

SPECIAL COURT FOR SIERRA LEONE
PRESS AND PUBLIC AFFAIRS OFFICE

PRESS CLIPPINGS

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Thursday, March 17, 2005

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Salone Times, Thursday March 17th 2005

Defence Wants **'Opinion Evidence'** **Against AFRC** **Indictees Rejected**

By Mohamed Mansaray

Defence Counsel for the third AFRC accused Santigie Borbor Kanu, Prof. Geert-Jan Alexander Knoops yesterday rejected what counsel described as 'opinion evidence' submitted by two Prosecution witnesses, namely, TF1-081 and TF1-188 respectively.

Prof. Knoops was speaking at the Second Trial Chamber of the Special Court, presided over by Teresa Doherty at New England in Freetown.

Counsel argued that TF1-081 is a physician and relies on medical data as evidence against the accused. "The facts which the witness rely on stem from his medical experience and in any case, he cannot submit opinion evidence to be

read in court by a third party," Prof. Knoops argued.

Counsel argued that the fact that the witness had intention to publish the statement means that he is a witness of expert and not a witness of facts.

With respect to TF1-188, Prof. Knoops argued that the witness gave what he described as an expert opinion evidence and claimed that the witness mentioned in his statement of people dying of gun shot wounds. This assertion, according to counsel, is an issue that falls within the domain of experts, he said.

Defence Counsel for Alex Tamba Brima (Gullit), Kevin A. Metzger, also argued that TF1-081 seems to rely on statistics he compiled as evidence against the accused, which according to counsel are in what he referred to as 'compressed form.' Mr. Metzger further argued that the original data gathered by the witness expressed what he also referred to as 'opinion of the cause of death and submitted that the Defence should be accorded the opportunity to assess the source of the materials.

Defence counsel for Brima Bazy Kmar, Wilbert Harris supported the arguments raised by his defence colleagues.

Responding, Prosecution counsel, Lesley Taylor said that they (Prosecution) have no intention to call in the two witnesses, describing them as medically qualified. "The prosecution called the witnesses concerned to comment on the command responsibility of the accused," she said, adding that the issue of privilege is applicable in international law.

Ms. Taylor informed the court that the experts could be seen on video tapes and that it was left with the defence to assess the credibility of the witness and called on the court not to exclude the medical data, which according to her, is also acceptable in International law.

"The report of witness TF1-081 was written as an expert and the Prosecution relies on the materials contained in it as they are of Probative value to the allegations relating to sexual violence brought against the accused," the Prosecution submitted and denied that the witness gave an opinion evidence.

Regarding TF1-188, the Prosecution argued that the witness is a medical doctor and saw what happened to people in Freetown on January 6, 1999.

"It is an evidence of observation with respect to people who died of gun shot wounds in Freetown," Ms. Taylor argued.

She went on to argue that TF1-081 is not an expert witness as claimed by Mr. Metzger and informed the court that all materials relating to the evidence of the above witness have been disclosed to the defence.

Ms. Taylor added, however, that there are certain materials relating to the evidence of the witness concerned that will not be disclosed to the defence by the Prosecution, pursuant to Rule 66 of the Court's Statutes.

A ruling is expected on the argument.

Meanwhile, the court is currently on judicial recess and is expected to end on April 5.

For di People, Thursday March 17, 2005.

ALBERT JOE DEMBY WAS NOT A KAMAJOR

UNDER CROSS-examination by defence counsel Mr Williams, prosecution witness TF2-014 Moinina Jusu Nallo, a member of the inner core of the Kamajor militia, told the court that ex-vice President Albert Joe Demby, was not a member of the CDF War Council and that Joe Demby did not visit

by SC
THORONKA
Base Zero.

Replying to a question put to him by defence counsel, the witness said he did not know whether Ecomog based in Liberia had equal mandate in Sierra Leone.

He however denied seeing Mohamed Wan, an Ecomog soldier in Base Zero, but acknowledged the fact that Colonel Maxwell Khohe did visit Base Zero.

Answering further to questions, the witness said he knew an Ecomog soldier by the name of Fred but could not tell whether he was a helicopter pi-

not, although he used to see him aboard the helicopter that took rice, fuel, arms and ammunition for the CDF fighters at Base Zero.

