The international community created The Special Court for Sierra Leone to prosecute those who bore the greatest responsibility for crimes committed during the country's devastating civil war. Tim Kelsall examines some of the challenges posed by the fact that the Court operated in a largely unfamiliar culture, in which the way local people thought about rights, agency and truth-telling sometimes differed radically from the way international lawyers think about these things. By applying an anthropological perspective to the trials, he unveils a variety of ethical, epistemological, jurisprudential and procedural problems, arguing that although touted as a promising hybrid, the Court failed in crucial ways to adapt to the local culture concerned. Culture matters, and international justice requires a more dialogical, multicultural approach.

Tim Kelsall works as an Associate of the Africa, Politics and Power Programme and as a Visiting Fellow at the Berkeley War Crimes Studies Center based in Phnom Penh. In the past he has taught Politics at the universities of Oxford and Newcastle and has been an editor of the journal African Affairs.
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CULTURE UNDER CROSS-EXAMINATION

International Justice and the Special Court for Sierra Leone

Tim Kelsall
In memory of Ed Sawyer
CONTENTS

List of illustrations  xi
Preface  xii

1 White man’s justice? Sierra Leone and the expanding project of international law  1
   An expanding project  3
   International justice and the politics of culture  8
   Studying culture in international trials  17
   A history of the conflict and overview of this book  25

2 The story of the CDF trial  36
   The prosecution case  38
   The defence case  48
   Closing arguments  56
   The death of the first accused  59
   Judgment and appeal  60
   Conclusions  69

3 An unconventional army: chains of command in a patrimonial society  71
   Superior responsibility in international law  72
   Authority and society in Sierra Leone  74
   Superior responsibility in the CDF trial  80
   Judgment and conclusions  95

4 Facts, metaphysics and mysticism: magical powers and the law  105
   Magic and the occult in Sierra Leone  105
   Magic and the law in colonial and post-colonial Africa  113
   Magic and the occult in the CDF trial  121
   Judgment and conclusions  140

5 We cannot accept any cultural consideration: the child soldiers charge  146
   Pre-trial proceedings  147
   Conceptions of childhood in southern Sierra Leone  151
<table>
<thead>
<tr>
<th>CONTENTS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Childhood and community in international law</td>
<td>155</td>
</tr>
<tr>
<td>Child soldiers in the CDF trial</td>
<td>159</td>
</tr>
<tr>
<td>Judgment and conclusions</td>
<td>168</td>
</tr>
<tr>
<td>6 ‘He’s not very forthright’: finding the facts in a culture of secrecy</td>
<td>171</td>
</tr>
<tr>
<td>Secrecy and ambiguity in Sierra Leone</td>
<td>171</td>
</tr>
<tr>
<td>Problems with evidence at the CDF trial</td>
<td>180</td>
</tr>
<tr>
<td>Conclusions</td>
<td>223</td>
</tr>
<tr>
<td>7 Cultural issues in the RUF, AFRC and Charles Taylor trials</td>
<td>225</td>
</tr>
<tr>
<td>Superior responsibility</td>
<td>227</td>
</tr>
<tr>
<td>Child soldiers</td>
<td>229</td>
</tr>
<tr>
<td>Witness credibility</td>
<td>231</td>
</tr>
<tr>
<td>Forced marriage</td>
<td>243</td>
</tr>
<tr>
<td>Conclusions</td>
<td>254</td>
</tr>
<tr>
<td>8 Conclusion: from legal imperialism to dialogics</td>
<td>256</td>
</tr>
<tr>
<td>Practical reforms</td>
<td>257</td>
</tr>
<tr>
<td>Normative issues</td>
<td>258</td>
</tr>
<tr>
<td>Epistemological quandaries</td>
<td>260</td>
</tr>
<tr>
<td>Pluralistic accountability for post-conflict societies</td>
<td>263</td>
</tr>
</tbody>
</table>

References                                                                 | 268 |
Index                                                                      | 285 |
ILLUSTRATIONS

Figure 1  The Court compound and environs  page 4
Figure 2  The Bench  33
Figure 3  The CDF defendants  38
Figure 4  Freetown and crime bases  41
Figure 5  Moinina Fofana upon sentencing  87
Figure 6  Allieu Kondewa upon sentencing  162
Figure 7  Local court, Magburaka  178
Figure 8  Ritual expert with swear, Tonkolili District  179
Every weekend in post-war Freetown, members of the international community head out to the fine sandy beaches on the former colony’s peninsula at Lakkah, Tokeh and River Number Two. On the way they often stop off to eat fish and lobster at Franco’s, an excellent Italian restaurant by the sea. Dotted along the rutted, pot-holed road to these destinations are muscle-bound men, many of them ex-combatants, breaking boulders into piles of gravel with pick-axes, newly built houses clinging to denuded hillsides, decomposing car-wrecks, and small children demanding money at roadblocks made from pieces of string. One often also sees Mercedes Benz vehicles, some antique, some the latest European model, weaving slowly down the road, painstakingly trying to not scrape the red dirt with their low-slung chassis. These prestigious cars are rapidly overtaken, meanwhile, by shiny four-wheel-drive Land Cruisers and Pajeros, and also by podapodas – local minibuses crammed with passengers, that, in spite of their decrepit appearance, bounce past with insouciant speed. I will argue in this book that the Special Court for Sierra Leone was a bit like one of these Mercedes: in many respects a fine vehicle, but not well adapted to the local terrain. Its laws, legal doctrines and truth-finding procedures all lacked traction with local cultural realities, leading to difficult trials and, in some cases, serious questions over the quality of the convictions of the accused. I will argue that the experience of the Special Court holds important lessons for the way international courts should proceed when trying complex crimes in unfamiliar cultures, and that the international justice community needs genuinely hybrid solutions, somewhere between the all-terrain vehicle and the local minibus, if it is to achieve its intended aims.

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