justice Malick Sow to those views
- 3 pursuant to Rule 15 bis (C) have reached the following
- 4 conclusions:
- 09:39:39 5 1. The plenary declares that Justice Malick Sow's
  - 6 behaviour in court on the 26th of April, 2012, amounts to
  - 7 misconduct rendering him unfit to sit as an Alternate Judge of
  - 8 the Special Court.
  - 9 2. The plenary recommends to the appointing authority
- 09:40:03 10 pursuant to Rule 15 bis (B) to decide upon the further status of
  - 11 Justice Malick Sow.
  - 12 3. Pursuant to Rule 24(iii), the plenary directs Justice
  - 13 Malick Sow to refrain from further sitting in the proceedings
  - 14 pending a decision from the appointing authority.
- 09:40:28 15 Done in Freetown, Sierra Leone, this 10th day of May, 2012,
  - 16 for and on behalf of the plenary, signed by the President Justice
  - 17 Jon Kamanda.
  - 18 Now, Ms Hollis, you have one hour to address the Court and
  - 19 that will start from now which will bring you up to 20 to 11.00
- 09:41:05 20 you must complete your address.
  - 21 MS HOLLIS: Thank you, Mr President. May it please the
  - 22 Court. In arriving at a sentence --
  - 23 PRESIDING JUDGE: I'm sorry. I didn't see you standing
  - 24 there.
- 09:41:13 25 MR GRIFFITHS: I apologise to my learned friend. Your
  - 26 Honour, can I ask -- raise two matters, preliminary matters,
  - 27 regarding the timing of the proceedings today. I don't know
  - 28 whether Your Honours were considering have a mid-morning break at
  - 29 some stage, but it would perhaps assist us if that were to be

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2 And the second request is that Mr Taylor, when he makes his 3 statement, be allowed to make that statement from the witness 4 table. PRESIDING JUDGE: Well, we -- actually, Mr Griffiths, we 09:41:54 5 were not thinking of having a mid-morning break, but you're 6 7 saying you need it for some particular purpose? 8 MR GRIFFITHS: Well, it would be useful to have a 9 discussion with Mr Taylor before he commences. PRESIDING JUDGE: We don't have any problem with a break, 09:42:30 10 Mr Griffiths, but were you thinking of have it before you 11 12 actually address or before Mr Taylor has something to say? 13 MR GRIFFITHS: Well, We'd prefer it -- we would prefer it, Your Honours, before I addressed the Court. 14 09:42:48 15 PRESIDING JUDGE: And are you asking for -- we had in mind something like 15 minutes. 16 17 MR GRIFFITHS: That would be more than adequate, 18 Your Honour. 19 PRESIDING JUDGE: All right. Any problems with that, 09:43:11 20 Ms Hollis? MS HOLLIS: Not all, Mr President. 21 22 PRESIDING JUDGE: All right, thank you. Well, we have noted the time and we'll give you one hour from now. 23 24 MS HOLLIS: Thank you, Mr President. May it please the Court. 09:43:24 25 26 In arriving at a sentence in this case, we agree with the

taken after my learned friend had concluded her submissions.

Defence that Your Honours should look at the gravity of the

those crimes, and we suggest the recommended sentences are

crimes and the specific conduct of the accused in relation to

2 In relation to an assessment of the gravity of crimes of 3 which Mr Taylor has been convicted, we agree with the Defence 4 that such assessment should include the, in our view, massive scale and, in our view, extreme brutality of these crimes, the 09:43:56 5 vulnerability of the victims, and of course the impact on the 6 7 victims and their relatives, both then and now. 8 The sentence in this case, we suggest, should not give 9 Mr Taylor a volume discount for these crimes committed on a massive scale but must be reflective of that scale. We are here 09:44:21 10 not because there was a war in Sierra Leone, not because there 11 12 was an invasion of Sierra Leone, but because of the crimes 13 committed during that war and crimes committed as part of a 14 widespread and, in this case, systemic attack against the 09:44:43 15 civilian population of Sierra Leone. It is entirely proper then, as Your Honours have made 16 17 clear, that the gravity of the crime is the primary 18 consideration, the litmus test, in determining an appropriate 19 sentence. That litmus test, in this case, we suggest, supports 09:45:03 20 the sentences recommended by the Prosecution. 21 Given the unimaginable scale and brutality of the crimes 22 planned and facilitated by Mr Taylor, it is perfectly 23 understandable that the Defence would choose to ignore or 24 downplay the gravity of these crimes, ignore the victims, but 09:45:27 25 Your Honours do not have that luxury. It is instead your 26 obligation to consider the impact of these crimes on those who 27 have suffered from them. 28 Those who were murdered cannot speak. We have only the 29 survivors who bore witness before you. Some of these brave

properly reflective of both of these factors.

	2	they and others have lived through. Unforgettable testimony of
	3	unspeakable horror. Brave people like the Reverend Tamba Teh,
	4	who told us about seeing a group of over 50 bodies decapitated by
09:46:06	5	child soldiers on the orders of an RUF commander. We can only
	6	imaging the terror of those in Freetown in January of 1999 during
	7	the attack on that city and also those in Freetown and the
	8	surrounding area during the retreat from that city which was the
	9	successful culmination of the offensive Mr Taylor planned with
09:46:28	10	Sam Bockarie.
	11	But we heard of the terror from survivors and perpetrators
	12	who spoke to you of the wave of terror, the burning, the killing,
	13	the amputating, and the raping. The gravity, including the
	14	scope, brutality, and severe and ongoing impact of these crimes
09:46:48	15	on the multitude of victims and their relatives more than
	16	justifies the sentences the Prosecution has recommended.
	17	In regarding to your assessment of Mr Taylor's specific
	18	conduct in relation to the crimes of which he has been convicted,
	19	the Defence submissions ignore or dispute many of your key
09:47:09	20	findings, findings which fully justify the recommended sentence.
	21	First, in regard to Mr Taylor's role in the attacks in
	22	Kono, Makeni, and Freetown, in an Operation most aptly named
	23	Operation No Living Thing. Now, of course Mr Taylor's sentence
	24	must be considered in light of the gravity, scale and nature of
09:47:36	25	this operation, an offensive which included crimes not only in
	26	the city of Freetown but also leading into and out of the
	27	capital, including the Western Area, Makeni, and of course, Kono.
	28	In its entirety, this operation was the largest single
	29	offensive within the Court's temporal jurisdiction. Mr Taylor's

survivors came to this Court and recounted the nightmare that

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2 provide the means for the operation to happen, it was his and Sam 3 Bockarie's planning that allowed it to happen, and the crimes 4 flowed directly from that plan. In regard to Mr Taylor's role in this operation, the 09:48:16 5 6 Defence ignores or disputes the following key findings. 7 Your Honours found that the plan for this offensive, for these 8 attacks on Kono, Makeni, and Freetown, was made in Monrovia by 9 Charles Taylor and Sam Bockarie. The Defence, however, rejects that finding and argues to you that the plan originated with Sam 09:48:40 10 Bockarie before he left for Monrovia. Your Honours found that it 11 12 was Charles Taylor who told Sam Bockarie to make this operation 13 fearful. The Defence, however, ignore this finding, instead 14 arguing that they - meaning both Charles Taylor and Sam Bockarie 09:49:03 15 - designed the operation to be fearful. 16 The Defence arguments at paragraphs 68 et seq that 17 Charles Taylor is less culpable for the planning of Freetown than 18 is Sam Bockarie not only ignore or dispute the findings that 19 Mr Taylor was a co-author of the plan and that it was he who told 09:49:25 20 Sam Bockarie to make the plan fearful and to use all means to get 21 to Freetown, the arguments also ignore or dispute your finding that at the time of this plan, Charles Taylor was well aware of 22 23 the crimes committed by the AFRC/RUF forces in the course of 24 their military operations and aware that their war strategy was explicitly based on a widespread or systematic campaign of crimes 09:49:45 25 against civilians. 26 27 They also ignore your finding that by his instruction to 28 make the operation fearful, which was repeated many times by

role in the operation and his crimes was direct. Not only did he

Sam Bockarie during the course of the Freetown invasion, and by

his instruction to use all means, the accused demonstrated his

2 awareness of the substantial likelihood that crimes would be 3 committed in the execution of the plan. 4 This awareness of the brutal crimes being committed by the AFRC/RUF makes Mr Taylor's co-authorship of the plan and his 09:50:25 5 imperative that it be fearful and to use all means even more 6 7 egregi ous. The Defence argument that planning this operation 8 does not warrant punishment for all crimes committed subsequent 9 to the plan, ignores or disputes your finding that the crimes committed during the execution of this plan, including during the 09:50:43 10 retreat from Freetown, resulted directly from the Bockarie/Taylor 11 12 pl an. 13 Not only does the Defence attempt to downplay your findings 14 in regards to Taylor's role as a planner of that offensive, they 09:51:05 15 also attempt to downplay his role in support of that operation. 16 Your Honours found that Charles Taylor's support was 17 indispensable to the acquisition and transport of materials which 18 was used during this operation, and that this material was 19 critical to the perpetrator's ability to carry out this 09:51:23 20 operation, this most horrific chapter in the ongoing horrific 21 campaign of atrocities. 22 In addition, as you pointed out, Mr Taylor stayed engaged in the operation as it was carried out. You found that Mr Taylor 23 24 gave advice to Sam Bockarie and received updates in relation to the progress of the operations in Kono and Freetown and the 09:51:43 25 implementation of their plan. You found that Bockarie was in 26 27 frequent contact by a radio or satellite phone with Taylor, 28 either directly or through Benjamin Yeaten. You also found that 29 Taylor's subordinates transmitted "448 messages" during the

operation.

