

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:

Tuesday, September 14, 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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DAVID CRANE UNDER PRESSURE



Special Court Prosecutor David Crane

By Mohamed Mansaray

The Defence team at the Special Court for Sierra Leone has requested the Prosecution led by David Crane to produce the hand-written interview notes obtained from the 5th and 6th CDF prosecution witnesses sometime ago.

The application was made by Quincy Whittaker, standby counsel for the 1st accused Samuel Hinga Norman at Court Room No.1, New England in Freetown over the weekend. The application was supported

by Michiel Pestman, defence counsel for the 2nd accused Moinina Fofana.

Miss Whittaker informed the court that the 5th and 6th CDF prosecution witnesses were interviewed by obtaining hand-written statements from them by the Prosecution. She told the court that the Prosecution only provided the defence with what counsel described as "a computer-generated-statement". "If the Prosecution says that those

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Crane Under Fire At Special Court

notes no longer exist or that they have been destroyed, we would like to know how that happened", counsel further submitted and accused the Prosecution of breaching Rule 66 (A) (1) of the Rules of Procedure and Evidence of the Special Court. Rule 66 (A) (1) states that: "The Prosecutor shall within 30 days of the initial appearance of an accused, disclose to the defence copies of the statements of all witnesses whom the Prosecutor intends to call to testify and all evidence to be presented pursuant to Rule 92 bis at trial".

"My Lord the Prosecution wants us to believe that those two witnesses are not credible" she told the court, and quoted a ruling delivered by the Chamber on July 16, 2004 to support her application, thus: "the Chamber is of the opinion and so hold that any statement or declaration made by a witness in relation to an event he witnessed and recorded in any form by an official in the course of an investigation, falls within the meaning of a 'witness' statement' under Rule 66 (A) (1) of the rules.

Miss Whittaker further submitted that those who obtained statements from the two witnesses be made to appear in court for cross-examination on the issue if indeed, the hand-written notes have been destroyed as is happening at the International Criminal Tribunal for Rwanda (ICTR). But a Prosecution lawyer, Jim Johnson replied that the defence is not entitled to those interview notes. "As far as the hand-written notes are concerned, under Rule 70(A) of the rules, it is not the policy of the Prosecution to keep these notes after we have transcribed them into statements. To my knowledge, these interview notes no longer exist", the Prosecution counsel said.

He informed the court that the notes have been transcribed into statements and served on the defence team, adding that he is not specifically aware about whether hand-written statements were obtained from the two witnesses. Mr. Johnson went to submit that he has not spoken to the people who interviewed the two witnesses concerned. "It is accepted in international courts that those notes are covered with Rule 70 (A) of the Rules of Procedures and Evidence", he said.

Rule 70 (A) states: "Notwithstanding the provisions of Rules 66 and 67, reports, memoranda or other internal documents prepared by a party, its assistants or representatives in connection with the investigation or preparation of the case are not subject to disclosure or notification under the aforementioned provisions".

Asked by Justice Bankole Thompson and the presiding judge Benjamin Itoe whether the interview notes solicited by the defence still exist,, the Prosecution counsel replied that they do not have any such notes at this time. A ruling is expected shortly.

Salvino Time

Tuesday 14

September 2004

Special Court... Chief Norman challenges trial chamber

BY THEOPHILUS GBENDA
It seems to have come again as a surprise to many, but the 1st accused in the CDF trial at the Special Court for Sierra Leone, chief Sam

Hinga Norman has once again challenged the internationalization of the court, a situation he has referred to as an "unnecessary imposition on the people of Sierra Leone."

The chief also dismissed the court as being political motivated, claiming that even the charges preferred against him and his co-accused persons are to a large extent highly political.

Chief Norman made these assertions after listening rather impa-

Continued page 7

CHIEF NORMAN CHALLENGES TRIAL CHAMBER

FROM PAGE 1

tiently to witness TF2-159, whose testimony concentrated on atrocities allegedly committed by Kamajor fighters in Koribondo, for which fingers of responsibility are pointed squarely at him.

Chief Norman actually lost his patience when the prosecution asked the 28-year-old witness, who claimed to have lost his two grandparents when his house at Koribondo was burnt down by Kamajors, to show the manner in which the deaths took place.

At the material time of the deaths however, the witness pointed out that he was taking refuge in a nearby oil palm farm along with other family members.

"How will this witness tell how his grandparents were

killed when he was not at the scene?" asked a defence counsel for the 3rd accused Allieu Kondewa.

