SPECIAL COURT FOR SIERRA LEONE

PRESS AND PUBLIC AFFAIRS OFFICE

PRESS CLIPPINGS

Enclosed are clippings of the latest local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office as of:

Monday, August 09, 2004

The press clips are produced Monday to Friday.
If you are aware of omissions or have any comments or suggestions please contact
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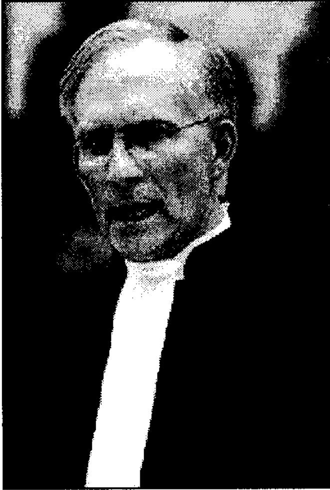

Prosecutor David Crane opens the prosecution's case at the start of the opening trials of the UN backed Special Court for Sierra Leone in Freetown, 03 June 2004. AFP Photo/Ben Curtis/POOL

Time is GMT + 8 hours
Posted: 07 August 2004 0003 hrs

Funding shortfall for Sierra Leone war crimes court to be made up by UN

FREETOWN : A funding shortfall in the 85 million dollars budgeted for the UN-backed war crimes court for Sierra Leone will be made up by a UN subsidy grant, a spokesman for the tribunal said.

Though the court trying those who bear the greatest responsibility for Sierra Leone's decade of civil war is less costly than other UN war crimes tribunals, it has faced a budget crunch for both the second and third year of its mandate, which is due to expire next year.

Only 33 of the 191 UN members, led by the United States, Britain and the Netherlands, have ponied up funds for the tribunal, which has adjourned trials until September, said spokesman Peter Andersen.

"Some of these countries gave money for the first year, some for three years. When second year funding fell short, some of the major donors brought their third year grant forward to the second year, meaning there was no third-year funding," Andersen told AFP.

"We have funding in place until the end of 2005 but the judicial process takes on a life of its own, so we will go beyond the end of 2005."

Funding shortfalls are not all that troubles the court, which has nine defendants in custody but has failed to snare the biggest prize, former Liberian president Charles Taylor, who is accused of arming and training Sierra Leone's rebels in exchange for so-called "blood diamonds".

Taylor remains in comfortable, though isolated, exile in Nigeria after quitting the presidency in August last year to end 14 years of civil war in Sierra Leone's eastern neighbor.

The court is also facing some personnel issues, both with finding judges to staff a second trial chamber and with the recent announcement by registrar Robin Vincent that he would resign.

"Mr. Vincent a month ago signalled his intention to resign but in the intervening time, he has had requests from the court's management committee, the government of Sierra Leone, the Netherlands and Britain and also a personal appeal by the UN secretary general to reconsider," Andersen said.

"Mr Vincent is now on leave and he has promised that he will reconsider during the time that he is on leave."

Sources close to the court say the funding shortfall was a source of distress to the British-born court administrator, as were some of the politics of the tribunal in the two years since it was created.

Another potential problem for the court is recent allegations of sexual assault filed against one of the investigators helping the prosecution team, Australian police superintendent Peter Halloran.

Australian media reported Friday that Halloran had been arrested in Sierra Leone but has denied all accusations.

- AFP

Issa Sesay appeals against his bail refusal

By Odilia French

The defence team for Special Court indictee-Issa Hassan Sesay have filed in an appeal to the Appeals Chamber on his refusal of bail. According to their submission the Judge in his ruling, "erred by failing, in the first instance, to properly assess the evidence which related directly to Mr. Sesay and his individual circumstances. At no stage does the Judge explain why Mr. Sesay's individual circumstances do not outweigh the public interest but instead simply dismisses the application by reference only to public interest requirements." The submission went on, "it was crucially important, given the balancing exercised to be conducted (an assessment of whether public interest requirements, demonstrated by the Prosecution, outweigh the need to ensure respect for an accused's right to liberty) that these issues were properly assessed and explained." Issa Sesay's defence further went on to say that it was inevitable that the accused would not be granted provisional release, "in other words unless the individual circumstances of the accused were assessed and balanced properly the obligation pursuant to Rule 65 (B) to hear from the Sierra Leonean Government became, by default, the determining factor in the application." And Rule 65 (B) states, "bail may be ordered by a Judge or a Trial Chamber after

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Issa Sesay appeals against his bail refusal

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hearing the State to which the accused seeks to be released and only if it is satisfied that the accused will appear for trial and, if released, will not pose a danger to any victim, witness or other person."