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2 relation to the operation aptly named Operation No Living Thing, 3 specific conduct which warrants the recommended sentences. 4 Excuse me, Your Honours. But this was not Mr Taylor's only criminal involvement in 09:52:24 5 the crimes of which he has been convicted. He also played the 6 7 role of aider and abettor. Mr Taylor's specific conduct in 8 providing indispensable, critical support to the perpetrators of 9 the crimes also warrants the recommended sentences. 09:52:46 10 The cases cited by the Defence are distinguishable on their facts, including dealing with much shorter periods of criminal 11 12 involvement and conviction of fewer counts. Interesting to note, 13 the Defence make no similar analysis of sentencing for planning 14 and operation, such as Operation No Living Thing. 09:53:12 15 This form of liability, aiding and abetting, includes many 16 different levels of involvement and importance to the commission 17 of crimes. So, contrary to the Defence argument, one cannot look only at the broad characterisation of this mode of liability, but 18 19 we must look at the specific conduct of Charles Taylor, at the 09:53:32 20 unique circumstances of his criminal conduct as aider and 21 abettor. Such an assessment is necessary to fashion an individualised assessment in this case. A review of Mr Taylor's 22 23 conduct as aider and abettor makes clear his central role in the 24 ability of the perpetrators to commit the crimes charged over 09:53:55 25 such a long period of time on such a scale and throughout 26 Si erra Leone. 27 We have discussed Mr Taylor's role as aider and abettor in 28 Operation No Living Thing. You found that Mr Taylor aided and 29 abetted the perpetrators in a myriad of ways. It is, perhaps,

Such was the specific conduct of Charles Taylor in

2 one form of it, the provision of arms and ammunition. 3 And in that regard you found that the RUF/AFRC, in fact, 4 heavily and frequently relied on the materiel supplied and facilitated by the accused. You found that arms and ammunition 09:54:41 5 provided by or through Mr Taylor were indispensable to the 6 7 AFRC/RUF military offensives, and that material was critical in 8 enabling the operational strategy of the AFRC/RUF. 9 And what was the operational strategy for which Mr Taylor provided critical support? What did you find in regard to the 09:55:03 10 military offensives for which Mr Taylor provided indispensable 11 12 support? 13 Your Honours found that throughout the indictment period, 14 the operational strategy was characterised by a campaign of 09:55:19 15 crimes against the Sierra Leonean civilian population, including 16 all the crimes charged in the indictment against Mr Taylor. 17 also found that these crimes were inextricably linked to how the RUF and AFRC achieved their political and military objectives. 18 19 And as discussed above, Mr Taylor gave all of this 09:55:46 20 indispensable, critical support with full awareness of this campaign of terror, campaign of atrocities being carried out by 21 22 those he was supporting. You found that as early as 1997, 23 Charles Taylor was informed in detail of the crimes committed 24 during the junta period. And as of August 1997, when he assumed the presidency, he knew of the crimes being committed by those he 09:56:10 25 26 was supporting. This was Charles Taylor knowing, key, and 27 continual role in the crimes of which he stands convicted -28 planner of the bloodiest and most vicious chapter of the campaign 29 of atrocity, provider of critical ongoing and diverse support to

particularly helpful to look at this broader aiding and abetting,

the perpetrators of that campaign.

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2 As one of the chiefs said in Sierra Leone, "If the roots of a mango tree are cut, the tree will die." Mr Taylor was the root 3 4 which fed and maintained the RUF and AFRC/RUF alliance. Without him the rebel movement with its attendant crimes would have 09:56:52 5 suffered an earlier death. Mr Taylor's specific conduct warrants 6 7 the recommended sentences. 8 In arriving at a sentence, of course, we are all fully 9 aware that the Special Court's Statute requires that a quantitative sentence be adjudged, not a qualitative one; thus, 09:57:14 10 the Trial Chamber must adjudge a specified number of years of 11 12 imprisonment. However, there is no limitation placed on the 13 number of years of imprisonment that may be imposed. That is for 14 Your Honours to decide, taking into account the factors listed in Article 19 of the Statute and the factors listed in the Court 09:57:38 15 Rul es. 16 17 It is helpful to recall that the Statute gives a Trial 18 Chamber the discretion to consider, as it determines appropriate, 19 the sentencing practices of the ICTR and the national courts of 09:58:00 20 Sierra Leone. The Special Court allows this as a matter of discretion of the Trial Chamber, and this is the framework in 21 22 which the Prosecution submitted its sentencing recommendations. There is no mathematical scheme of punishment established 23 24 for the Special Court, but you may, of course, look to other sentences that have been adjudged in the Special Court. And we 09:58:21 25 26 suggest to you that the recommended sentences in this case are 27 appropriate because Charles Taylor's involvement in the criminal 28 campaign in Sierra Leone was more pervasive than that of the most 29 senior leaders of the AFRC and RUF whose convictions and

sentences are now final. 1 2 In this regard, it is appropriate to look for a moment at 3 the Defence arguments that all the weight for the atrocities in 4 Sierra Leone is being put solely on Mr Taylor's shoulders and that Prosecution is providing the people of Sierra Leone with an 09:58:56 5 6 external bogeyman. These arguments are without merit. They 7 ignore the trials, convictions, and sentences adjudged against 8 the Sierra Leonean Leaders of the three main Sierra Leonean 9 factions: The CDF, the RUF, and the AFRC. They also ignore the reality that those convicted in those trials were sentenced to a 09:59:23 10 11 total of 297 years in prison. 12 Sierra Leoneans know well who in their country bear 13 greatest responsibility for the crimes against them, just as they 14 know that Mr Taylor is among those who bear greatest 09:59:40 15 responsibility for those crimes. 16 Issa Sesay was rightly sentenced to 52 years for his role 17 in the horrific campaign of atrocities waged against the people 18 of Sierra Leone. He was not convicted of any crimes arising from 19 the attack on Freetown and the Western Area in January 1999, nor 10:00:04 20 the crimes arising from the retreat from that attack. He was not 21 found to have planned that attack. He was not found to have given the imperative that the attack be fearful or to use all 22 23 means to get to Freetown. 24 Alex Tamba Brima was rightly sentenced to 50 years for his 25 role in the campaign of atrocities. Brima's convictions for 10:00:29 26 crimes in Freetown and the Western Area fall squarely within the 27 Bockarie/Taylor plan which he adopted after he took command, a 28 plan which resulted directly in the commission of the charged

The orders that he gave for the vicious crimes committed

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crimes.

Bockarie/Taylor plan and with the imperatives Charles Taylor gave

in Freetown and the Western Area were consistent with the

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consi dered.

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3 to make the operation fearful and to use all means to get to 4 Freetown. 10:01:00 5 Mr Taylor's broader criminal involvement in the ongoing campaign of atrocities in Sierra Leone, his critical role in the 6 7 entire campaign of atrocities committed against the civilian 8 population of Sierra Leone, is deserving of a lengthier 9 puni shment. 10:01:17 10 It would also be appropriate for Your Honours to consider 11 the possibility that Mr Taylor may be granted early release when 12 you determine what constitutes an appropriate sentence in this 13 case. 14 The Defence have erroneously cited to the Nikolic case, an 10:01:38 15 ICTY case, as support for their argument that it would be improper for you to take this into account, but the Nikolic case 16 17 establishes just the opposite. It establishes that you may take 18 this possibility into account. The Nikolic case simply states 19 that you may not give undue weight to this possibility. 10:02:02 20 Nikolic case also establishes that Your Honours may determine 21 what you consider to be the minimum term of imprisonment 22 Mr Taylor should serve when adjudging an appropriate sentence. 23 And other Chambers have also held it is legitimate for a Trial 24 Chamber to recommend a minimum sentence to be served by an 10:02:20 25 accused before any commutation or reduction of sentence is

Special Court would count toward any sentence of imprisonment

in detention after his transfer to the custody of the

The Prosecution agrees that the timed served by Mr Taylor

that might be adjudged. However, Mr Taylor is not entitled to 1 2 nor should he receive credit for any of the time spent in 3 Calabar, Nigeria. 4 Evidence of the accused himself and other evidence contradicts the current Defence claim that Mr Taylor was under 10:02:53 de facto house arrest in Nigeria. At paragraph 3 of Annex U 6 7 attached to the Defence sentencing brief, Mr Taylor makes plain 8 that in Calabar he was not under house arrest. This is 9 consistent with his testimony before Your Honours. When he told you that President Obasanjo said that he, Mr Taylor, could go to 10:03:20 10 where he wanted to go, that he not in prison, that he was 11 12 permitted to visit friends. And, of course, we cannot forget 13 that, by his testimony, Mr Taylor was arrested in March of 2006 14 after driving across the breadth of Nigeria supposedly on the way to a weekend visit in another country. These are not the actions 10:03:42 15 of a man under house arrest. The Defence has not established 16 17 that there was a de facto house arrest, and even had they 18 established such a status, it was not at the order or request of 19 this Court and should not be considered by Your Honours. 10:04:02 20 The Defence has submitted several alleged mitigating factors, none of them warrant reduction in sentence. As 21 22 discussed in our sentencing submissions, even were the alleged 23 mitigating circumstances to be proven by a balance of 24 probabilities, Mr Taylor would not be automatically entitled to 10:04:22 25 credit and you could impose a severe sentence where we suggest, 26 as here, the gravity of the offences so require. 27 In addition, were any mitigation proven, the aggravating 28 circumstances in this case negate any mitigating circumstances.