"Before we came out of the bush, there was a strong relationship between us the fighting

forces of the CDF and Ecomog," he said.

Nallo further said he knew Bahari Musa in the early part of 1998 when Bahari took over from Colonel Akiyemi, the first Ecomog Commander in Bo. The initiation process into the Kamajor society, he said, took more than a day and that the time varies from one initiator to the other.

"The minimum time my initiation lasted was one

week," the witness said. In reply to a question put forward by the defence counsel, the witness said he never knew he made 17 statements to the investigators.

He named the following as members of the CDF War Council: Daramy Rogers, Paramount Chief Charles Caulker, PC Queen Sam Demby, the younger brother of Albert Joe Demby, ex-Vice President.

When asked by counsel whether he knew one

Charles Moiwo, the witness answered in the affirmative and further said that Moiwo was their national PRO but that he (Moiwo) had never stepped foot in Base Zero.

"Moiwo was appointed to this position after the Kamajors came out of the bush," he said. He further told the court that president Kabbah never held a post because he was not a member of the Kamajor So-

ciety. He explained that, when the Kamajors were in the bush fighting, no civilian held a position in the movement.

Nallo said before they came out of the bush, Alieu Kondowa was dropped from the War Council, adding that, Hinga Norman intimidated members of the War Council saying that the boys would kill them and he (Norman) would not guarantee their safety.

"Not too long after, RP

Combay, a council member, was molested right in front of Norman, and Daramy Rogers too was molested but Hinga Norman did nothing to stop the Kamajors, instead he laughed and said 'I told you'," the witness continued.

He said Charles Moiwo was appointed national PRO immediately the government was reinstated and that Kondowa was left in the cold. Witness Nallo said

Moinina Fofana, Charles Moiwo and Chief Sam Hinga Norman became the principal heads in the War Council.

"Do you know Kagboro?" This was the question put forward by the defense counsel.

"I know Kagboro chiefdom very well, I went there when I was deputy National Director of Operations to settle an impasse," the witness answered.

He however denied stealing thirty goats and seven single barrel guns from civilians.

"Two goats were given to me by Paramount Chief Charles Caulker," the witness said.

He said he knew Kobie, Daniel Samu, Joseph Koroma and one Kanu, whom he said were all members of the war directorate office created by Hinga Norman and headed by Moinina Fofana with headquarters situated

some where around Mahei Boima Road, Bo.

He further said that there was a council of initiators at Base Zero and that Kondowa was a member, which also qualified him to be a member of the War Council.

"One Mercedes Benz vehicle, owned by one Sorba Stevens, was looted from Bagruwa chiefdom in Sembehun. Hinga Norman used this ve-

hicle," he said.

The witness added that Hinga Norman had accused Dr MI Sesay of collaborating with the junta and that Dr Sesay provided 'ronkos' for the AFRC similar to those of the Kamajors.

"He instructed me to kill Dr Sesay, loot his properties and burn his house," the witness concluded.



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Special Tribunals: Limits to Transitional Justice

BYLINE: Standard Times

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Ex-British High Commissioner Bullets **Special Court**

The Special Court in Sierra Leone is the independent war crimes tribunal set up by the United Nations at the request of the Sierra Leonean government and charged with bringing to justice "those who bear the greatest responsibilities" for the atrocities and human rights violations during **Sierra Leone's** bloody 11-year rebel war.

It was established in January 2002 following an Act passed by the Sierra Leonean Parliament, but it was not until February 2004 that the **Special Court** building was officially opened and not until June that the trials of those detained since March 2003 finally got underway.

A month later, Foday Sankoh, the leader of the Revolutionary United Front (RUF) and the person observers agree was most responsible for the brutal rebel war, died in detention.

The Court has indicted Charles Taylor, the ex-President of Liberia, whose alleged support for the RUF in exchange for **Sierra Leone's** "blood diamonds" continued to fuel the conflict, and the court's Chief Prosecutor, the American David Crane, would love to get his hands on him.

