

**SPECIAL COURT FOR SIERRA LEONE
PRESS AND PUBLIC AFFAIRS OFFICE**



A man and his boat at Lumley beach

PRESS CLIPPINGS

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

as at:

Wednesday, 7 February 2007

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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United Nations  Nations Unies

United Nations Mission in Liberia (UNMIL)

UNMIL Public Information Office Media Summary 6 February 2007

[The media summaries and press clips do not necessarily represent the views of UNMIL.]

International Clips on Liberia

There were no relevant stories on Liberia in the international media today.

International Clips on West Africa

US\$33 Million to Try Charles Taylor

By Tanu Jalloh

Freetown, Feb 05, 2007 (Concord Times/All Africa Global Media via COMTEX) --In its quest for justice, the international community may have to garner about US\$33 million to try former Liberian President, Charles Taylor, whose trial is set to commence June 4, 2007 at The Hague. In all, 133 witnesses have been listed by the prosecutor, Stephen Rapp, as core witnesses, whose evidence the United Nations Special Court on War Crimes believes are necessary to prosecute the case. At the UN headquarters in New York, United States, Rapp, the prosecutor hired by the world body for the case, told the international media that the court was ready for Taylor's trial. Since last year, the US has contributed about \$13 million towards the prosecution of the case at the Special Court for Sierra Leone.

Local Media – Newspaper

Government Dismisses Assertions about Donor Conference

(Heritage, The Analyst, New Democrat and The Informer,)

- Addressing reporters that cover the Presidency yesterday, the Press Secretary to President Ellen Johnson-Sirleaf, Mr. Cyrus Badio dismissed assertions that the pending donor conference was a pledging conference, but said that it was a forum to strengthen the partnership between the Government of Liberia and donors.
- Mr Badio noted that, for the conference, the Government identified 5 key areas including the achieving endorsement of the Interim Poverty Reduction Strategy by international community, engaging both traditional and non-traditional donors in the national reconstruction agenda, agreeing on effective means of delivering on external assistance and utilizing domestic and external resources.
- The Press Secretary added that President Johnson-Sirleaf's opening statement at the donors' conference would focus on progress government makes in tackling the Country's many challenges.

Voting Starts in Nimba County By-Election

(Daily Observer and The Analyst)

- Correspondents covering the by-election for District #6 in Nimba County said that polling started on a very slow pace due to the lack of enthusiasm among voters who must elect a Representative after the death in 2006 of Representative Aaron Manneh.
- The exercise is being monitored by the National Democratic Institute, International Republican Institute, the International Foundation for Elections System, Economic

Community of West African States and the Liberia Council of Churches, among the monitors.

Catholic Commission Abhors Calls for Suspension of Investment Forum

- Catholic Justice and Peace Commission Director Cllr. Augustine Toe said that calls by some politicians to delay the donor conference for Liberia, was a ploy to strangle the already “poverty stricken” people of Liberia and described the politicians as “evil geniuses” who Liberians must resist stiffly.
- Liberty Party, the National Patriotic Party and the Liberia Action Party allegedly called for the cancellation of the conference because President Ellen Johnson-Sirleaf violated the Constitution of Liberia when she delivered her annual address to a divided National Legislature.

Training Course for Liberian Trade Negotiation Stakeholders Underway

(Heritage and New Democrat)

- Speaking at the beginning of a training course for Liberian trade negotiation stakeholders yesterday, the Economic Community of West African States Project Coordinator for Capacity-Building, Dr. Douglas Zormelo said that ECOWAS was committed to the achievement of regional economic empowerment by ensuring that its member countries were economically empowered for sustainable development.

House Speaker Proposes Remedy to Leadership Conflict

(The Inquirer, The News, New Democrat and Heritage)

- The Chief of Office State at the Office of House Speaker Edwin Snowe, Mr. Darus Dillon said that the Speaker has proposed that the “Rotunda” of the Capitol Building be used for temporary Legislative functions to enable the Lawmakers either repeal or amend portions of the Legislative Laws that spell out Monrovia as the official business place for the Lawmakers.

Labour Minister Questions Liberia’s Unemployment Rate

(Heritage)

- Labor Minister Samuel Kofi Woods yesterday questioned the 85 percent unemployment rate in Liberia, believing that the statistics no longer reflected today’s realities as the rate was declared some 15 years ago when people were jobless due to the civil war.
- Speaking at a short ceremony when he presented computers to the Liberia Institute for Statistics and Geo-Information Services (LISGIS), Minister Woods added that since the inception of the Government considerable job opportunities had been created that could disprove the figure and hoped that LISGIS would conduct a new survey to that effect.
- Meanwhile, LISGIS Director-General, Dr. Edward Liberty said that the Institute needed more than US\$150,000 to fund its activities including the demographic health survey which was launched in December, 2006 to collect blood samples from households in the Country now being tested to establish the prevalence rate of the HIV virus in Liberia.