However, we suggest to you that the Defence has not met the

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burden to establish any mitigating factors by a balance of 1 2 probabilities. 3 The first mitigation factor, Mr Taylor's supposed 4 contribution to peace in Sierra Leone, is without merit. The 10:05:01 5 Defence argument that the Prosecution is downplaying Mr Taylor's role in the peace process ignores or disputes your findings that 6 7 Mr Taylor acted as a two-headed Janus, publicly espousing peace 8 while clandestinely undermining it by secretly fueling 9 hostilities in Sierra Leone by urging the rebels not to disarm and actively providing them with arms and ammunition. The 10:05:23 10 argument also ignores your finding that while publicly promoting 11 12 peace in Lome, he was privately providing arms and ammunition to 13 the RUF, again fundamentally undermining the peace process 14 itself. 10:05:41 15 Mr Taylor should be given no credit for acting as a two-headed Janus. 16 17 Mr Taylor's alleged voluntary resignation from office and 18 his departure from Liberia in order to foster peace is worthy of 19 no mitigation. Again, the Defence have not met their burden 10:06:08 20 The balance of probabilities on the evidence is that 21 Charles Taylor stepped down for several reasons, none of them to 22 foster peace. 23 First of all, he stepped down to avoid arrest, as the 24 Defence discusses in paragraph 142 of their brief. Also he only stepped down after his attempt to import a final shipment of arms 10:06:25 25 26 and ammunition failed. In addition, he left to avoid capture, 27 torture, and death. The LURD was at his door. He knew what had 28 happened to President Tolbert, to Master Sergeant Doe, and he did 29 not want to face a similar fate. And finally, he left because

2 stated by then president of Ghana, John Kufuor. And that is 3 found at Exhibit D408, page 13. 4 Mr Taylor's alleged lengthy public service to his country is also not worthy of mitigation. Their argument relies on the 10:07:07 case Renzaho and that case is distinguishable. Here, Mr Taylor's 6 7 convictions are for crimes committed against civilians in 8 Sierra Leone, not in Liberia where he lived and served and worked 9 as president. Thus, his alleged acts of good character and lengthy leadership in Liberia, even if true, bear no relevance 10:07:32 10 and have no positive impact on the lives of his victims in Sierra 11 12 Leone. On this basis alone, this alleged mitigation should be 13 rej ected. 14 But these arguments also ignore that Mr Taylor used 10:07:53 15 Liberian security forces as conduits in his links with the RUF 16 and AFRC forces, using them to take arms back and forth and to 17 bring diamonds to him. It also ignores that Mr Taylor provided the RUF with a guesthouse, providing communications equipment, 18 19 security, and domestic staff in Monrovia, a questhouse from which 10:08:15 20 he sent arms and ammunition to Sierra Leone and that he used to obtain diamonds from Sierra Leone. 21 These assertions also ignore evidence of Mr Taylor's 22 23 exploitive and despotic rule in Liberia, including Prosecution 24 Exhibits 449 and 450, showing that the Carter Centre closed its office in Monrovia, publicly criticising Mr Taylor's government 10:08:38 25 26 for no longer sharing the goals of a democratic society, citing 27 to reports of serious human rights abuses, the use of funds for 28 extra budgetary purposes, the intimidation of journalists and 29 others in Liberia, and criticising Liberia's role in the

African leaders took the initiative to convince him to resign, as

sub-region as a destructive one.

2 The assertion that Mr Taylor and his Defence counsel's 3 co-operation with the Prosecution and the Court, even if 4 marginal, should be considered as mitigation is similarly without 10:09:14 5 Rule 101(b) addresses the substantial, not marginal, co-operation of an accused with the Prosecutor, and certainly no 6 7 such co-operation was present in this case. There was no 8 co-operation that significantly shortened the trial proceedings 9 in this case. And the argument also ignores the boycotts of the proceedings, the outburst in court by Defence counsel. All of 10:09:39 10 these delaying the proceedings and disrupting them. 11 12 The Defence also asks for a reduced sentence for the 13 alleged sincere sympathy expressed toward the victims of crimes. 14 But what the Defence argument really shows is that Mr Taylor's 10:09:59 15 only real regret is that Your Honours saw through his 16 well-practiced denials and efforts to portray himself as a 17 peacemaker concerned with those in the conflagration, when, in 18 truth, he was the person continually fueling the fire. 19 Mr Taylor's lack of a prior criminal record is of little 10:10:23 20 significance or weight considering the gravity of the crimes 21 committed. And you must also ask yourself, as leader of the 22 NPFL, who was in a real position of authority and power to 23 prosecute Mr Taylor for crimes? When he was the president of 24 Liberia, who was in a real position of power or authority to prosecute Mr Taylor for crimes? And we must remember that just 10:10:44 25 26 before Mr Taylor left office in August of 2003, his legislature 27 granted amnesty from civil and criminal proceedings to all 28 parties that fought in Liberia's civil wars, covering acts all 29 the way back to December 1989, thus shielding Mr Taylor from

prosecution.

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His lack of a proper -- of a prior criminal record, even if 2 3 established, does not mitigate his quilt or the appropriate 4 sentence. The claim of extraordinarily good behaviour in detention 10:11:21 5 ignores that he misused his privileged telephone communications 6 7 while in detention, and that on a number of occasions he refused 8 to leave his cell because he did not like conditions of detention 9 or conditions of transport, resulting in adjournments and lost trial time. 10:11:41 10 In relation to age and ill health. The age of an accused 11 12 in no way bars the imposition of a very high sentence. In fact, 13 the Cambodian Court supreme Court Chamber recently quashed the 14 35-year term imposed by the Trial Chamber on accused Duch and sentenced Duch to life imprisonment. This despite the fact Duch 10:12:08 15 was older that Mr Taylor at the time of sentencing. 16 17 This and other courts have considered ill health in mitigation only in exceptional circumstances and there is no 18 19 proof of such exceptional circumstances here. There is no proof 10:12:27 20 that Mr Taylor is in a physical condition that may be determined 21 overall as ill health. Certainly the Prosecution has seen no 22 medical report that would substantiate this alleged ill health. 23 Similarly, if we look at the alleged mitigating factors 24 that Mr Taylor is married, with children, and look at his social, professional, and family background, these factors warrant no 10:12:55 25 26 reduction in sentence. Chambers have declined to consider an 27 accused's family situation or the fact that he is the father of 28 young children in mitigation, or have given it limited or no

weight in view of the gravity of the offences.

	1	Similarly, the Trial Chamber should not give Mr Taylor any
	2	discount in sentence on account of his social, professional, and
	3	family background. If anything, Mr Taylor's social and
	4	professional background aggravates rather than mitigates, and
10:13:32	5	supports the imposition of the recommended punishment.
	6	Mr Taylor is a mature, well-educated, intelligent man, to
	7	whom life has gifted many opportunities. Instead of using those
	8	opportunities for good, he chose of his own volition to follow a
	9	path of abject greed and criminality. There should also be no
10:13:56	10	mitigation given on the speculation as to where Mr Taylor would
	11	serve any imprisonment.
	12	As Judge I toe noted during the RUF sentencing hearing,
	13	where an accused is to serve a sentence is speculation and not
	14	appropriate for argument during a sentencing proceedings. Also,
10:14:12	15	the Defence argument ignores the fact that Mr Taylor has lived
	16	and travelled extensively abroad and that he is fluent in
	17	English, which is the language of the United Kingdom, should he
	18	be imprisoned there. It also ignores that there is no showing
	19	that his family are all located in Liberia. Indeed, the opposite
10:14:34	20	is more likely true. Nor is there any showing that he and his
	21	family do not have the means for visits to him regardless of
	22	where he might be imprisoned should there be a sentence of
	23	i mpri sonment adjudged.
	24	There is no mitigation in this case to warrant a reduced
10:14:53	25	sentence.
	26	The alleged prejudicial Prosecution strategy is without
	27	merit and warrants no reduction in sentence. The arguments
	28	advanced by the Defence are deserving of no weight. The
	29	allegation that the indictment was unsubstantiated and

	2	11 counts in the indictment, and it also ignores that the
	3	original and amended indictments were reviewed and approved by a
	4	Judge of the Special Court, and that again, on subsequent review
10:15:33	5	pursuant to Rule 98, no part of the indictment was dismissed.
	6	Your Honour's findings that the Prosecution failed to prove
	7	some elements of some modes of liability does not equate to an
	8	overreaching, unsubstantiated indictment. There is no support
	9	for the allegations of ill motive on the part of the Prosecution.
10:15:55	10	There is nothing improper in taking actions to lawfully transfer
	11	an indictee to the custody of the Special Court.
	12	In regard to these and other accusations in the Defence
	13	brief, it is most unfortunate that the Defence has once again
	14	resorted to emotive attacks on the professionalism and integrity
10:16:14	15	of the Prosecution team.
	16	The sentencing process would have been better served if the
	17	Defence had instead focussed its attention on accurately
	18	reflecting the findings and facts of this case. But just to be
	19	absolutely clear, the Prosecution objects and denies all of these
10:16:31	20	Defence attacks. They are unfounded attempts to redirect
	21	attention from the findings of the Trial Chamber and to
	22	relitigate matters that were fully before Your Honours.
	23	The arguments of the Defence regarding the alleged
	24	sentiments of the Liberian people are also worthy of no
10:16:53	25	consideration. The victims of the crimes of which Mr Taylor were
	26	convicted are Sierra Leoneans, not Liberians. Also, there is no
	27	way to judge how reflective these supposed sentiments are of the
	28	Liberian population as a whole or in general. No way to judge
	29	whether the Defence submissions are only those of people who

overreaching ignores that Mr Taylor was convicted of all

	1	benefitted from Charles Taylor financially, politically, by being
	2	able to take who and what they wanted and behave as they wished
	3	while he was their leader.
	4	In regard to the information in the Defence annexes, the
10:17:32	5	Trial Chamber, of course, is free to consider character
	6	references if they are worthy of credibility, but we suggest that
	7	any of the Defence submissions that go to the acts and conduct of
	8	the accused are inappropriate for consideration at this time, and
	9	we suggest in that regard that Your Honours look very carefully
10:17:49	10	at the information provided in Annexes G, J, and U.
	11	We also ask Your Honours to consider that this is untested
	12	information. There has been no opportunity to cross-examine
	13	untruthfulness or accuracy. For example, were the materials
	14	submitted by individuals prepared before the Defence even talked
10:18:13	15	to the person, as was the case with DCT-213, where the Defence
	16	had already drawn up the Affidavit and had it ready to sign
	17	before they even contacted her.
	18	Further, in regard to the letter from Victoria
	19	"Mother" Young regarding orphans, we've had no opportunity to ask
10:18:37	20	her if these orphans were simply held for Mr Taylor's use as
	21	child soldiers or as forced labour, to explore with her whether
	22	these children were actually held for child trafficking. The
	23	untested information in the Defence annexes is deserving of
	24	little or no weight.
10:18:53	25	Excuse me.
	26	The Prosecution's recommendations as to sentence are
	27	appropriate for the two primary goals or objectives of sentencing
	28	in international criminal tribunals. These two goals were
	29	recognised by this Court's Appeals Chamber in the CDF Appeals