This, according to the defence counsel, was a deliberate attempt by the prosecution to force the witness to make presumptions that are unaccepted neither in international law nor in our local laws.

It was at this juncture that chief Norman rose up to emphatically point out that the Special Court is national and not international, and as such he and his co-accused persons should not be tried by it.

The trial judges were clearly angry at chief Norman, insisting that the court is indeed international and that the chief is completely missing the point as issues relating to the internationality of the court has long been

laid to rest.

Notwithstanding that however, chief Norman made it clear that he will continue to raise objections any time the court is referred to as an international court that has nothing to do with politics.

After some moments of reflection however, chief Norman implored the trials chamber to show understanding, nothing that he is in a difficult situation, especially taking into account the fact that he was acting in good faith in defence of the country only to be indicted at the end of the day.

To that note, the trial judges individually registered their sympathy with the chief and assured him of a fair and expeditious trial in the interest of justice.

Hearings continue

Standard Times

Tuesday 24th September 2009

<http://www.npwj.org/>
14/09/2004

The world characterised the conflict in Sierra Leone in two words: diamonds and amputations. For certain, those two factors construct a persuasive framework by painting acts of great horror and ruthlessness against a background of solid greed. However, the conflict was about much more than that, as the facts gathered and analysed for this report show. There is another story of a decade of cruelty and petty humiliations, systematic brutality, murder, theft and exploitation: a million or more tales of human suffering, sadness and loss. The conflict in Sierra Leone was characterised by extreme levels of violence against a civilian population from all sides, even from those supposed to be their protectors. The violence focused on the domination of a country and her resources, particularly her people: the most valuable resource of all.

Lawyers' Guide to the Special Court

The **NPWJ Lawyers' Guide to the Special Court** is a handbook for lawyers and others interested in technical information about the Court and its proceedings. "If you have a question about the Court, there is now a book that gives you a full and accurate answer. With this book, more people will understand the Court and its proceedings." The **Lawyers' Guide to the Special Court** was undertaken as part of NPWJ's Legal Profession programme in Sierra Leone, and was prepared thanks to contributions from a team of people, including Sierra Leonean and foreign legal experts.



No Bail for Special Court Investigator

The Independent (Freetown)

NEWS

September 13, 2004

Posted to the web September 13, 2004

Freetown

An investigator with the Special Court for war crimes in Sierra Leone Peter Halloran has been refused bail in the high Court No. 2 of Sierra Leone presided over by Justice Ademusu.

The Australian cop Peter Halloran is on trial for allegedly raping a fourteen-year-old girl. He, the brothers of the girl are all tried in the same court. The two brothers have been charged with conspiracy. The judge has ordered that they be detained at the Pademba Road maximum prison till September 21.

A state counsel Mr. Oladipo Vivian Mason has applied for the matter to be tried by judge alone instead of by jury. Justice Ademosu has granted the application.

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Terms: **berlin hosts forum on global peace missions** ([Edit Search](#))

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Panafrican News Agency (PANA) Daily Newswire September 13, 2004

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Panafrican News Agency (PANA) Daily Newswire

September 13, 2004

LENGTH: 431 words

HEADLINE: BERLIN HOSTS FORUM ON GLOBAL PEACE MISSIONS

BYLINE: Peter Masebu

BODY:

Berlin, Germany (PANA) - The main challenges of conflict prevention and resolution in Africa and other regions of the world will be the key topic at a two-day dialogue **forum** opening Tuesday in **Berlin**, Germany.

According to Capacity Building International, Germany (InWent), which is organising the International Policy Dialogue entitled "Development Policy and the Armed Forces" on behalf of the Germany Federal Ministry for Economic Cooperation and Development, at least 50 participants will attend the meeting.

The civilian and military personalities will evaluate the differing nature and mandates of **peace missions** with the aim of establishing accepted standards of interaction between military and development policy actors.

According to InWent's director, Arna Hartmann, the **forum** has been convened to discuss current issues with participants from both civilian and military sectors "in a **forum** free from constraints of protocol."

Hartmann says the relevant regional experiences with various forms of **peace** building and conflict prevention will be discussed in four panels, two of them devoted to Africa, which has the largest number of peacekeeping **missions**.

In one of the sessions, panellists will assess the experiences gained from the stabilisation tasks undertaken by United Nations- led operations in Africa, while the other will focus on African **peace mission** "in regional responsibility".

An example of this is the ECOWAS **Mission** in West Africa and in the context of the increasing importance of African Union and regional organisations in crisis management in Africa.