The defence further submitted that the accused appeal should be granted and bail ordered or in the alternative the Appeal Chamber should consider that there are no errors of law or fact on the face of the decision "but that the reasons given are inadequate." The Defence requested that the Judge to provide reasons to support his decision and that the appeal should not be dismissed without oral argument at a date to be fixed by the Appeal Chamber.

Awoko

Monday August 09, 2004

Ref.: IOR 63/007/2004

To all
Permanent Representatives of the
Member States of the African Union
Addis Ababa
Ethiopia

5 August 2004

Open letter to Permanent Representatives at the African Union (AU) regarding the case of Charles Taylor, former President of Liberia, indicted for crimes against humanity and war crimes

Dear Ambassador,

I am writing to express Amnesty International's dismay at the decision on Liberia adopted during the 5th Ordinary Session of the AU Executive Council meeting in Addis Ababa from 30 June to 3 July 2004.

In Paragraph 8 of this decision, the Executive Council:

> "CONGRATULATES the Federal Republic of Nigeria for granting asylum to Charles Taylor, former President of Liberia, in accordance with the wishes of the African Union, ECOWAS, and the understanding of the international community. Consequently, REQUESTS that the international community continues to show understanding of the positive contribution of the exit of Charles Taylor from Liberia to the peace process in that country, and to continue to support and encourage Nigeria in this regard".
> [see EX.CL/Dec.152(V)].

This decision is a betrayal of the tens of thousands of African victims of the worst possible crimes imaginable committed during the conflict in Sierra Leone. Charles Taylor has been indicted by the Special Court for Sierra Leone, established at the initiative of Sierra Leone, for "bearing the greatest responsibility" for crimes against humanity, war crimes and other serious violations of international law falling within the Special Court's jurisdiction and committed against African men, women and children. The crimes with which he is charged include killings, mutilations, rape and other forms of sexual violence, sexual slavery, conscription of children, abduction and forced labour perpetrated by Sierra Leone armed opposition forces with his active support as President of Liberia.

The action by the Government of Nigeria in allowing Charles Taylor to enter Nigerian territory without threat of arrest and prosecution goes against the wish of the international community that impunity for crimes against humanity, war crimes and other grave crimes must come to an end. It denies justice to tens of thousands of African victims of the worst possible crimes in the world and undermines the contribution of the Special Court towards achieving justice, reconciliation and sustained peace in Sierra Leone and the West Africa region. The decision not only shows contempt for African victims, it goes against the very values that led Africa to take the initiative to establish the Special Court and the International Criminal Tribunal for Rwanda, as well as to play a decisive role in the establishment of the International Criminal Court.

By condoning and endorsing the action of the Government of Nigeria, the Executive Council has acted contrary to the Constitutive Act of the AU, as well as international law.

The Constitutive Act commits all member states to cooperate in promoting and ensuring respect for human rights, democratic culture, good governance and the rule of law. Through the Act, African governments pledge and express their determination "to promote and protect human and peoples' rights, consolidate democratic institutions and culture", to "encourage international cooperation taking due account of the Charter of the United Nations and to promote peace and security".

International law requires that those responsible for crimes against humanity, war crimes and other breaches of international law must be brought to justice. More than three decades ago, the United Nations General Assembly declared in Resolution 3074 (XXVIII) of 3 December 1973, adopted with Nigeria's support, that "war crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment". It recognized no exceptions to this duty.