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2 retribution and deterrence. As Your Honours stated at 3 paragraph 17 of your AFRC Sentencing Judgement: International 4 criminal tribunals have noted that rehabilitation cannot be considered as a predominant consideration in determining a 5 10:19:38 sentence in international criminal courts. To the extent 6 7 rehabilitation is a goal of sentencing in this Court, albeit not 8 a predominant one, Mr Taylor is not a candidate. 9 At the time of his planning and aiding and abetting these 10:19:56 10 horrific crimes, Mr Taylor was a mature, highly educated man who had been in positions of leadership and influence for most of his 11 12 professional life, and a man with this background chose to play a 13 critical role in the commission of the crimes of which he has 14 been convicted. A man with this background who chose to act the two-headed Janus, to fuel the flames of conflict. A man with 10:20:17 15 16 this background who knowingly planned the attacks against Kono, 17 Makeni, and Freetown, who knowingly provided sustained and 18 significant support for the horrific campaign of atrocities 19 against the civilian population of Sierra Leone. 10:20:40 20 In conclusion, Your Honours, the Prosecution's recommended 21 sentences are consistent with the primary sentencing goals in 22 international courts. They are properly reflective of the 23 extreme gravity of these crimes and of Mr Taylor's specific 24 conduct in regard to these crimes, his central and vital role in the entire campaign of atrocities, in particular in the most 10:21:00 25 26 vicious episode of this ongoing campaign, the late 1998 and early 27 1999 operation against Kono, Makeni, and Freetown. 28 The recommendations are also reflective of the absence of

Judgement at paragraph 532: The primary goals must be

any mitigating factors that would warrant any significant

reduction of sentence.

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2 And the Prosecution recommendations would truly promote an 3 end to impunity and would bring true reconciliation by giving a 4 measure of justice and accountability to the victims of the multitude of crimes committed against them. 10:21:40 5 Thank you, Your Honours. 6 7 PRESIDING JUDGE: Thank you, Ms Hollis. 8 JUDGE DOHERTY: Ms Hollis, I've heard your address 9 concerning the submission of the Defence that time spent in exile in Calabar should be taken into account, the two years and 10:22:01 10 several months. It's at paragraph 213 of the Defence brief. 11 12 There are two matters that are raised in that Defence brief, one 13 is drawing a parallel between the legal provisions of the 14 United Kingdom Criminal Justice Act, and the other is a factual one, that the offer was related - I quote here from paragraph 10:22:25 15 214: 16 17 "... is directly related to the Special Court Indictment that had been unsealed ..." 18 19 In other words, there appears to be an emphasis on the 10:22:40 20 Special Court's role. Could you comment on those two 21 submissions. 22 MS HOLLIS: Certainly. 23 The only evidence that his fleeing to Nigeria might be 24 related to the Special Court is that he was then aware of an indictment, so he was becoming, in effect, a fugitive from 10:22:56 25 26 justice. That warrants no reduction in sentence. 27 And as to provisions in the United Kingdom, first of all, 28 it's unclear whether the -- any actions by the international 29 courts would actually have any weight or that the

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2 criminal courts. But beyond that, and more significantly, in the 3 United Kingdom, a person being given bail of any sort with any 4 sort of monitoring provisions is a person who is being released from the custody of the court in front of whom his case is being 10:23:33 5 tri ed. 6 7 That's not true of Nigeria. This case did not order 8 Nigeria, which it had no authority to do, or even ask or request 9 Nigeria to hold Mr Taylor in de facto arrest because there was a case before it. It's totally different in the United Kingdom. 10:23:52 10 The United Kingdom does not at all speak of a situation where a 11 12 person flees to a third country and allegedly has some sort of 13 restrictions on his movement. It's for the United Kingdom where 14 a person is released from the custody of the court in front of 10:24:14 15 whom his case is being heard, and that's not at all the case here. 16 17 And we reiterate that in our view, the evidence is totally 18 the contrary. It's now simply a good argument for them to make, 19 but the accused himself contradicts that argument. He was not 20 under any de facto house arrest in Nigeria, and even if he was, 10:24:28 because it was not a result of the actions of this Court by order 21 22 or request, then it should be given no weight. 23 JUDGE DOHERTY: Thank you, Ms Hollis. That was my only 24 questi on. 25 PRESIDING JUDGE: Yes, thank you, Ms Hollis. 10:24:49 26 We'll take that break you wanted now, Mr Griffiths. And 27 just to answer your second application, we have no objection if

United Kingdom's rules would actually apply in the international

Mr Taylor would like to give his address from the witness-stand.

MR GRIFFITHS: I am most grateful for that indication,

	1	Mr President.
	2	PRESIDING JUDGE: Now, we'll adjourn and we'll come back at
	3	15 minutes from now. Say at 25 minutes to 11.00.
	4	[Break taken at 10.25 a.m.]
10:42:59	5	[Upon resuming at 10.43 a.m.]
	6	PRESIDING JUDGE: Please go ahead, Mr Griffiths.
	7	MR GRIFFITHS: May it please Your Honours.
	8	Again can I express my gratitude for the time allowed to
	9	consult with Mr Taylor. Equally, we are grateful for
10:43:14	10	Your Honours's indication this morning as to when the final
	11	written judgement will become available. Although it's still a
	12	matter of concern to us that we are here at this sentencing
	13	hearing without the benefit of Your Honours' written reasons.
	14	For this reason for example, during the course of my
10:43:38	15	learned friend's Ms Hollis's address this morning, in effect a
	16	factual issue was raised as to the evidence supporting the
	17	finding of planning in relation to the Freetown invasion, and
	18	without the assistance of the final written brief, of course,
	19	that creates difficulties for all the parties in our submission.
10:43:59	20	But in any event, we submit that what emerges from Your
	21	Honours' summary judgement is a more modest vision of Mr Taylor's
	22	involvement in the Sierra Leonean conflict than that originally
	23	suggested by this Prosecution. We need to remind ourselves that
	24	as recently as April of last year, David Crane, once Chief
10:44:39	25	Prosecutor of this Court, was still maintaining, and I quote:
	26	"The civil war in Sierra Leone ripped apart an entire
	27	region of West Africa, spawned by the president of Libya, Colonel
	28	Muammar Gaddafi, and supported by President Blaise Compaoré of
	29	Burkina Faso, and Charles Taylor of Liberia. This take-over of

2 event in conflict not seen since the Middle Ages." 3 The West African joint criminal enterprise was designed to 4 support the geopolitical take-over of West Africa by Gaddafi, where surrogates such as Compaoré and Taylor, amongst others, 10:45:25 5 would control the region on his behalf. 6 7 Now we need to remind ourselves that that was the paranoid 8 mindset which created the indictment in this case. This 9 overblown claim has been rightly rejected by this court. What this Court has found - and for which Charles Taylor is to be 10:45:52 10 sentenced - is that he was assisting combatants, combatant 11 12 factions, in the foreknowledge that they was perpetrating 13 atrocities in another country. 14 Now, a distinguished professor of law, and one of the commissioners on the Sierra Leonean Truth and Reconciliation 10:46:14 15 Commission, has remarked as follows in respect of this Court's 16 17 finding - that's Professor William Shabas: 18 "The conclusion of the Trial Chamber in Charles Taylor 19 seems based on uncontroversial principles. He or she who 10:46:38 20 provides significant assistance to a participant in a conflict, 21 knowing that the participant is perpetrating atrocities against civilians, is guilty of aiding and abetting such crimes. This is 22 23 straightforward, and it leads in an interesting direction." 24 Atrocities were perpetrated on all sides in the Sierra Leone conflict. This emerges from the case law of the 10:47:06 25 26 Special Court as well as from the report of the Truth and 27 Reconciliation Commission. It was notorious at the time in 1998 28 and 1999. So what are we to make of those who supported the 29 other side in the conflict? For example, the Blair in the

an entire country for their own personal criminal gain was a rare

United Kingdom provided assistance and support to the 1 2 pro-government forces. The pro-government forces had their own 3 sinister militia involved in rapes, recruitment of child 4 soldiers, amputations, cannibalism, and other atrocities. Two of those involved were convicted by the Court, and a third, who was 10:47:51 5 a minister in the government supported by the United Kingdom, 6 7 died before the trial completed. What is the difference between 8 Blair and Taylor in this respect? 9 Moving beyond Sierra Leone, can we not blame the French 10:48:09 10 government for aiding and abetting genocide given its support for the racist Rwandan regime in 1993 and 1994? The crimes of the 11 12 regime were well publicised, not only by an NGO commission of 13 inquiry but also by Special Rapporteurs of the United Nations, 14 and yet the French continued to provide assistance in personnel, 10:48:35 15 arms, and ammunition to the Habyarimana regime. 16 What about those who supported the various sides of the war 17 in Bosnia, or in Sri Lanka? Are American officials who backed 18 Saddam Hussein when he perpetrated atrocities in Iran during the 19 1980s also guilty of aiding and abetting in war crimes and crimes 10:48:57 20 against humanity? 21 What of those Western states that continued to bolster the 22 apartheid regime in South Africa during the 1970s and 1980s when 23 they were fully aware of the racist system that has been 24 characterised as a crime against humanity? But it doesn't end there, because as recently as the 10th of May of this year, Human 25 10:49:19 26 Rights Watch, no great friend of Charles Taylor, published an 27 article by Reed Brody in which he said: 28 "In Taylor's case, the Court found that he knew of the

atrocities being committed against civilians by Sierra Leonean

2 the Court said Taylor continued to ship arms to the rebels and 3 provide them with political and moral support and encouragement." 4 The principle is akin to giving more ammunition to an armed man on a killing spree. It's striking that the very same legal 10:49:59 5 reasoning could apply to those in Washington, Moscow, or 6 7 elsewhere, who provide military assistance to abusive forces half 8 a world away. 9 Take, for example, the case of former US Secretary of State 10:50:24 10 Henry Kissinger and East Timor. Declassified documents revealed that after the Timorese declaration of independence from Portugal 11 12 in 1975, Kissinger and President Gerald Ford, fearing that the 13 new country would become a communist outpost, gave Indonesian 14 President Suharto the green light to invade the island in a 10:50:46 15 Jakarta meeting the day before the invasion. The United States 16 were then supplying Indonesia's military with 90 per cent its 17 arms, and Kissinger himself described their relationship as that of donor/client. 18 Now, I refer to these articles, Your Honours, for this 19 10:51:10 20 reason, because they remind us of the danger of telling a single story. In our submission there must be a balance of stories. 21 22 However, the reality is that though the decision of this Court in 23 convicting Mr Taylor of aiding and abetting the conflict in 24 Sierra Leone has been trumpeted, and again this morning, are sending a non-equivocal message to world leaders that great 10:51:42 25 26 office confers no immunity, the fact is that really two messages 27 are being sent. 28 The first message is, if you run a small, weak nation, you 29 may be subject to the full force of international law; whereas if

allies and of their propensity to commit crimes. Nevertheless,

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I quote:

you run a powerful nation, you have nothing whatsoever to fear.