The AU currently has peacekeepers in Burundi and in the troubled Darfur region of western Sudan.

On the other hand, ECOWAS helped to solve the armed conflicts in Sierra Leone and Liberia.

Apart from African **peace missions**, participants will also examine the lessons from the Balkan with

multilateral troops working with the mandate of the UN in cooperation with the European Union and the World Bank within the Stability Pact for South-Eastern Europe.

Another panel will look into NATO-led and UN-mandated **peace missions** in Afghanistan and "attempts to establish the special features for international involvement in and around Afghanistan characterised by the Operation Enduring Freedom and International Security Assistance".

According to a tentative programme released here, Democratic Republic of Congo ambassador at-large Leonard She Kitundu and Senegalese General Abdoulaye Fall of the UN Operation in Cote d'Ivoire were expected to attend the dialogue **forum**.

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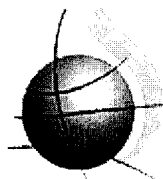
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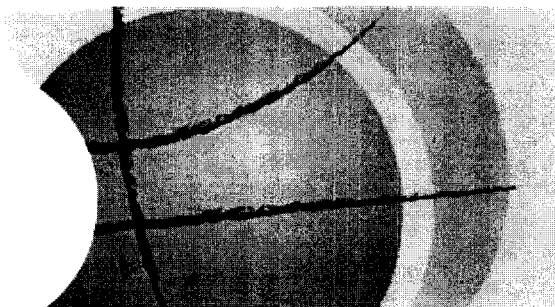
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The Berlin Declaration: the ICJ Declaration on Upholding Human Rights and the Rule of Law in Combating Terrorism

Terrorism and Human Rights - Documents

6th September 2004

On 28 August 2004, 160 lawyers from around the world, meeting at the ICJ biennial conference in Berlin, adopted a Declaration on Upholding Human Rights and the Rule of Law in Combating Terrorism. The Declaration highlights the grave challenge to the rule of law brought about by excessive counter-terrorism measures, reaffirms the most fundamental human rights violated by those measures, and delineates methods of action for the worldwide ICJ network to address the challenge.

Adopted 28 August 2004

160 jurists, from all regions of the world, meeting as Commissioners, Honorary Members, National Sections and Affiliated Organisations at the International Commission of Jurists (ICJ) Biennial Conference of 27-29 August 2004, in Berlin, Germany, where it was founded 52 years ago, adopt the following Declaration:

The world faces a grave challenge to the rule of law and human rights. Previously well-established and accepted legal principles are being called into question in all regions of the world through ill-conceived responses to terrorism. Many of the achievements in the legal protection of human rights are under attack.

Terrorism poses a serious threat to human rights. The ICJ condemns terrorism and affirms that all states have an obligation to take effective measures against acts of terrorism. Under international law, states have the right and the duty to protect the security of all people.

Since September 2001 many states have adopted new counter-terrorism measures that are in breach of their international obligations. In some countries, the post-September 2001 climate of insecurity has been exploited to justify long-standing human rights violations carried out in the name of national security.

In adopting measures aimed at suppressing acts of terrorism, states must adhere strictly to the rule of law, including the core principles of criminal and international law and the specific standards and obligations of international human rights law, refugee law and, where applicable, humanitarian law. These

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- **Cambodia**
- **Canada**
- **Chad**
- **Chechnya**
- **Chile**
- **China**
- **Colombia**
- **Congo**
- **Cuba**
- **Dominican Republic**

principles, standards and obligations define the boundaries of permissible and legitimate state action against terrorism. The odious nature of terrorist acts cannot serve as a basis or pretext for states to disregard their international obligations, in particular in the protection of fundamental human rights.

A pervasive security-oriented discourse promotes the sacrifice of fundamental rights and freedoms in the name of eradicating terrorism. There is no conflict between the duty of states to protect the rights of persons threatened by terrorism and their responsibility to ensure that protecting security does not undermine other rights. On the contrary, safeguarding persons from terrorist acts and respecting human rights both form part of a seamless web of protection incumbent upon the state. Both contemporary human rights and humanitarian law allow states a reasonably wide margin of flexibility to combat terrorism without contravening human rights and humanitarian legal obligations.

International and national efforts aimed at the realization of civil, cultural, economic, political and social rights of all persons without discrimination, and addressing political, economic and social exclusion, are themselves essential tools in preventing and eradicating terrorism.

Motivated by the same sense of purpose and urgency that accompanied its founding, and in the face of today's challenges, the ICJ rededicates itself to working to uphold the rule of law and human rights.