Moreover, each state which is a party to the Geneva Conventions, as is Nigeria, is under a strict legal obligation to investigate those suspected of having committed or ordered grave breaches of the Conventions and, if there is sufficient admissible evidence, to prosecute them in its own courts, to extradite them to another country willing and able to do so or to transfer them to an international criminal court. Some of the conduct with which the former President of Liberia is charged appears to constitute grave breaches.

This obligation under the Geneva Convention is absolute, without any exceptions whatsoever, and no state can excuse itself or another state from fulfilling it. No one, regardless of his or her status – including a head of state – has immunity for the most serious crimes under international law – crimes against the entire international community that undermine the fabric of international law. Indeed, Nigeria has recognized this obligation under its 1959 Geneva Conventions Act, which provides for no exceptions to this obligation.

In its decision on 31 May 2004, the Special Court upheld the principles of international justice and the rule of law by ruling that Charles Taylor has no immunity from prosecution for crimes against humanity and war crimes. This decision reinforces the need to ensure that he faces the serious charges against him.

Amnesty International's concerns are shared by a number of individuals and non-governmental organizations in Nigeria who have publicly expressed their disquiet at the government's action in harbouring a person indicted for crimes against humanity and war crimes. There are currently legal proceedings before a Nigerian Federal High Court challenging Nigeria's decision to grant "asylum" to such a person and to refuse to surrender that person to the Special Court or to refer his case to a prosecutor for investigation and, if there is sufficient admissible evidence, for prosecution.

The Executive Council's Decision on Liberia reflects arguments made by the Government of Nigeria and other member states of the Economic Community of West African States (ECOWAS) and the AU that allowing Charles Taylor to travel to Nigeria was in the interests of securing a peaceful transition of power in Liberia and an end to the country's internal armed conflict. Amnesty International is aware of the leading role played by Nigeria within ECOWAS in these efforts, which has been widely acknowledged by the international community. Such steps cannot, however, be at the expense of ending impunity and abiding by international law. Durable peace and reconciliation cannot be built on a foundation of impunity.

Amnesty International therefore calls on all member states of the AU to repudiate publicly Paragraph 8 of the Decision on Liberia, and to urge the Government of Nigeria to cooperate fully with the Special Court by arresting Charles Taylor and surrendering him to the Court.

We also call on the Permanent Representatives to urge the Chairman of the AU, President Olusegun Obasanjo, to use his good offices and position to take measures that will ensure the full realization of the objectives and human rights standards articulated in the AU's Constitutive Act and other relevant instruments.

Yours sincerely,

Irene Khan
Secretary General

Report: al-Qaida Made Pre-9/11 Diamond Buy

Aug 7, 7:08 PM (ET)

By EDWARD HARRIS

DAKAR, Senegal (AP) - A series of witnesses place six top al-Qaida fugitives in Africa buying up diamonds in the run-up to the Sept. 11 attacks, according to a confidential report by U.N.-backed prosecutors obtained by The Associated Press.

The first-person accounts detailed by the prosecutors add to long-standing claims that al-Qaida laundered millions of dollars in terror funds through African diamonds before launching its deadliest offensive.

Al-Qaida figures, including some already wanted in pre-Sept. 11 attacks on U.S. targets, dealt directly with then-President Charles Taylor and other leaders and warlords in the West African country of Liberia from 1999 onwards, according to the accounts. The witnesses told of meetings and sightings in the seedy hotels and safehouses of Monrovia, the blighted capital of what was then a rogue nation.

Al Qaida's alleged aim: snapping up diamonds in order to have easily convertible, untraceable resources after the first U.S.-led moves freezing al-Qaida bank accounts and other conventional assets worldwide in 1999.

(AP) Al-Qaida fugitives, from left, Ahmed Khalfan Ghailani, Fazul Abdullah Mohammed, Mohammed Atef,... Full ImageClaims of al-Qaida's Africa diamond links remain one of the most unsettled areas in international investigations into the terror group, splitting U.S. officials and the intelligence community on the quantity and quality of the evidence.