Thus, Staff Sergeant Robert Bales, a US soldier, premeditatedly
killed and burnt the bodies of 17 unarmed civilians in

Afghanistan, yet we have not seen one article in the newspapers

- or one report in the Western media that brands this crime with
  the condemnation it demands by labeling it either a war crime or
  a crime against humanity.
- This is because the fact is that acts are defined as
  criminal because it is in the interests, or at least not against
  the interests, of a ruling class to define them as such. We,
  therefore, submit unequivocally that there is nothing universal
  about Western states' claims to support universal human rights.
  Rather, the claim is based on the assumption that some states are
  more civilised than others. Thus, when the former British
- Foreign Secretary, the late Robin Cook was asked on the BBC
  shortly after the United Kingdom became a signatory to the Rome
  Treaty whether the newly constituted ICC thereby created might
  one day indict Western Leaders for their decision to go to war in
  Iraq for a second time, he retorted, outraged and indignant, and
  - "If I may say so, this is not a court set up to bring to book prime ministers of the United Kingdom or presidents of the United States."
- So we ask, who was it set up for, then? Who was it set up
  for? We submit that the answer is plain to see because it is
  notable that the guardians of international justice have yet to
  find a single crime committed by a great, white, northern power
  against people of colour. That is because in reality,
  - 29 international criminal justice is governed by the law of gravity.

It always travels from top to bottom, from north to south. 1 2 And in this regard, we return to a point we have 3 consistently made. That is the centrality of selectivity in this 4 process, Selectivity of denunciation, selectivity of investigation, selectivity of prosecution, and we also submit 10:54:58 5 selectivity of immunity. That is why we were driven to introduce 6 7 our closing written submissions in this case with these words 8 from which we do not for one moment seek to resign. The 9 Prosecution of Charles Taylor before the Special Court for Sierra Leone has been irregular, selective, and vindictive from its 10:55:24 10 Examined from any vantage point imaginable, the case 11 inception. 12 against Taylor has as its core political roots and motives and 13 the inexorable determination of the United States and Great Britain to have Taylor removed and kept out of Liberia at any 14 10:55:48 15 cost. 16 Indeed, this case directly raises the question of whether 17 the judicial process can be fashioned into a political tool for 18 use by powerful nations to remove democratically elected leaders 19 of other nations that refuse to serve as their handmaidens and 10:56:14 20 footstools. 21 From the outset of these proceedings we have denounced this 22 trial as being political. We have labeled this Prosecution as 23 riddled with hypocrisy and untruth, and we are not about to stop 24 At each stage of these proceedings we have been consistent and we are not about to reject any aspect of our case at this 10:56:31 25 26 point, not for one instance. 27 But it is against that background that we should view the 28 Prosecution's demand for a sentence of 80 years' imprisonment for 29 a 64-year-old man.

	1	But again, there is nothing surprising here. I remind
	2	myself of the contents of Defence Exhibit D481, a Leaked code
	3	cable attributed to the US ambassador in Liberia. However, the
	4	best we can do for Liberia is to see to it that Taylor is put
10:57:18	5	away for a long time. And we cannot delay for the results of the
	6	present trial to consider next steps.
	7	So it seems that interests other than that of the people of
	8	Sierra Leone are being served by this demand for 80 years. Throw
	9	away the key.
10:57:43	10	Now, there are three matters that I would like to deal with
	11	at that stage in respect of the submissions made by my learned
	12	friend this morning.
	13	First of all in relation to the question asked by
	14	Justice Doherty, we have found an ICTY authority called Blaskic,
10:58:12	15	dated 1996, and it provides the legal basis for our submissions
	16	other than the English legislation to which we have referred in
	17	our written submissions. Where relevant at paragraph 17 and 18,
	18	the authority provides as follows:
	19	"Close scrutiny of the various national legislations shows
10:58:36	20	that states tend to uphold the same basic concept of house arrest
	21	and, in addition, lay down similar preconditions for the
	22	imposition of such measures."
	23	By contrast, the requirements to be fulfilled by the person
	24	detained under house arrest vary greatly, all the more so because
10:59:04	25	they are normally set out by individual judges for specific cases
	26	and in the light of the specific circumstances of each case.
	27	As for the basic concept of house arrest, there is broad
	28	agreement that it covers detention in one's home or within the

confines of the house or place outside a prison. It is widely

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specified in national legislation and held by courts that house 1 2 arrest is a form or class of detention. For all purposes, 3 including the right to impugn the legality of detention, and the 4 right to have this period spent under house arrest taken into account for determining the penalty, credit should be given to 10:59:47 5 the convicted person for the period, if any, during which the 6 7 convicted person was detained in custody pending his surrender to 8 the Tribunal or pending trial or appeal should also apply to such 9 form of pre-trial detention. 11:00:10 10 And the final point we make in this regard is this. In a customary careful way, my learned friend went through in detail 11 12 the submissions made by the Defence in regard to that issue of 13 house arrest in Calabar. One important omission, however, was 14 the statement by David Crane, a Prosecutor -- the Chief Prosecutor, who himself characterised Taylor's period in Calabar 11:00:45 15 as house arrest. 16 17 The second matter that I would like to address which arises 18 from my learned friend's submission is this. The Prosecution's concerns about Annexes G, J, and U as containing information 19 11:01:12 20 going to the acts and conducts of the accused is misplaced. The rules for admission of information by the Defence at the 21 sentencing phase does not have a restriction similar to that of 22 23 Rule 92 bis, which deals with the admission of written evidence 24 at trial. In any event, the information contained in the annexes does 11:01:39 25 26 not, in our submission, go to proof of the acts and conduct of 27 the accused in relation to the commission of the crimes charged, 28 and so, in our submission, should not be excluded.

The third and final matter which arises from my learned

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friend's submission which I would like to address is this.

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Now.

- 2 the point was made that at this stage there is no absolute 3 certainty as to the geographical location where Mr Taylor will 4 serve any sentence imposed by this Court. This consequently leaves open this possibility: Your Honours could, we submit, 11:02:30 5 take on board our submissions as to the aggravating nature for an 6 7 African to be serving a sentence thousands of miles away on a 8 different continent. And Your Honours could take that into 9 account in, for example, providing in your sentence for
- alternative sentences, so that if the sentence is to be served in the United Kingdom, these considerations apply; if elsewhere, then different considerations may apply. That, of course, is a
  - basic, we would submit, sentencing exercise.

Now, My Lord, turning now to the mitigating factors which we have set out in detail in our written submissions, and I assure Your Honours that I will not be going through all of those in detail, but I do appreciate that the art of mitigation is to establish here, in this court, on a balance of probabilities, certain mitigating circumstances.

As I say, we have set these out clearly in our written sentencing brief, and we did so whilst appreciating that international sentencing law and practice is not yet defined by exact norms and principles and, as yet, there is no body of international principles concerning the determination of sentence, notwithstanding the huge volume of sentencing research and the extensive modern debate of sentencing principles.

Moreover, international judges receive very little guidance in sentencing matters. This situation can lead to inconsistencies

and may increase the risk that similar cases will be sentenced in

2 This is particularly the situation in this unique 3 situation, what is described as being an important historical moment with very little precedent. There is very little guidance 4 for Your Honours in this unique situation. 11:05:06 5 But turning onto other matters beyond those principles, we 6 7 have, from the outset, conceded that crimes were, indeed, 8 committed in Sierra Leone. That Your Honours have found this to 9 be the case is therefore hardly surprising because the issue was not, of course, whether the atrocities were committed but, 11:05:45 10 rather, the role played in them by Charles Taylor. 11 12 Nonetheless, for almost five years we in this trial shared a collective experience. We have relived lost lives. We felt 13 the pain of lost limbs, the agony of not only rape in its 14 commonly understood sense, but also the rape of childhood, the 11:06:19 15 rape of innocence, possibly the rape of hope. We have recorded 16 17 the destruction of homes and communities. All the consequences of war, whenever waged, whatever the countries involved, for war 18 19 causes men and women to lose their infancy as they become 11:06:49 20 infantrymen and women, an English word. So child soldiers is not 21 a recent phenomena, and it's not -- it's certainly not restricted 22 to Africa. It has a very long pedigree indeed. 23 So in that regard, we ask you to contrast two situations: 24 Firstly, a child soldier, forcibly recruited, enduring bitter experiences in the denial of his or her childhood, left 11:07:19 25 26 militarised, uneducated, with few life chances, abandoned to a 27 life of rejection, pain, and possibly crime, exacerbated, no 28 doubt, by the effects of post-traumatic stress disorder.