The manner in which Crane issued Taylor's indictment (while he was in Accra for peace talks) severely embarrassed the Ghanaian authorities and nearly undermined the delicate Liberian peace negotiations.

Taylor is now in detention in Nigeria as part of the deal to secure an end to the equally bloody Liberian conflict, and in spite of intense pressure from the US government to secure Taylor's presence before the Court, President Obasajo of Nigeria seems unlikely to break the unwritten code among African heads of state not to do to fellow heads of state what may one day happen to you.

Without Taylor and with Sankoh's death, plus the previous death of the infamous RUF commander Sam Bockarie, and the reported death or disappearance of the AFRC junta leader Johnny Paul Koroma, the only person of note being prosecuted by the **Special Court** is Chief Sam Hinga Norman.

He is the former Minister of Internal Security and erstwhile coordinator of the Civil Defence Forces (CDF), the groupings of indigenous civil militia who fought against the rebels and helped restore the legitimate democratic government of President Tejan Kabbah.

Thus the impression is given that Norman is the person most responsible for the awful atrocities committed during the rebel war, an impression which even Norman's detractors do not accept.

No one denies that some members of the CDF committed excesses in their struggle to restore peace and democracy, but these were far fewer than those committed by the rebels. The **Sierra Leone** Truth and

Reconciliation Commission in its report published in October noted that the RUF committed over 60 percent of the atrocities, the Army nearly 17 percent and the CDF just six percent. (The TRC also noted that Ecomog, the Nigerian-led West African intervention force, was responsible for one percent of the atrocities, though for political reasons they do not fall within the purview of the **Special Court**).

Sierra Leone is the first country to have had a Truth and Reconciliation Commission as part of the conflict resolution process. Rwanda and the former Yugoslavia have their war crimes tribunals and TRCs have been established in South Africa and El Salvador, while other conflicts such as in Mozambique were successfully resolved without recourse to either.

In **Sierra Leone** the relationship between the **Special Court** and the TRC has been far from easy and there was much confusion in people's minds over their respective roles.

The TRC was always the poor relations. Nevertheless, with a budget of only \$6.5 million, it completed its work earlier this year and in October tabled its 5,000-page report based upon the thousands of testimonies presented to it. (The only significant testimony missing was that of Hinga Norman who was refused permission by the **Special Court** to appear before the TRC.) The report has been called "a document of great importance" and is widely seen as contributing positively towards the reconciliation process in **Sierra Leone**.

By contrast, the **Sierra Leone Special Court** is seen by many to be merely assuaging the conscience of the international community rather than serving the interest of **Sierra Leone**.

With a budget of \$76 million spread over three years, supporters of the **Sierra Leone Special Court** claim that this is cheap compared to the Rwanda War Crimes Tribunal, which spends \$120 million a year.

Most of the **Sierra Leone Special Court's** funds have come from the US government with some support from others such as Britain.

But where has all this money gone?

Millions have been spent erecting the purpose built courthouse, detention facility and prefabricated administrative blocks, all encased in a 12-foot-high concrete security perimeter wall guarded by razor wire and patrolled by UN troops.

All the buildings other than the detention blocks are air conditioned and the whole complex is swathed in bright lights supplied from constantly running electricity generators, which would be enough to provide one-third of Freetown's desperate power needs.

Situated somewhat inappropriately on Jomo Kenyatta Avenue in the middle of the capital, it is in stark contrast to the surrounding environs of shanty huts lit by-oil-filled lamps and evokes an image of an East European stalag at the height of the Cold War.

And all this is just for the nine indictees detained inside!

The salaries and wages paid to the Court's judges, officials and administrative staff are widely exorbitant compared to salaries outside.

A security guard earns more than the **Sierra Leone** Chief of Police, the judges more than the President. Of particular concern are the thousands of dollars being paid by the Court to Prosecution witnesses who testify with anonymity behind screens, some of whom are provided with homes outside the country in Ghana.

An expensive "outreach programme" has been conducted throughout the country, led curiously by the Chief Prosecutor, to explain to the Sierra Leonean people why a **Special Court** is needed as they try to put the past behind them and pick up the pieces of their broken lives.