The dossier, apparently prepared by U.N.-backed investigators for presentation recently to the Sept. 11 commission and other officials in Washington, moves the matter forward. It shows that sources interviewed by prosecutors are corroborating in detail accounts of links between al-Qaida and West Africa that news media and independent watchdog groups have previously reported.

"It is clear that al-Qaida has been in West Africa since September 1998 and maintained a continuous presence in the area through 2002," the U.N.-backed war-crimes investigators in West Africa, led by American David Crane, said in the confidential report obtained by the AP.

Separately, one U.S. intelligence official told the AP that evidence of an al-Qaida-Africa diamond link now was "close to overwhelming."

The official estimated al-Qaida proceeds in the diamond dealings at $15 million.

The roster of al-Qaida fugitives allegedly witnessed in Liberia ahead of Sept. 11, 2001, include names that have since become infamous.

They include Ahmed Khalfan Ghailani, a Tanzanian wanted in the 1998 bombings of two African U.S. embassies, and arrested July 25 in Pakistan after an intense gunbattle.

Other al Qaida figures placed in Liberia by direct sources cited in the dossier:

- Fazul Abdullah Mohammed, a native of east Africa's Comoros islands, accused in 1998 and 2002 al-Qaida attacks in east Africa. Mohammed is wanted under a $25 million U.S. bounty.

- Egyptian Mohammed Atef, an alleged Osama bin Laden military chief, killed in Afghanistan in 2001.

- Pakistani Aafia Siddiqui, the only prominent female figure in al-Qaida, considered by the United States to be a likely "fixer" for the group in the United States and elsewhere. Media reports have said Siddiqui was in Monrovia to iron out problems between other al-Qaida operatives.

- Kenyan Sheik Ahmed Salim Swedan, wanted in the 1998 attacks in east Africa.

- Egyptian Abdullah Ahmed Abdullah, wanted in the 1998 attacks.

While the others are alleged to have largely scattered outside Africa after the Sept. 11 attacks, the dossier suggests Abdullah may have remained active - citing "source information" linking Abdullah to diamond smuggling in neighboring Guinea.

Witnesses depict Liberia's former president, Taylor, himself giving the al-Qaida operatives entree to the shady West African world of guns, cash and diamonds before Sept. 11.

Taylor, who has since been ousted and is now in exile in Nigeria, allegedly brought together rebels, state leaders and Islamic extremists under the common goal of cash.

Accounts in the report include an alleged September 1998 get-together at Taylor's executive mansion where middlemen introduced him to Abdullah.

The Liberian leader subsequently directed the al-Qaida figure to rebels controlling the mining of fine gems in neighboring, diamond-rich Sierra Leone, the investigators quote sources as saying.

The following year, Ghailani and Mohammed met Taylor at his private home in Monrovia.

Abdullah later ordered Ghailani and Mohammed to do al-Qaida's diamond-buying, "because they were of African descent and would not arouse any suspicion," the dossier quotes one of its main sources as saying.

The report also cites a "highly credible source" as placing former al-Qaida No. 2 Atef and Ghailani in Monrovia, at times meeting with diamond-dealing rebels, in 1999 and 2000.

However, neither this dossier nor other official accounts to reach the public have offered any direct proof that al-Qaida used diamond profits to fund the Sept. 11 attacks. The Sept. 11 commission estimates the 2001 attacks cost al-Qaida more than a half-million dollars to pull off.

The current dossier was put together by prosecutors trying war crimes in Sierra Leone, where rebels waged a 1991-2002 terror campaign bent on gaining control of that country's government and diamond fields.

Taylor, accused of backing the rebels, is the U.N.-Sierra Leone court's top surviving indicted suspect. The tribunal is pushing for Taylor's extradition from Nigeria, where he fled after opposition forces and international pressure routed him from Liberia's capital in August 2003.

Those making the link between al-Qaida and Africa diamonds charge the U.S. government has turned its back on the case in part over discomfort over the CIA's own alleged Cold War-era links to Taylor.

One problem for those trying to put together a case for evidence of al-Qaida in Africa diamond-dealing: much of the evidence cited has been from the disreputable figures involved in the dealing themselves.