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different ways.

contrast that with a drone controlled from a bunker in Nevada

- 1 which fires a missile into a compound in Northern Pakistan,
- 2 killing entire families indiscriminately, including babies. They
- 3 have no time to feel pain in such clinical PlayStation-type
- 4 destruction.
- 11:08:09 5 Is there a choice between the two in terms of their
  - 6 criminality? Are they not both crimes equally worthy of human
  - 7 condemnation? Consequently in this sentencing exercise, we
  - 8 should beware of applying double standards.
  - 9 Now, for the purposes of these submissions I propose to
- 11:08:37 10 address four matters and four matters only. Firstly, in terms of
  - 11 mitigation, the period of offending as set out diagrammatically
  - 12 at Annex 4 of our sentencing brief. Secondly, Charles Taylor's
  - 13 role in bringing peace to Sierra Leone. Thirdly, his voluntary
  - 14 departure from office. And finally, his age. I also intend to
- 11:09:10 15 point to a potential pitfall in the sentencing exercise.
  - So, first of all, the period of offending. Now, My Lord,
  - 17 I'd inquired of the Court Manager whether our Annex F, which is
  - 18 this chart, could be put up on our screens. Yes.
  - Now these -- this diagram --
- 11:10:17 20 PRESIDING JUDGE: We don't have it on our screen yet,
  - 21 Mr Griffiths.
  - 22 THE REGISTRAR: Your Honours, if the parties and the
  - 23 Chamber could please press the "Evidence" button, they would be
  - able to view the chart.
- 11:11:27 25 MR GRIFFITHS: Your Honours, to save time, could I hand out
  - three copies, because I should be able to manage without it.
  - 27 PRESIDING JUDGE: Thank you, Mr Griffiths. I've just been
  - 28 handed a copy, so that should do.
  - 29 MR GRIFFITHS: Your Honours, sometimes looking at a diagram

2 are, and we can see here that the bulk of the offending occurs 3 within this period in the middle of the diagram, and it basically 4 covers a roughly 12-month period, that is about from March 1998 to February 1999. 11:12:12 5 That period of madness, triggered by the ECOMOG 6 7 intervention, culminating in the Freetown invasion. The only two 8 crimes for which he stands to be sentenced which endured for an 9 extended period of time during the indictment period were the recruitment and use of child soldiers and enslavement, which are 11:12:35 10 these two long lines here. But you will see that the other 11 12 crimes are, for the most part, concentrated within that 13 time-scale. Now we submit that that fact must have certain consequences 14 in terms of sentence. 11:13:01 15 16 Moving onto Mr Taylor's role in the peace process. We 17 boldly submit that peace would not have come to Sierra Leone but for the efforts of Charles Taylor. In this regard, we point in 18 19 summary to four critical interventions by the president of 11:13:36 20 Liberia: His facilitation of the Lomé Peace Accord; secondly, his efforts in securing the release of the captured UNAMSIL 21 personnel; thirdly, his brokering of the cessation of hostilities 22 by the West Side Boys; and finally, his role in the appointment 23 24 of Issa Sesay as acting leader of the RUF, thereby ensuring the continuation of the Lomé Peace Accord. 11:14:31 25 26 These are all well documented, as highlighted in our 27 sentencing brief at paragraph 122, and were all central and 28 essential for the bringing of peace to Liberia's neighbour, which 29 Mr Taylor has oft repeated was essential for stability in his own

helps to focus the mind more clearly as to what the true issues

1 country. 2 Now, I appreciate that this Court has found that in making 3 these efforts, Mr Taylor was acting like a two-headed Janus. 4 of course, note the contents of paragraph 119 of the summary judgement. However, in our view, for sentencing purposes, the 11:15:22 5 following factual propositions are true: 6 7 One, we submit that the Trial Chamber should concentrate on what was objectively achieved by Mr Taylor's involvement, and we 8 9 do maintain that but for Mr Taylor's involvement, peace would not have come to Sierra Leone. 11:15:54 10 The second proposition which we would ask Your Honours to 11 12 adopt is this: It should be further noted that after the retreat 13 from Freetown in early 1999, there was no further major outbreak of violence in Sierra Leone so that any assistance provided were 14 not used to break the peace in that country. 11:16:23 15 Further, Mr Taylor has not been convicted of having planned 16 17 any actions in Sierra Leone after 1999. Thereafter, the most that can be pointed to is the use of the RUF to fight against 18 19 LURD after their incursions into Liberia, which we would describe 11:16:55 20 as an act of self-defence. 21 Thirdly, voluntary resignation from office. His voluntary resignation from office is a further matter we would seek to 22 23 emphasise. Contemporary events in Syria informs us that power is 24 not easily relinquished. By stepping down, Charles Taylor saved Liberia and prevented the contagion of further warfare spilling 11:17:35 25 26 over into neighbouring countries and thereby further 27 destabilising the sub-region. There is, we say, an important 28 lesson here for which he should be given credit.

Finally, the age of the offender. We only have to do the

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2 80 years in prison is, in effect, a quarantee that he will die in 3 In fact, if not in name, what is proposed is a life pri son. 4 sentence, a sentence which cannot be imposed by this Court. Even a sentence of 40 years would, in this case, in all likelihood 5 11:18:29 6 have the same consequence. 7 Now, we would submit that it's a basic sentencing principle 8 that the possibility that an accused person will not live to be 9 released is a matter which should have a major impact on a sentencing decision; thus, the Court may think it would be proper 11:18:56 10 to adjust the sentence to do what it reasonably can -- can do to 11 12 avoid the possibility of Mr Taylor dying in prison. 13 Now I mentioned earlier a possible pitfall in this 14 sentencing process. Now, we say that the Court should be mindful of its rejection of the joint enterprises pleaded by the 11:19:28 15 16 Prosecution and also the rejection of the notion of command 17 responsibility. Conscious of those important findings, the 18 concept of planning should not be expanded into a surrogate for 19 those rejected modes of liability; that is, the limits of the 11:19:56 20 concept of planning should not be extended to encompass all the underlying crimes. 21 I come, then, to conclude, Your Honours. In conclusion we 22 remind ourselves that the Statute which established this court 23 24 provided that this court shall have the power to prosecute persons who bear the greatest responsibility for serious 11:20:24 25 26 violations of international humanitarian law and Sierra Leonean 27 law committed in the territory of Sierra Leone since the 30th of 28 November, 1996, including those leaders who in committing such 29 crimes have threatened the establishment of and implementation of

math. We all recognise that to sentence a 64-year-old man to

the peace process in Sierra Leone.

2 We say that by seeking a sentence so offensive to logic and 3 reason, this Prosecution endangers that peace. People in Liberia 4 quite justifiably, in our submission, are asking the question: How can our former president be sentenced to 80 years in prison, 11:21:11 5 while next door, in Sierra Leone, former President Kabbah goes 6 7 free? Many Liberians regard this as being vindictive. 8 Did he, too, not share the greatest responsibility? We 9 submit this has the potential to increase tensions between those two states. In short, such a sentence as demanded is, we say, 11:21:40 10 erroneous in principle and endangers the very peace this Court 11 12 was established to maintain. And finally we say this. Retribution should never be the 13 sole criterion in sentencing, neither deterrent. Every accused, 14 in our submission, must be left with some hope, must be able to 11:22:11 15 see the light at the end of the tunnel, however long that tunnel 16 17 must be. And we submit that should be a guiding consideration in this sentencing exercise. 18 19 Thank you. 11:22:36 20 PRESIDING JUDGE: Thank you, Mr Griffiths. JUDGE DOHERTY: Mr Griffiths, I've heard your submissions 21 and also, obviously, read your submissions. Two questions. 22 23 In your submissions, both oral and written, you again speak 24 of the selective prosecution of Mr Taylor, notwithstanding that the Trial Chamber stated in their decision with regard to the 11:23:01 25 26 issue of selective Prosecution, the Trial Chamber finds that the 27 accused was not singled out for selective prosecution. I 28 therefore ask if your submission is by way of relitigating, and 29 if not relitigating, how I must consider that submission as a

mitigating factor.

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2 MR GRIFFITHS: Of course, Your Honour, we are aware of the Trial Chamber's finding in that respect. We are aware of it. 3 4 And we are not seeking at all to relitigate that issue. But I made it plain in introducing that particular topic that we remain 11:23:41 5 consistent in our approach. 6 7 Now, even though this is a sentencing exercise, it doesn't 8 mean that the Defence necessarily must, in order to mitigate, 9 relinquish all aspects of their case. In our submission, that is not required. And so we may disagree with the finding of the 11:24:01 10 Court, but in our submission that has no moment so far as 11 12 sentencing is concerned. 13 JUDGE DOHERTY: My other question was to seek clarification of a submission you make in your written submissions. 14 If I could direct you to paragraph 102, in which you draw 11:24:26 15 comparison to illustrate a point concerning the genocide in 16 17 Rwanda and the killing over ten years, I quote: 18 "... the 10-year onslaught in Afghanistan ..." Again, I am not quite sure how I adopt this comparison when 19 11:25:05 20 considering mitigating factors that you are submitting to us. MR GRIFFITHS: Well, what we are submitting there, 21 Your Honour, is the question of scale and duration, both factors 22 23 which I sought to address, for example, by means of the diagram 24 which we submitted before the Court. And it seems to us that it's perfectly legitimate for a Court in this sentencing exercise 11:25:31 25 26 to look at other situations in weighing that central issue of 27 gravi ty. 28 JUDGE DOHERTY: Thank you. Those were my questions. 29 JUDGE SEBUTINDE: Mr Griffiths, when Ms Hollis was

submitting a while ago, she alluded to the sentences that were 1 2 imposed on Mr Sesay, the Leader of the RUF, and on Mr Brima, the 3 leader of the AFRC, and she cited just these two people. Of 4 course, there are more convicts that we are all aware of. Do you think that these the sentences 5 My question is: 11:26:22 meted out to the leaders of the AFRC and leaders of the RUF 6 7 should have any bearing on our considering of the sentence to be 8 imposed on Mr Taylor? 9 MR GRIFFITHS: The short answer, Your Honour, is no. And I say no for this reason: That Mr Taylor stands in a completely 11:26:40 10 different position vis-a-vis his liability for those crimes than 11 12 the two examples provided to the Court. They was direct 13 participants in the commission of those crimes, unlike Mr Taylor 14 who has been convicted on the basis of aiding and abetting. 11:27:07 15 We submit that there is a basis for saying that there needs to be a distinction between a principal actor in the commission 16 17 of a crime and a secondary party such as an aider and abettor. 18 So to that extent, we would submit that the answer to -- with 19 respect to Your Honour's question is no. 11:27:30 20 JUDGE SEBUTINDE: But if you say there should be a distinction, then by definition we should take them into account, 21 22 wouldn't you agree? 23 MR GRIFFITHS: Well --24 JUDGE SEBUTINDE: If only to distinguish Mr Taylor's sentence from that of the people that have gone before him. 11:27:43 25 26 MR GRIFFITHS: Well, that of course is perfectly 27 legitimate, but to use that tariff, if our submission, as, for 28 example, a starting point, we submit would be illegitimate 29 because it would not take into account the mode of liability in