Local Media – Radio Veritas *(News monitored today at 9:45 am)*

Press Secretary Corrects Misunderstanding over Investment Forum

(Also reported on ELBS and Star Radio)

Voting Starts in Nimba County By-Election

(Also reported on ELBS and Star Radio)

Training Course for Liberian Trade Negotiation Stakeholders Underway

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Labour Minister Unhappy about Inaccurate Report of Rate of Joblessness

(Also reported on ELBS and Star Radio)

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- Mr. Dillon mentioned that Speaker Snowe has already communicated the proposal to the majority bloc of Lawmakers who are meeting at the Unity Conference Center.

(Also reported on ELBS and Star Radio)

Complete versions of the UNMIL International Press Clips, UNMIL Daily Liberian Radio Summary and UNMIL Liberian Newspapers Summary are posted each day on the UNMIL Bulletin Board. If you are unable to access the UNMIL Bulletin Board or would like further information on the content of the summaries, please contact Mr. Weah Karpeh at karpeh@un.org.

Inner City Press

Friday, 2 February 2007

Lord's Resistance Army in Sights of UN Security Council President, for Action on War Crimes

Byline: Matthew Russell Lee of Inner City Press at the UN

UNITED NATIONS, February 2 -- "Concrete action against the Lord's Resistance Army" in Uganda was called for Friday by the president of the UN Security Council for February. Slovakia's Ambassador Peter Burian told Inner City Press that he and other Council members were told to hold off on criticism when the UN's Jan Egeland met with LRA leaders in late 2006, "because the situation was fragile." Now Amb. Burian questions whether the LRA leadership's strategy is to make small concessions to continue to forestall a move to enforce the outstanding war crimes indictments issued by the International Criminal Court.

Amb. Burian was on the Security Council trip to Southern Sudan when the talks between the LRA and Uganda's Museveni government began. "We were told, don't say much, it has only just started," said Amb. Burian. A reporter who accompanied the Council on that trip recalls waiting for an okay from the government of South Sudan to interview the LRA leaders, which permission never came. Since then, the LRA has conducted something of a public relations campaign. Amb. Burian expressed frustration Friday at the lack of fight-back or rebuttal.

At a UN press conference Friday, Inner City Press asked Amb. Burian if he will add Uganda and the LRA on the Council's agenda this month. "It's a good point," he responded. "It has been a while since the Council has discussed it, probably we need to revisit recent developments. We may put the question in our national capacity... action against the LRA and on using child soldiers and disrupting the region's peace and security."



The talks in Juba in Southern Sudan between the LRA and Uganda's Museveni government have broken down, with the LRA seeking to transfer negotiations to Kenya or South Africa. U.S. State Department spokesman Scott McCormack on Friday said that "We are concerned that demands to change the mediator and venue of the talks will only delay peace in the region and further the suffering of displaced northern Ugandans."

Slovakia, a non-permanent member of the UN Security Council, is also concerned with northern Uganda, a staffer of Amb. Burian told Inner City Press. "Often the UK has been in the lead on this

issue," he said. But the UK is seen as speaking for Ugandan president Yoweri Museveni, whose has been less than clear on whether the ICC warrants should be enforced. Slovakia, said the staffer, does not have this conflict of interest. "We can fight for the suffering people everywhere," he said.

Earlier in the week, Inner City Press asked Charles Rapp, who is prosecuting Liberia's Charles Taylor, for his views on the LRA. Mr. Rapp too said that justice should not be sold out for a peace that might well be illusory. Now with Jan Egeland rumored to be on the verge of obtaining another UN post, this balance between peace and justice should be spoken on and clearly. Justice Richard Goldstone told Inner City Press last year that before the UN talks with the leaders of the LRA, the Security Council should formally put the ICC indictments on hold. There are now 27 days in which Amb. Burian has to act, and/or be asked these questions. We'll see.

BBC Online

Tuesday, 6 February 2007

<http://news.bbc.co.uk/2/hi/europe/6335537.stm>

Nations make child soldier pledge

Nearly 60 nations have signed an accord pledging to prevent the use of child soldiers and disarm underage fighters.

Although carrying no legal weight, the agreement was hailed as a major step to address the continued use of soldiers under the age of 18.