When Americans gave one of the key sources a polygraph test early on, he failed, the AP was told.

There was other corroborating evidence at the time, but circumstantial: a tightening of the region's diamond markets at the time al-Qaida was allegedly cornering millions in small- and medium-size gems, according to Western officials.

Other evidence is emerging more recently, intelligence officials, investigators and analysts told the AP. They said the evidence includes phone calls linking alleged al-Qaida middlemen and diamond-dealers, and information from al-Qaida suspects captured and interrogated since Sept. 11.

U.N.-backed investigators, including Crane, have been anxious the United States recognize the al-Qaida-diamond link - hoping it would spur U.S. pressure for Taylor's extradition on the war-crimes indictments.

One such investigator went before the Sept. 11 commission to present the war-crimes' court's evidence on al-Qaida in West Africa, commission spokesman Al Felzenberg confirmed, without identifying the investigator.

The commission's final report made clear its position, however: "No persuasive evidence exists that al-Qaida ... funded itself through trafficking in diamonds from African states engaged in civil wars."

"We're confident in the thoroughness of our staff in assessing what they were given, and we stand by the report and their conclusions," Felzenberg said Friday.

Associated Press reporters Matthew Rosenberg in London, Ken Guggenheim in Washington and Ellen Knickmeyer in Dakar contributed to this story.

Issues of the day

By Melron C. Nicol-Wilson
Defence Counsel-Special Court for Sierra Leone
Director-Lawyers Centre for Legal Assistance

LEGAL CHALLENGES TO THE DEATH PENALTY IN AFRICA

The question of whether the State can kill has since time immemorial been debated upon by various scholars from both Legal and Moral perspectives. This debate has never been laid to rest as the forces contending against each other (Human rights activists on the one hand and State Governments on the other) are very strong and powerful.

The death penalty is a debate of great controversy. The death penalty has been accepted for murder and other serious crimes since the dawn of human civilization. It came to America with the first settlers and is identified in the Fifth Amendment of the United States Constitution.

At one time the death penalty was used in almost every part of the globe, but over the last few decades many countries have abolish it. Eighty-three (83) countries still maintained the death penalty in both law and practice, seventy-seven (77) countries have abolished it completely, fifteen (15) retained it but only for crimes committed in exceptional circumstances (such as crimes committed in times of war) twenty (20) other countries maintain laws permitting the use of death penalty for ordinary crimes, but have allowed the death penalty to fall into disuse.

The death penalty is the ultimate **cruel inhuman and degrading punishment** It violates the right to life. It is irrevocable and can be inflicted on the innocent and it has never been showed to deter crime more effectively than other punishments.

A number of international protocols and covenants have called for the abolition of the death penalty:

1. **The second optional protocol to the international covenant on civil and political rights aiming at the abolition of the death penalty** provides for the total abolition of the death penalty, but permit states to retain the death penalty in war times as an exception.
2. **The protocol to the American Convention on Human Rights to abolish the death penalty** provides for the total abolition of the death penalty but permit states to retain death penalty in war times as an exception.
3. **Protocol No. 6 to the European Convention for the Protection of Human rights and fundamental freedoms concerning the abolition of death penalty** provides for the abolition of death penalty in peacetime.

A number of other convention and covenants has prohibited capital punishments for offences committed by persons under the age of 18.

1. **Article 6 of the International Covenants of Civil and political rights** provides that sentence of death shall not be impose for crimes committed by persons below 18 years of age, and shall not be carried out on pregnant women.
2. **Article 37 of the convention of the Rights of the Child** provides that, no child shall be subjected to torture or other cruel, inhuman or degrading treatment of punishment, neither capital punishment nor life imprison without possibility of release shall be impose for offenses committed by persons below 18 years of age
3. **Article 4 of the American convention on human rights** provides that, capital punishment shall not be impose upon persons who at the time the crime was committed were under 18 years of age or over 70 years of age, nor shall it be applied to pregnant women.

The question of whether the State can kill has since time immemorial been debated upon by various scholars from both Legal and Moral perspectives. This debate has never been laid to rest as the forces contending against each other (Human rights activists on the one hand and State Governments on the other) are very strong and powerful.