- 1 respect of which Mr Taylor is being convicted.
- 2 PRESIDING JUDGE: Thank you, Mr Griffiths.
- 3 Now I understand Mr Taylor would like to address the Court
- 4 before we proceed to pass sentence, and he understands, does he
- 11:28:34 5 not, that he will be limited to 30 minutes.
  - 6 MR GRIFFITHS: He does. He does, Your Honour.
  - 7 PRESIDING JUDGE: Mr Taylor, you wanted to use the
  - 8 witness-stand, so if you would please come forward.
  - 9 MR GRIFFITHS: Your Honour, Mr Taylor will be reading from
- 11:28:52 10 a written document. I wonder if he might have the assistance of
  - 11 the Lectern.
    - 12 PRESIDING JUDGE: If there is one handy there.
    - MR GRIFFITHS: Well, he can take mine.
    - 14 PRESIDING JUDGE: Mr Taylor can come down to the
- 11:30:04 15 witness-stand.
  - 16 THE ACCUSED: Thank you, Your Honours.
  - 17 Mr President, Justice Lussick, Justice Sebutinde,
  - 18 Justice Doherty, members of the Registry here, the Prosecutors
  - 19 past and present, members of the Defence past and present, the
- 11:30:58 20 visiting gallery, and may I say the world's audience, the last
  - 21 six years have been challenging years for all of us. Judges,
  - 22 Prosecutors, Defence lawyers, victims, and their families, me and
  - 23 my family, and the peoples of Sierra Leone and Liberia. And now
  - this process is at its end and I am grateful that this Court has
- 11:31:39 25 extended me the opportunity to be heard at this time.
  - The observations which I make today are deeply felt and are
  - 27 not limited exclusively to the legal issues of this case. I am
  - aware of my rights, and without prejudice to any of those rights,
  - 29 I hereby make the following observations.

	1	It seems to me, as an economist and a layperson not a
	2	lawyer, that Your Honours were dealt a difficult hand, sitting at
	3	the helm of a Court whose rules allow a low threshold requirement
	4	for the presentation of evidence. The presumption is that
11:32:34	5	everything is admitted into evidence regardless in about
	6	98 per cent of the time.
	7	Your Honours were also handicapped by not having the
	8	benefit of the full contextual picture of why and how I ended up
	9	before this court. That contextual matrix is uniquely political
11:33:03	10	and not legal in nature, and having ensnared Charles Taylor at
	11	this time, only time will tell how many other African heads of
	12	state stand to be destroyed in its continued wake.
	13	These handicaps were not the fault of Your Honours, to be
	14	sure, in the sense that you could not be asked to know of so much
11:33:31	15	that was never meant to ever see the light of day. Despite
	16	obstacles to ascertaining the truth, what was clear beyond a
	17	shadow of a doubt, as I understood the summary of the judgement,
	18	was that Your Honours critically determined, in fact, that I
	19	could not be held responsible for the substantial charges of
11:33:57	20	joint criminal enterprise as a pure responsibility, as had been
	21	pleaded by the Prosecution.
	22	Now, following the civil war in Liberia, I stood before the
	23	Liberian people and apologised and expressed the deep regrets and
	24	contrition for the loss of lives and limbs and the overall
11:34:24	25	effects of the civil war. I stated that no words, no matter how
	26	polished and sincere, could heal the scars and pains all
	27	suffered.
	28	I was not alone as a leader of a faction that fought during
	29	the civil war when I took it upon myself to express those

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sentiments while aspiring for the presidency, but I did. There

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2 are many like me who owed an expression of sympathy and regret 3 for what happened to the Liberian people, indeed, none other than 4 the current president of Liberia, Ellen Johnson Sirleaf, was identified in the Liberian Truth and Reconciliation Commission 11:35:09 5 report as somebody from whom such expression of regret and 6 7 sympathy for what happened in Liberia should have been 8 forthcoming, since she was one of the three principal leaders of 9 the NPFL along with me. 11:35:31 10 Additionally, I said that wars were terrible. That there 11 was no good war. That there are no just wars, whether carried 12 out by underdeveloped countries whose peoples are still deeply 13 entrenched in tribal, ethnic, and cultural conflicts, or by the 14 worlds only military superpower. 11:36:04 15 President Bush in 2000 tried to play the just card war -excuse me, the just war card. A card that goes pack to the 16 17 1st Century BCE when Rome's Marcus Tullius Cicero theorised on the justified use of armed forces, jus ad bellum, and he lost 18 19 that argument. Scholars still debate the concept today with no 11:36:38 20 clear agreement. But as wars are no good, I condemn all atrocities across 21 the world, whether by bombs that are dropped by powerful nations 22 23 from aeroplanes or cruise missiles fired from ships, submarines, 24 and aircraft and/or drones that kill women and children by blowing off legs, arms, and leaving mangled bodies scattered all 11:37:00 25 26 over the place, only to be justified as collateral damage. That, 27 too, is wrong. These are crimes also. 28 Now, following the verdict of 26 April, the Prosecutor in

the press release said the following:

	1	"Today's historic judgement reinforces the new reality that
	2	heads of state will be held to account for war crimes and other
	3	international crimes. This judgement affirms that with
	4	leadership comes not just power and authority, but also
11:37:45	5	responsibility and accountability. No person, no matter how
	6	powerful, is above the law."
	7	Now, I could not agree more. President George W. Bush not
	8	too long ago ordered torture and admitted to doing so. Torture
	9	is a crime against humanity. The United States has refused to
11:38:16	10	prosecute him. Is he above the law? Where is the fairness?
	11	Terrible things happened in Sierra Leone, and there can be
	12	no justification for the terrible crimes. During the war in
	13	Liberia, I punished people responsible for crimes against others.
	14	Factual evidence presented before this court proved that several
11:38:52	15	NPFL soldiers were put on trial for violent crimes. Some were
	16	executed for rape, murder, and other serious crimes. Witnesses
	17	from both sides testified to that fact.
	18	Let me be very, very clear about one thing: I do not
	19	condone impunity in any shape or form. Let me say in the
11:39:24	20	strongest term, that I, DahKpannah Dr. Charles Ghankay Taylor,
	21	did not, could not have ever, and would never have knowingly and
	22	with responsibility and/or authority to prevent, stop, or punish
	23	someone from carrying out acts of atrocities fail to do so.
	24	Now, I say all of this not just in the context of Sierra
11:39:51	25	Leone and the charges against me, but also in the wider context
	26	of the impunity, whether in Africa or the rest of our global
	27	community. There has to be a mechanism which is developed,
	28	embraced, and perfected by the global community to deal with
	29	impunity in a way that is consistent with the history, custom,

practice, and cultures of the people inconsonant with their 1 2 spirit as an independent people. The Rome Statute is a Western document that does not take 3 4 into account citing customs, cultures, and other sensitivities 11:40:46 unique to certain regions of the world. The practice of one size 5 fits all within the legal context is unfair and unjust. 6 7 I say with respect that though I disagree with your 8 findings of guilt, it is easy for me to see how the absence of 9 the contextual framework in which this case was put together by the Prosecution seemingly contributed to your findings. 11:41:11 10 Sadly, I am saddled with those findings today as you consider what 11 12 sentence to impose. 13 A starting point for the contextual framework to which I'm 14 referring is the issue of money, the purchasing of witnesses' evidence with money. Money played a corrupting, influential, 11:41:40 15 16 significant, and dominant role in this trial. Money, in this 17 case, cumulatively prejudiced my rights and interests in an 18 irreparable way. 19 The Prosecution received millions of dollars from the 11:42:05 20 United States government outside of the official funding process 21 of the court administration. The Prosecution has never fully 22 accounted for how those monies were spent, who received how much, 23 or for what purpose or purposes. Witnesses were paid, coerced, 24 and in many cases threatened with prosecution if they did not 11:42:35 25 co-operate only to extract statements and not confessions. 26 Families were rewarded with thousands of dollars to cover costs 27 of children's school fees, transportation, food, clothing, 28 medical bills, and given cash allowances for protected and

non-protected witnesses in a country where income is less than a

dollar a day.

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2 The question then comes to focus: What was the Prosecution 3 buyi ng? 4 Abu Keita testified openly and never felt it necessary to 11:43:19 demand any type of protective measures from this Court, and yet, within a few weeks of having testified, it became public 6 7 knowledge that he successfully coerced the Prosecution and the 8 Witness and Victim Section, WVS, to relocate him overseas. The 9 details are sketchy because the Prosecution and WVS have refused 11:43:48 10 to provide any details regarding the extortion by Abu Keita. Evidence of his own threats are shown in Exhibit D468. 11 12 A more important point for the contextual framework to 13 which I am referring is the role politics played. With regime 14 change -- excuse me, Your Honours. When regime change in Liberia became a policy of the United States government, President 11:44:19 15 George W. Bush, in May of 2001, signed a second of two executive 16 17 orders, number 13213, Defence Exhibit D310, in which it was 18 stated, and I quote: 19 "The government of Liberia's complicity in the RUF's 11:44:54 20 illicit trade in diamonds and its other forms of support for the 21 RUF are direct challenges to the United States foreign policy 22 objectives in the region as well as the rule-based international 23 order that is critical to the peace and prosperity of the 24 United States. Therefore, I find these actions by the government of Liberia contribute to the unusual and extraordinary threat to 11:45:21 25 26 the foreign policy of the United States described in executive 27 order 13194," with respect to which the president declared a 28 national emergency. 29 This executive order did not say "the alleged complicity."