An estimated 250,000 child soldiers are now fighting in wars, mostly in Africa.

The accord aiming to make states work harder to free children from conflict and reintegrate them into normal life came at the end of a Paris conference.

Known as the "Paris Principles", the accord was signed by 58 states, including 10 countries where the UN believes child soldiers are still used.

They include Chad, the Democratic Republic of Congo, Sudan and Uganda.

Two other states named on a UN list - Burma and the Philippines - did not take part in the Paris meeting.

'More than words'

The agreement was signed at a conference on the issue held in the French capital and organised by UN children's agency, Unicef and the French foreign ministry.

Countries will be obliged to find child soldiers and help them leave armed groups as well as punishing those who recruit underage combatants.

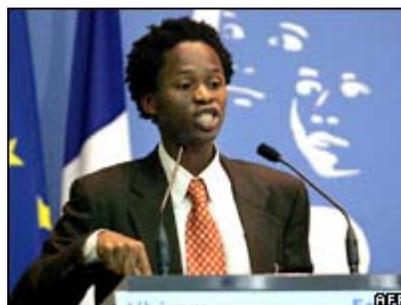
France's Foreign Minister Philippe Douste-Blazy said the agreement was far more than merely "good words."

"It is a text that will have a great political value," he said.

According to Unicef, children in conflicts are often used as messengers, spies and sexual slaves, as well as soldiers.

Delegates heard an emotional appeal from a former child soldier, Ishmael Beal, who fought from the age of 13 in Sierra Leone's civil war.

"No-one is born violent. No child in Africa, Latin America or Asia wants to be part of war," he said.



Former child soldier Ishmael Beah appealed to delegates

Paris Principles

States should tackle reasons why children join armed groups

No amnesty for those who commit crimes against children

Child soldiers who commit crimes are victims not criminals

Countries must to strive to prevent, protect and reintegrate children

The needs of girl soldiers must be addressed

Efforts must be made to reunite scattered families

Voice of America

Tuesday, 6 February 2007

<http://www.voanews.com/english/2007-02-06-voa29.cfm>

Ivory Coast Direct Dialogue Takes Slow Approach

By Nico Colombant
Dakar

Warring sides in divided Ivory Coast are working on proposals at talks in Burkina Faso to end a stalemate in the implementation of successive peace deals. But as VOA's Nico Colombant reports from our West Africa bureau in Dakar, mediators are taking a slow approach to what is being called direct dialogue.



Representatives of Ivory Coast President Laurent Gbagbo (L) and of New Forces rebel leader Guillaume Soro (R) hold talks 05 Febr 2007 in Ouagadougou, Burkina Faso

When Ivorian President Laurent Gbagbo called for direct dialogue with rebels late last year and the rebels accepted, many Ivorians hoped there would soon be direct meetings between Mr. Gbagbo and rebel leader Guillaume Soro.

But instead the approach has taken on the form of a mediation attempt by Burkina Faso President Blaise Compaore, the current head of the West Africa grouping known as ECOWAS.

Successive African and French officials have made some progress while mediating the Ivory Coast situation since late 2002, but the world's leading cocoa producer remains divided in two, millions of Ivorians remain undocumented, U.N. Security Council resolutions are ignored, and preparations are not being made for twice-delayed elections.

Mr. Gbagbo and Soro did not even show up for the opening of the new talks.

But Burkina Faso's foreign minister, Youssouf Ouedraogo, tells VOA the new approach can work.

"The ECOWAS chairperson can be a way to find a new solution because in the crisis of Cote d'Ivoire we have to find now a new solution," he said. "We call it political direct dialogue between the president Gbagbo's side and Soro side so we think that maybe it can be a way to find a solution to the global problem."

For now, delegations for Mr. Gbagbo and Soro have split in separate groups, preparing for possible direct dialogue.

They are to present their proposals for new solutions by the end of the week.

The Burkinabe foreign minister, Youssouf Ouedraogo, warns this could take time.

"It is a beginning," he said. "We hope that in the days coming, the president [of Burkina Faso] will receive the documents, the proposal documents of both sides, talking about what we think we can find solutions about identification, the organization of all the processes of election including the DDR [disarmament process], and so the president [of Burkina Faso] can now make a proposal, a global political proposal of solutions, but we have to wait."

Mr. Compaore has been praised for recently helping ease tensions between opposition supporters, the government, and the army in nearby Togo.

There have been growing protests in Ivory Coast's commercial capital, Abidjan. This week, workers at the Supreme Court started a strike asking for higher salaries, while recent army recruits issued a 48-hour ultimatum to have their allowances paid.