The Domentic Court applies the Death Penalty whereas the Special Court does not. Within the domestic court, the death penalty is handed down on persons convicted of treason, murder and armed robbery. Similar to section 11(2) of the 1993 Constitution of South Africa, section 21 of the 1991 constitution of Sierra Leone prohibits cruel, inhuman and degrading punishment.

The death penalty has no place in modern criminal justice system. It is a violation of two fundamental human rights as laid down in Article 3&5 of the Universal declaration of human rights.

- The rights to life and the right not to be tortured or subjected to any cruel, inhuman or degrading punishment.

The death penalty is not an effective deterrent because all judicial systems make mistakes and because it is of an irrevocable nature, the death penalty kills innocent individuals who are wrongly convicted. It brutalizes society and breeds contempt for human life.

LEGAL CHALLENGE TO THE DEATH PENALTY IN SOUTH AFRICA - THE CASE OF STATE V MAKWANYANE AND MCHUNU

Eminent Court around the world have reached divergent decision on the compatibility of capital punishment with constitutionally guaranteed rights particularly in regard to the provision proscribing cruel and unusual punishment found in them. In McClesky v Kemp 1987, the United States Supreme Court by a single vote rejected McCleskey claim that the state of Georgia's sentencing process with respect to capital punishment involved a racial bias not withstanding that black defendants such as McCleskey have the greatest likely of receiving the death penalty. The Court held that the statistical probabilities were insufficient to prove racial discrimination, and that the legislature rather than the courts was the more appropriate branch of government for determining such policies. As a consequence, the moratorium on the implementation of capital punishment, which had ensued after Furman v Georgia, came to an end.

THE MAKWANYANE JUDGEMENT

In 1995 the Constitutional Court of South Africa outlawed the Death Penalty in the oft-quoted case of **State V Makwanyane and Mchunu**. The Court conceded that the constitution dose not outlaw capital punishment per se. It however reasoned that the death penalty is inconsistent with one of the constitution most sacrosanct provision the right to life. And that it is undoubtedly and degrading punishment.

It proceeded and stated that the constitutionality of capital punished is not a matter for referendum borrowing from **Justice Jackson** in the celebrated case of **West Virginia State Board of Education v Barnette**. the Constitutional Court stated "the very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy and to place them beyond the reach of majorities..."

The fact of the case are quit clear and not in dispute. The two accused in this matter were convicted in the Witwaterstrand Local Division of the Supreme Court on four counts of murder, one count of attempted murder and one count of robbery with aggravating circumstances. They were sentenced to death on each of the counts of murder and to long terms of imprisonment on the other counts. They appealed to the Appellate Division of the Supreme Court against the convictions and sentences. The Appellate Division dismissed the appeal against the convictions and came to the conclusion that the circumstances of the murders were such that the accused should receive the heaviest sentence permissible according to law.

Section 27 (1) (a of the criminal Procedure Act. No. 51 of 1977 prescribes that the death penalty is a competent sentence for murder. Counsel for the accused was invited by the Appellate Division to consider whether this provision was consistent with the Republic of South Africa's Constitution, 1993, which had come into force subsequent to the conviction and sentence by the trial court. He argued that it was not, contending that it was in conflict with the provisions of sections 9 and 11 (2) of the Constitution.

The Appellate Division dismissed the appeals against the sentences on the counts of attempted murder and robbery, but postponed the further bearing of the appeals against the death sentence until the constitutional issues are decided by the Constitutional Court.

The trial was concluded before the 1993 constitution came into force and so the question of the constitutionality of the death penalty did not arise at the trial. However this was raised during the constitutional hearing.

Chapter 3 of the 1993 Constitution of South Africa sets out of fundamental rights to which every persons in entitled under the Constitution and also contains provisions dealing with the way in which the chapter is to be interpreted in court, it does not deal specifically with the death penalty, but in section 11 (2) it prohibits cruel, human or degrading treatment or punishment.