2 systems put into motion. And here I stand today. I never stood 3 a chance. 4 This is the broader contextual matrix that regrettably did 11:46:16 not and still has not seen the light of day in these proceedings despite the gallant efforts by the Defence to unearth and reveal 6 7 the contextual framework behind the charges against me. 8 Now, with the two executive orders, the dogs were let out, 9 so to speak. What followed was a dispatch of the attack pack led 11:46:40 10 by Lieutenant-Colonel David Crane, defence intelligence 30 years, prosecutor. He, Crane, unlawfully unsealed the Court's sealed 11 12 indictment to his handlers, senior US government officials at the US embassy in Freetown, and was never held to account. 13 14 The rest of the operational team are Colonel Brenda Hollis, Defence intelligence, CIA, US Air Force, senior trial counsel, 11:47:10 15 16 and now Prosecutor. James C. Johnson, US Army, expert 20 years 17 on conventional and special operations, chief of prosecutions for 18 the SCSL. Allen White, 30 years Defence intelligence, recalled 19 from retirement to head up investigations at the Special Court 11:47:41 20 for Sierra Leone. 21 Stephen J. Rapp came on board as Chief Prosecutor for a 22 short time with experience from Capitol Hill where he served with 23 a US Senate Judiciary Subcommittee sometime before. It came as a 24 surprise to me that as a reward of sorts for Stephen Rapp's diligence in execution of US foreign policy objectives through 11:48:02 25 26 these ad hoc tribunals, he was appointed US ambassador-at-large 27 for war crimes issues. 28 In support of the contextual framework of politics, on 29 February 8, 2006, Lieutenant-Colonel David Crane, Prosecutor,

It concluded "the complicity." The conspiracy was born. All

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governance in Liberia."

appeared before a US Congress subcommittee on Africa, Defence 1 2 Exhibit DO4, and spelled out in clear terms the decision taken in 3 support of regime change in Liberia and what needed to happen to 4 solidify that process. There was no mention, if any, in his testimony about Sierra Leone. And here is what he said: 5 11:48:58 6 "I posit that five years from now, when the international 7 community is challenged by other crises, Taylor, in Calabar, 8 under the protection of Nigeria, will make his move. We will 9 wake up one morning and watch on CNN as Taylor rides triumphantly down the main street in Monrovia to the executive mansion, daring 11:49:31 10 all of us to come and get him. Unless he is handed over to the 11 12 Special Court for Sierra Leone, this scenario is not out of the realm of possibility ..." 13 He then asked: 14 "How to do we assure Liberia's future?" 11:49:54 15 16 And he answers that. Ultimately he says: 17 "What we do about Taylor in the next several weeks will determine the fate of Liberia and the new administration of its 18 19 president, Ellen Johnson Sirleaf." 11:50:18 20 Crane then sets out several plans, two of which I will state here. He said: 21 22 "First, hand Charles Taylor over to the Special Court for 23 Sierra Leone for a fair trial." 24 His kind of trial. "This takes him out of the local and regional dynamics that 11:50:32 25 is West Africa ..." 26 27 "Second, tie any financial and political support to good

Time does not permit, but the exhibits are present.

	ı	Not even the Migerian hatron was spared from threats and
	2	intimidation as explained by Femi Fani-Kayode, press secretary to
	3	President Obasanjo, the Nigerian head of state, who was with him
	4	in Washington when President George W. Bush promised, and I
11:51:13	5	quote, "to bring Nigeria to its knees" if Taylor was not turned
	6	over to the Special Court.
	7	And what happened? Obasanjo buckled and capitulated. Now,
	8	this demonstrates the significant pressure that was brought to
	9	bear on President Obasanjo irrespective of his personal and
11:51:45	10	Leadership obligations to the West African sub-region. And
	11	therein lies the dilemma for current African heads of state and
	12	government, how to enter into binding commitments and obligations
	13	with their African peers and remain steadfast, resolute, and
	14	unyielding in their fidelity to those agreements in the face of
11:52:03	15	such unrelenting and punishing pressure from powerful Western
	16	I eaders.
	17	Evidence, as we know, can be deceiving. The world watched
	18	General Colin Powell, a man of honour and respect, mislead the
	19	United Nations Security Council and the world about weapons of
11:52:24	20	mass destruction in Iraq, and I believe it was unintentional.
	21	There were drawings of mobile laboratories for the production of
	22	gases and other nerve agents for use in weapons of mass
	23	destruction. None of this was true.
	24	Intelligence experts, we were told later, had relied on
11:52:47	25	informers who deliberately lied or misinformed experts and
	26	analysts. Not even the world's only superpower knew what was
	27	actually obtaining on the ground in Iraq.
	28	What happened afterward over a period of ten years under
	29	the iron fists of the United States and Great Britain caused the

2 1.5 million Iragis, not to mention the 1 million Iragi babies 3 that lost their lives as a result of crippling sanctions. 4 Now, this tragedy, I believe, are consequences not anticipated of a policy that set out - and may I say rightly so -11:53:35 to prevent the development and use of weapons of mass destruction 6 7 against civilians. But what happened? It ended up a total 8 disaster costing around a trillion dollars and a massive loss of 9 lives and limbs on all sides, unfortunately. 11:54:02 10 What I did to help bring peace to Sierra Leone was done 11 with honour. Foremost on my mind at all times was to help solve 12 the problem because I was convinced that unless peace came to 13 Sierra Leone, Liberia would not be able to move forward. I 14 pushed the peace process hard and used known mediating methods in trying to draw the parties close and gain their confidence and 11:54:33 15 16 trust. This is a strategy used universally in mediation efforts. 17 Indeed, my approach to peace in Sierra Leone was neither unique nor new. 18 19 All major activities leading to peace in Sierra Leone, 11:54:56 20 except for the final signing of the Lome Peace Agreement, were 21 done in Monrovia. Following that historic signing we brought 22 Foday Sankoh and Johnny Paul Koroma to Monrovia. When Bockarie threatened the disarmament process, we extracted Sam Bockarie to 23 24 give the disarmament process a chance to take hold. We invited Issa Sesay to meet my colleagues and me in Liberia to get new 11:55:15 25 26 leadership to the RUF to advance the peace when Foday Sankoh was 27 arrested in Freetown, putting the whole process under strain. 28 Contrary to how I have been portrayed before this Court, 29 and what is now reflected in the summary of the judgement,

murder, the rape, maiming, torture, and mutilation of around

respectfully, I was not and could not have been a two-headed 1 2 Janus, ever. In the context of my effort for peace in 3 neighbouring Sierra Leone, I, Your Honour, too believe in honour 4 and integrity. These are seriously complex situations and are not just cut and dried as one may want to make them appear. 11:55:59 5 6 I was president of Liberia. I was not some petty trader on 7 the streets of Monrovia or in the general market. Liberia was 8 still recovering from war, where at least five warring parties 9 had come together for peace but still with divided loyalties. personal security was still threatened as things were still fluid 11:56:25 10 in the country. For anyone to believe that I had to be 11 12 everywhere, know or be told everything, and monitor whatever 13 little corrupt ex-combatant, crook or petty hustler did at some 14 check-point or border post is unfortunate and disturbing. 11:56:52 15 National security briefings to leaders the world over are 16 brief and intended to inform the leaders on strategic matters and 17 not a journal to occupy the leaders' schedule. Sadly, right here in this court building, according to classified documents leaked, 18 19 an individual or individuals spied for and reported to the 11:57:19 20 US embassy here in The Hague, and I suggest Your Honours may 21 still not know who did the spying. How, then, could any reasonable person suggest that any of 22 23 what was happening within the frontal view of the president, he 24 had to know? It simply defies logic, with respect. I say without stupor that my actions were genuine and done 11:57:47 25 26 with one thing in mind: Helping to bring peace to Sierra Leone, 27 thus providing an enabling environment for progress in both 28 countries, Liberia being my constitutional responsibility as 29 presi dent.

	1	Unfortunately, and as a result of the efforts on the part
	2	of my government for peace in Sierra Leone, there now appears to
	3	have been collateral activities undertaken by some unsavory
	4	individuals that led to consequences that I was entirely unaware
11:58:27	5	of and could not have ameliorated or prevented.
	6	As I have done before many times, I do again here and now.
	7	I express my sadness and deepest sympathy for the atrocities and
	8	crimes that were suffered by individuals and families in Sierra
	9	Leone. I too have experienced pain and sadness and know what it
11:58:57	10	is. I lost my father, my oldest brother, my youngest brother,
	11	and a host of other relatives, friends, and acquaintances during
	12	the war in Liberia, as well as peace-loving Liberian citizens.
	13	I am 64 years old, not young anymore. I am the father of
	14	many children, grand-children and great-grand. I am of no threat
11:59:19	15	to society. In Liberia I commenced the process of healing by
	16	putting into place a peace and reconciliation commission modelled
	17	after that of South Africa. I say with respect, reconciliation
	18	and healing, not retribution, should be the guiding principles in
	19	Your Honours' task.
11:59:49	20	Thank you very much.
	21	I would just like to say before I sit that I did not have
	22	the opportunity to congratulate Justice Sebutinde for her
	23	election to a position in the International Court of Justice.
	24	Now, some may say, well, you should not accept it, Your Honour,
12:00:16	25	from a convicted war criminal. I'm sorry, I probably should have
	26	done this in February but I didn't have the opportunity.
	27	But I would like to do so now. I think that all women in
	28	Africa are very proud of you. And for the other Judges that
	29	will, I'm sure, sure move on to other greater and better things,

OPEN SESSION

	1	please accept my congratulations in advance.
	2	Thank you.
	3	PRESIDING JUDGE: Thank you, Mr Taylor.
	4	THE ACCUSED: May I leave now?
12:00:52	5	PRESIDING JUDGE: Before we adjourn, we would like to thank
	6	both the Prosecution and the Defence for their very comprehensive
	7	written briefs and also for the additional oral arguments
	8	presented today. We have much to consider.
	9	The delivery of judgement a Sentencing judgement date
12:01:22	10	has already been fixed for the 30th of May, Wednesday, the
	11	30th of May, at 11.00 a.m. So Mr Taylor is remanded until that
	12	date for a sentence, and I will now adjourn the court.
	13	[Whereupon the Hearing adjourned at 12.03 p.m.]
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