Their reaction to the Court remains mixed. In Freetown, not surprisingly, those who can take advantage of the well-paid jobs available with Court, while others follow the intermittent reporting in the local press on the court's activities. The majority of Freetown residents just get on with their lives.

Outside in the provinces, especially in the south and east, many people are concerned and bitter about the continued detention of Norman and his two fellow CDF indictees. To them, Norman and the CDF are the heroes who, along with Ecomog, the UK and the UN, helped bring peace and restore democracy to their country.

Their anger bubbles under the surface, kept in check only by the combination of a reducing UN presence, a new British-trained but yet to be tested Sierra Leonean army and, more importantly, Norman's own message to his supporters to remain clam and not disrupt the fragile peace in the country.

The legality of the **Special Court** is under question.

The **Sierra Leone** Act setting up the Court states that, although the **Special Court** and the national courts of **Sierra Leone** have concurrent jurisdiction, the **Special Court** shall have primacy. The Sierra Leonean Constitution clearly states that its Supreme Court is the supreme authority in **Sierra Leone**, and therefore defence counsel are arguing that the **Sierra Leone Special Court** is unconstitutional.

To change an entrenched clause in the Constitution requires a referendum before legislation is passed through the Sierra Leonean Parliament. This was not done in the case of the Bill setting up the **Special Court**.

Norman himself has refused to cooperate with the **Special Court** on the grounds that he and the CDF members have not been properly indicted.

At the hearing at the beginning of December the presiding judge, Justice Ito from Cameroon, supported Norman's contention.

He declared the present consolidated injunction against the three CDF indictees null and void, but his two fellow judges did not share his views.

Norman has now lodged a further appeal on the strength of Justice Ito's assertion.

As the present pace it appears unlikely that the defence will start its case before September this year, after the prosecution has completed the testimony of the nearly 100 witnesses it says it will call.

This raises the question of whether the Court will run out of fund before it completes its work. The UN has managed to secure funding up to the end of 2005, but not beyond.

The Americans want to make the **Sierra Leone** Court a success. They seem determined to demonstrate to the rest of the world that there is an alternative to the international criminal Court (ICC), which they continues to boycott.

They appear to equate "success" by the conviction of Norman and the others.

Even before the trials commenced, Crane injudiciously remarked that none of the indictees "would ever see the light of day again".

But even the Americans are feeling the pinch financially and are reportedly putting the squeeze on the UK to provide more funds. Once again, Britain seems to be being dragged along an American agenda.

Mindful of the British Prime Minister's much heralded Commission for Africa and his expressed wish to put Africa high on the agenda when the UK holds the Presidency of both the EU and the G8 during the second half of this year, the British government claims that the **Sierra Leone Special Court** is contributing towards peace not only in **Sierra Leone** but throughout Africa.

They argue that other African rebel leaders will think twice before embarking upon the path of violence that has wreaked havoc on the continent if doing so could find them facing war crimes tribunals.

But it could have the opposite effect.

Most conflicts in African start at a low level and the perpetrators will pay scanty attention to international war crimes courts.

As the conflicts escalate, their resolution will depend upon persuading both sides to lay down their guns and stop killing one another.

This inevitably will require some form of assurance that they can do so without fear of reprisals, as was the case in **Sierra Leone**.

But what good would assurances from governments be if it were seen that the international community could trample over delicately negotiated peace agreements?

Apart from the US and UK, other members of the UN are less enthusiastic about the **Sierra Leone Special Court**.

Some fear that part of the US strategy is to prepare the way for **Special Courts** to be set up in Sudan and Uganda, Afghanistan and Iraq, with the same caveat that no American national may appear before them.

Is that justice? And why should the UK government endorse something like this?

Peter Penfold is a former UK High Commissioner to **Sierra Leone**.

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Obasanjo: Conference'll Remove Immunity

This Day (Lagos)

NEWS

March 16, 2005

Posted to the web March 16, 2005

By Femi Solaja

Lagos

President Olusegun Oba-sanjo yesterday in London said the National Political Reforms Conference holding in Abuja will remove Section 308 of the 1999 Constitution which guarantees immunity from criminal prosecution for the president, vice president, governors and their deputies out of the nation's legal system.