The President of the Constitutional Court, Justice Chaskalson ***held that the provision of section 277 (1) (a) of the Criminal Procedure Act which sanctioned capital punishment were in consistence with the prohibition of cruel, inhuman and degrading punishment contained in section 11 (2) of the 1993 Constitution. Furthermore the Court held that the state had failed to discharged the onus placed on it by the limitation clause, encapsulated in section 33 of the interim constitution that the death penalty would be materially more effective to deter or prevent murder than the alternative sentence of life imprisonment would be, thereby justifying the state's taking life. It was also held by the court that retribution smacks too much of vengeance to be a justification for taking life in an enlightened constitutional democracy, established by the interim constitution.***

Chaskalson ***stated that for the purpose of this judgment, it was necessary to decide whether section 277 (1) (a) of the Criminal Procedure Act was inconsistent with section 8 (equality), 9 (life), or 10 (human dignity) of the interim Constitution. Whereas all the other 10 judges of the constitutional court concurred with the judgment of Chaskalson P. there is nevertheless a measure of divergence of opinion as to which fundamental rights where indeed violated. Certain judges held that in addition, the right to life was violated while others included the violatioin of the right to dignity in their judgment.***

Mohamed J and Ackermann J went further in their analysis and assessment. The former was of the opinion that in addition, capital punishment violated the right to equality. Ackermann J found that the right to life of necessity includes the right not to be put to death by the state in a way, which is arbitrary and unequal. This sentiment was further developed by Chaskalson P who commented that it can not be gainsaid that poverty, race and chance play roles in outcome of capital cases in the final decision as to who should live and who should die. If this is indeed the case, it is a serious violation of the right to equality encapsulated in section 9 of the 1996 constitution.

LEGAL CHALLENGE TO THE DEATH PENALTY IN NIGERIA

In 1998 a Public interest human rights law center in Nigeria Human Rights Law Service (HURILAWS) in a bid to abolish the Death Penalty in Nigeria litigated the Constitutionality of the Death Penalty in the case of **ONUOOBA KALU V THE STATE.** The Supreme Court of Nigeria held that the death penalty is Constitutional since the Constitution of Nigeria permits it. The Court however stated that the National Assembly could take steps to tackle the issue of the practice of the Death penalty in Nigeria.

THE DEATH PENALTY IN SIERRA LEONE

In Sierra Leone at the moment we have the domestic court and the Special Court for Sierra Leone both dispensing justice. The two Court have different policies with regards to the imposition of the death penalty for offenses committed within the territory of Sierra Leone.

The Domentic Court applies the Death Penalty whereas the Special Court does not. Within the domestic court, the death penalty is handed down on persons convicted of treason, murder and armed robbery. Similar to section 11(2) of the 1993 constitution of South Africa, section 21 of the 1991 constitution of Sierra Leone prohibits cruel, inhuman and degrading punishment.

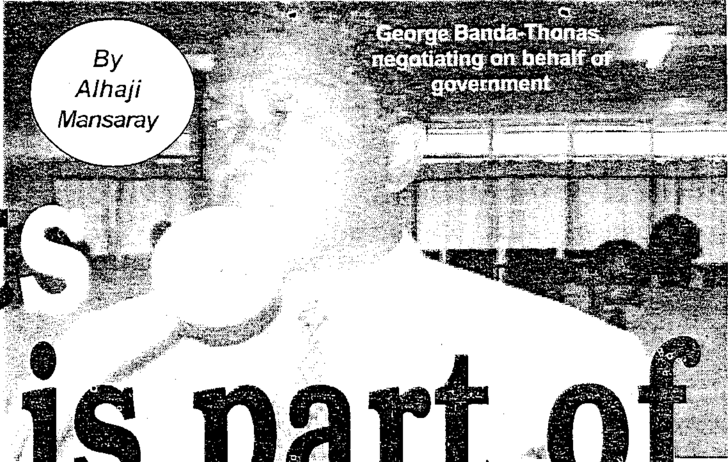
Article 19 of the Agreement between the United Nation and the Government of Sierra Leone on the establishment of the Special Court of Sierra Leone, provides for the imposition of terms of imprisonment as opposed to the Death Penalty as punishment for the conviction of an offence.