In view of recent grave developments, the ICJ affirms that in the suppression of terrorism, states must give full effect to the following principles:

1. *Duty to Protect*: All states have an obligation to respect and to ensure the fundamental rights and freedoms of persons within their jurisdiction, which includes any territory under their occupation or control. States must take measures to protect such persons, from acts of terrorism. To that end, counter-terrorism measures themselves must always be taken with strict regard to the principles of legality, necessity, proportionality and non-discrimination.

2. *Independent Judiciary*: In the development and implementation of counter-terrorism measures, states have an obligation to guarantee the independence of the judiciary and its role in reviewing state conduct. Governments may not interfere with the judicial process or undermine the integrity of judicial decisions, with which they must comply.

3. *Principles of Criminal Law*: States should avoid the abuse of counter-terrorism measures by ensuring that persons suspected of involvement in terrorist acts are only charged with crimes that are strictly defined by law, in conformity with the principle of legality (*nullum crimen sine lege*). States may not apply criminal law retroactively. They may not criminalise the lawful exercise of fundamental rights and freedoms. Criminal responsibility for acts of terrorism must be individual, not collective. In combating terrorism, states should apply and where necessary adapt existing criminal laws rather than create new, broadly defined offences or resort to extreme administrative measures, especially those involving deprivation of liberty.

4. *Derogations*: States must not suspend rights which are non-derogable under treaty or customary law. States must ensure that any derogation from a right subject to derogation during an emergency is temporary, strictly necessary and proportionate to meet a specific threat and does not discriminate on the grounds of race, colour, gender, sexual orientation, religion, language, political or other opinion, national, social or ethnic origin, property, birth or other status.

5. *Peremptory norms*: States must observe at all times and in all circumstances the prohibition against torture and cruel, inhuman or degrading treatment or punishment. Acts in contravention of this and other peremptory norms of international human rights law, including extrajudicial execution and enforced disappearance, can never be justified. Whenever such acts occur, they must be effectively investigated without delay, and those responsible for their commission must be brought promptly to justice.

6. *Deprivation of liberty*: States may never detain any person secretly or incommunicado and must maintain a register of all detainees. They must provide all persons deprived of their liberty, wherever they are detained, prompt access to lawyers, family members and medical personnel. States have the duty to ensure that all detainees are informed of the reasons for arrest and any charges and evidence against them and are brought promptly

- East Timor
- Ecuador
- Egypt
- Fiji
- France
- Gambia
- Germany
- Gibraltar
- Guatemala
- Haiti
- Honduras
- Hong Kong
- India
- Indonesia
- Iran
- Iraq
- Israel/Palesti
- Italy
- Ivory Coast
- Jamaica
- Japan
- Jordan
- Kenya
- Kyrgyz Repub
- Lebanon
- Liberia
- Liechtenstein
- Malawi
- Malaysia
- Maldives
- Mali
- Mexico
- Moldova
- Mongolia
- Myanmar
- Nepal
- Netherlands
- Nigeria
- Pakistan
- Panama
- Paraguay
- Peru
- Philippines
- Poland
- Portugal
- Russian Federation
- Rwanda
- Saudi Arabia
- Senegal
- Serbia and Montenegro
- Sierra Leone
- Singapore
- Solomon Islar
- South Africa
- Spain
- Sri Lanka
- Sudan
- Swaziland

before a court. All detainees have a right to *habeas corpus* or equivalent judicial procedures at all times and in all circumstances, to challenge the lawfulness of their detention. Administrative detention must remain an exceptional measure, be strictly time-limited and be subject to frequent and regular judicial supervision.

7. *Fair Trial*: States must ensure, at all times and in all circumstances, that alleged offenders are tried only by an independent and impartial tribunal established by law and that they are accorded full fair trial guarantees, including the presumption of innocence, the right to test evidence, rights of defence, especially the right to effective legal counsel, and the right of judicial appeal. States must ensure that accused civilians are investigated by civilian authorities and tried by civilian courts and not by military tribunals. Evidence obtained by torture, or other means which constitute a serious violation of human rights against a defendant or third party, is never admissible and cannot be relied on in any proceedings. Judges trying and lawyers defending those accused of terrorist offences must be able to perform their professional functions without intimidation, hindrance, harassment or improper interference.