Obasanjo who was briefing newsmen on the activities of his administration to reposition the country said his government was bent on tackling corruption and any law which shields excesses of government officials will not survive the current efforts to draft a new constitution for the nation.

He said the situation where some public officials siphon public funds abroad is being tackled and that the government expected support from the international community in this direction.

According to him , "we are well on course with the Political Reform Conference and I believe the conference will help us to remove the immunity that we have in our constitution which says that an elected president, governor and so on cannot be charged for any criminal offence."

He said that there are other laws such as declaration of assets by public officials to check corruption. Obasanjo also noted that efforts to recover Nigeria's stolen funds stashed abroad have not been wasted, adding that the British authority can do more in assisting the country in the recovery of dirty money in their banks.

"If a man deposits £30,000 in your bank and the same person has no farm, no industry and or any bussiness he can call his own and yet he puts such a huge sum in your deposit and then you say we should come and prove, what evidence do we have to show again?" he asked.

Since late last year, there have been allegations of money laundering and other financial crimes levelled against Plateau State Governor, Joshua Dariye by both the London Metropolitan Police and the Economic and Financial Crimes Commission (EFCC) back home.

Dariye had pleaded immunity protection under Section 308 of the constitution when EFCC charged him alongside four executives of All States Trust Bank in a Federal High Court in Kaduna. The court dismissed the charges against Dariye but while ruling that the bank officials will continue to face trial it noted that the suit will indirectly put Dariye, who would have been the main accused, on trial as well.

Obasanjo's key officials had also condemned some governors allegedly diverting public funds abroad. Finance Minister Ngozi Okonjo-Iweala and her Minister of State, Esther Usman had said the foreign exchange market usually become hyper-active a few days after Federal Government released allocation to states.

They noted that the implication is that governors are buying foreign exchange with state funds and repatriating it abroad.

However President Obasanjo has applauded the recently released report of the Commission for Africa set up by British Prime Minister Tony Blair urging UK to show political will and courage to carry forward the report's recommendation.

Obasanjo who was delivering the eight Commonwealth lecture titled "The Commonwealth in the 21st Century: Prospects and Challenges" in London yesterday also praised the organisation for its role in assisting in the collapse of apartheid in South Africa and spearheading international condemnation of military rule in Nigeria.

According to him, Commonwealth should strengthen its role in conflict resolution by establishing an early warning system.

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President Speech Didn't Incite to Kill Tutsis, Expert Witness Claims

Hirondelle News Agency (Lausanne)

NEWS

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Arusha

A Rwandan linguist, Dr. Eugene Shimamungu, told the International Criminal Tribunal for Rwanda (ICTR) Wednesday that the Kinyarwanda word "gukora" (to work) used by Interim President in April 1994 never meant "to kill Tutsis" as alleged by the Prosecutor.

Dr. Shimamungu who is also an expert in political communication and speech analysis was giving testimony in defence of the former Rwandan minister of Family and Women Affairs, Pauline Nyiramasuhuko. She is on trial for genocide and crimes against humanity with five other accused from Butare prefecture, South Rwanda.

The prosecution alleged that the Interim President, Theodore Sindikubwabo, made a speech on April 19, 1994 in Butare calling upon Hutus to kill Tutsis. He used the word "gukora" among others.

"That word has never meant to kill Tutsis," affirmed Dr. Shimamungu. The expert witness elaborated further that if it were to mean so, at least in some speeches, that meaning would be made clear for the population to comprehend the message. He added that this never happened.

He said he had known the word "gukora" more when it was used in conjunction with another Kinyarwanda word "umuganda" (community work) in the form of "gukora umuganda" meaning "to do community work". It was under the former Rwandan President Juvenal Habyarimana killed in April 1994.

Nyiramasuhuko is jointly tried with her son Arsene Shalom Ntahobali, two former prefects of Butare, Sylvain Nsabimana and Alphonse Nteziryayo and two former mayors, Joseph Kanyabashi and Elie Ndayambaje. They pleaded not guilty. The trial commenced on June 12, 2001. Shimamungu continues with his testimony on Thursday.

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