Thus while the bad boys convicted by the Special Court will be sentence to term of imprisonment, the not so bad boys convicted by our national courts for similar offences shall face the death penalty. I see the branch of the fundamental right to equality here. In the same jurisdiction the same crime (murder for example) carries different penalties.

I therefore suggest that we bring a constitutional test case before the Supreme Court arguing that the death penalty is unconstitutional since it is a violation of the prohibition of cruel, human and degrading punishment in Section 20 (a) of our Constitution.

Guinea accepts Yenga is part of Sierra Leone

By Alhaji Mansaray


George Banda-Thomas negotiating on behalf of government

Guinean authorities have accepted that the disputed Yenga town is not part of her territory and legitimately they have no claims to it and never had the intention of claiming it.

This was the good news brought back home by Internal Affairs and Security Minister, George Banda-Thomas who was in Guinea to discuss the dispute with his Guinea counterpart and other authorities last Thursday. And now it looks as if the diplomacy is working and finding a solution is being fast track.

Speaking to journalists 48 hours ago at a hurriedly convened press conference at his Liverpool Street office in Freetown, Banda-Thomas said within the next ten days, a ministerial delegation from both countries shall be visiting Yenga to have first hand assessment of the situation.

During his visit to Guinea, several meetings were held and significant progress made. Both parties committed themselves to the 1912 treaty by their respective colonial masters involving the demarcation of our common boundaries. It was on the basis of this, he went on, that the Guineans accepted that the town is not part of their territory.

He gave the assurance that there were no problem between the Guinean soldiers there and those from Sierra Leone. The problem, he went on, involves the Guinean soldiers and civilians with the latter accusing the former of farming on their land. And emphasised that there were no serious confrontation in both Yenga and Koindu.

To butteress this, a video footage was played showing cross border trade between Sierra Leone and Guinea, and Sierra Leone and Liberia.

Meanwhile, the army 10th battalion in Koindu refuted recent press report that the Guineans have also occupied part of that town.

Independent Observer
Monday August 09, 2004

Banda Thomas... Internal Affairs Minister

"Yenga belongs to us"

- Internal Affairs Minister

By Eiongima Masuba

The Minister of Internal Affairs, Mr George Banda Thomas has disclosed in at press briefing that the disputed Yenga belongs to Sierra Leone and sooner or later the problem between these two friendly countries would be resolved.

Mr. Banda-Thomas said his visit to Guinea with Brigadier Keihe Conteh and the coordinating officer for security was to discuss this very serious issue.

The minister further disclosed that they have agreed on several things with both sides comitting themselves to the implementation of the 1912 treaty and the Annexed map dealing with the demarcation of the border between the two countries.

They agreed that the boundary that falls on the left bank side is Sierra Leone along the Makong River. They also agreed to visit the site which will comprise the security officials and technical staff.

The reason for this visit is to get first hand information from the people, as they do complain that the Guineans have denied them their right to their land.

The minister further revealed that according to a video clip they sent to him,

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the chiefs at Yenga and it's surrounding are forced by the Guinean troops to pay tax whenever they cross to Guinea or back.

Another chief in the cassette disclosed that NGOs wanted to build houses for them but were stopped by the Guineans, but the local pople forced their way into the land and built houses for themselves.

Mr. George Banda Thomas said the relationship between these countries is good, the only problem is with Yenga where the people are complaining that Guineans are not allowing them to farm on the land that belongs to them.

In the video clip the people expressed dismay over the lukewarm attitude of the government, adding that they want this problem to be resolved at once so they know who belongs where?

The minister concluded that he has hope, judging from the fact that the documents favour Sierra Leone, although the Guineans are insisting that beause they have occupied that land for so long it belongs to their teritiory.

Mr.Thomas said he is going there to address the people's needs and concern and that the government has not abadoned them.

He expressed hope that one day Guinea and Sierra Leone can put this whole issue of land dispute at their back and increase their ties in developing the Mano River Union.

Standard Times
Monday August 09, 2004