8. *Fundamental Rights and Freedoms*: In the implementation of counter-terrorism measures, states must respect and safeguard fundamental rights and freedoms, including freedom of expression, religion, conscience or belief, association, and assembly, and the peaceful pursuit of the right to self-determination; as well as the right to privacy, which is of particular concern in the sphere of intelligence gathering and dissemination. All restrictions on fundamental rights and freedoms must be necessary and proportionate.

9. *Remedy and reparation*: States must ensure that any person adversely affected by counter-terrorism measures of a state, or of a non-state actor whose conduct is supported or condoned by the state, has an effective remedy and reparation and that those responsible for serious human rights violations are held accountable before a court of law. An independent authority should be empowered to monitor counter-terrorism measures.

10. *Non-refoulement*: States may not expel, return, transfer or extradite, a person suspected or convicted of acts of terrorism to a state where there is a real risk that the person would be subjected to a serious violation of human rights, including torture or cruel, inhuman or degrading treatment or punishment, enforced disappearance, extrajudicial execution, or a manifestly unfair trial; or be subject to the death penalty.

11. *Complementarity of humanitarian law*: During times of armed conflict and situations of occupation states must apply and respect the rules and principles of both international humanitarian law and human rights law. These legal regimes are complementary and mutually reinforcing.

Commitment to Act

- ▶ The ICJ, including its Commissioners, Honorary Members, National Sections and Affiliated Organisations, consistent with their professional obligations, will work singly and collectively to monitor counter-terrorism measures and assess their compatibility with the rule of law and human rights.
- ▶ The ICJ will challenge excessive counter-terrorism legislation and measures at the national level through advocacy and litigation and will work towards the promotion of policy options fully consistent with international human rights law.
- ▶ The ICJ will work to ensure that counter-terrorism measures, programs and plans of action of global and regional organisations comply with existing international human rights obligations.
- ▶ The ICJ will advocate the establishment of monitoring mechanisms by relevant intergovernmental and national institutions to help ensure that domestic counter-terrorism measures comply with international norms and human rights obligations and the rule of law, as called for in the joint NGO Declaration on the Need for an International Mechanism to Monitor Human Rights and Counter-Terrorism adopted at the ICJ Conference of 23-24 October 2003 in Geneva.
- ▶ The ICJ will invite and work with jurists and human rights organisations from around the world to join in these efforts.
- ▶ The judiciary and legal profession have a particularly heavy responsibility

- ▶ Switzerland
- ▶ Syria
- ▶ Taiwan
- ▶ Thailand
- ▶ Tibet
- ▶ Togo
- ▶ Trinidad and Tobago
- ▶ Tunisia
- ▶ Turkey
- ▶ Uganda
- ▶ Ukraine
- ▶ United Kingdom
- ▶ USA
- ▶ Venezuela
- ▶ Vietnam
- ▶ Yugoslavia
- ▶ Zambia
- ▶ Zimbabwe

during times of crisis to ensure that rights are protected. The ICJ calls on all jurists to act to uphold the rule of law and human rights while countering terrorism:

* *Lawyers*: Members of the legal profession and bar associations should express themselves publicly and employ their full professional capacities to prevent the adoption and implementation of unacceptable counter-terrorism measures. They should vigorously pursue domestic and, where available, international legal remedies to challenge counter-terrorism laws and practices in violation of international human rights standards. Lawyers have a mandate to defend persons suspected or accused of responsibility for terrorist acts.

* *Prosecutors*: In addition to working to bring to justice those responsible for terrorist acts, prosecutors should also uphold human rights and the rule of law in the performance of their professional duties, in accordance with the principles set out above. They should refuse to use evidence obtained by methods involving a serious violation of a suspect's human rights and should take all necessary steps to ensure that those responsible for using such methods are brought to justice. Prosecutors have a responsibility to tackle impunity by prosecuting persons responsible for serious human rights violations committed while countering terrorism and to seek remedy and reparation for victims of such violations.

* *The Judiciary*: The judiciary is the protector of fundamental rights and freedoms and the rule of law and the guarantor of human rights in the fight against terrorism. In trying those accused of acts of terrorism, judges should ensure the proper administration of justice in conformity with international standards of independence, due process and fair trial. Judges play a primary role in ensuring that national laws and the acts of the executive relating to counter-terrorism conform to international human rights standards, including through judicial consideration of the constitutionality and legality of such norms and acts. In the development of jurisprudence, judges should wherever possible apply international standards relating to the administration of justice and human rights. Judges should ensure that judicial procedures aimed at human rights protection, such as *habeas corpus*, are implemented.

The following documents are available:



Berlin Declaration (PDF format)



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