BBC Online

Wednesday, 7 February 2007

EU diplomat in Ivory Coast killed

A French diplomat working for the European Union in Ivory Coast has been killed by unidentified gunmen.

The victim was in charge of security for EU missions in West Africa, a French embassy spokesman said.

He was shot dead overnight at his home in the country's main city Abidjan. It is not known whether the incident was a robbery or a political act.



Ivory Coast has been split in two since rebels seized the north in 2002, and the peace process is currently stalled.

France retained strong ties with its former colony - long regarded as a haven of stability in West Africa - for decades after independence in 1960.

But relations between Paris and the government of President Laurent Gbagbo became tense after the September 2002 coup attempt by northern rebels - known as the New Forces.

Bad blood

The president's supporters have accused Paris of supporting the insurgents.

In late 2004, nine French soldiers were killed in a raid by Ivorian planes against rebel positions.

The incident prompted strikes by France against the Ivory Coast's tiny air force and anti-French riots in Abidjan.

There are more than 10,000 French and UN troops in Ivory Coast - most patrolling the ceasefire line between the northern and southern parts of the country.

But plans announced last October to disarm militias and carry out a population census to prepare for elections have failed to get off the ground.

The diplomat killed on Wednesday was named as Michel Niauuel, 53.



Many in France see President Gbagbo as an obstacle to peace

AllGambian.net

Thursday, 1 February 2007

Immunity From Jurisdiction - Ruling And Former Heads of States (Part III)

In customary international law, the immunities accorded to Heads of States and Ministers for Foreign Affairs are not granted for their personal benefit, but to ensure effective performance of their functions on behalf of their respective states. In determining the extent of these immunities, the court considered the nature of the functions exercised by a Minister for Foreign Affairs. After an examination of these functions, the Court concluded that they are such that, throughout the duration of his or her office, a Minister for Foreign Affairs when abroad enjoys full immunity from criminal jurisdiction and inviolability. That immunity and that inviolability protect the individual concerned against any act of authority of another state which would hinder him or her in the performance of his or her duties.

The court, in that particular respect, found that no distinction can be drawn between acts performed by a minister for Foreign Affairs in an official capacity and those claimed to have been performed in a private capacity, or, for that matter, between acts performed before the person concerned assumed office as Minister for Foreign Affairs and acts committed during the period of office. There is no doubt that if an incumbent Minister for Foreign Affairs is arrested in another state on a criminal charge, such a minister is automatically prevented from exercising the function of his or her office. However the ICC supported Belgium's argument that immunities accorded to incumbent Ministers for Foreign Affairs can in no case protect them where they are suspected of having committed war crimes and crimes against humanity.

In this particular case, the courts carefully considered state practice, including national legislations and those few decisions by high courts such as The House of Lords in the United Kingdom and the Pinochet case. Three recent cases therefore emphasized the validity of immunity *ratione personae* concerning heads of states. "In the much-publicized Pinochet case, the validity of such immunity was upheld by the House of Lords, which noted, however, that as far as immunity *ratione materiae* was concerned, the determination of what constitutes an official act is to be made in accordance with customary international law". In the arrest warrant case of the Congolese Foreign Affairs Minister, the World Court confirmed that there was no rule under customary international law that provided an exception to the immunity enjoyed by Heads of States, irrespective of the crime committed. The court satisfactorily observed that there exist under customary international law no form of exception to the rule according immunity from criminal jurisdiction and inviolability to incumbent Heads of States and Ministers for Foreign Affairs, where they are accused of war crimes and crimes against humanity. In the Al-Adansi case, where the plaintiff was allegedly tortured by Kuwaiti officials and later fled to the United Kingdom where he sought damages, the European Court of Justice ruled that "immunity is inherent to in the operation of international law and cannot be regarded as imposing a disproportionate restriction on the right to access to court". The court also added that it has examined the rules concerning the immunity or criminal responsibility of persons having an official capacity contained in the legal instruments creating international criminal tribunals and which are specifically applicable to the Congolese Minister of Foreign Affairs.

In the aftermath of the holocaust and the many atrocities committed since the end of the cold war, major efforts have been made to find a judicial solution to the heinous crimes: the Nuremberg trials of 1945-1946, the universal declaration of Human Rights of 1948, the genocide convention of 1948, and the anti torture convention of 1988. Now that the 21st century is fueled with conflicts and abuse of authority the international debate on incumbent head of state immunity has begun to take shape in the international legal platform. Many scholarly arguments are beginning to have an impact on the question of weather

ruling head of states, who commit gross violations of human rights such as war crimes, and crimes against humanity, should be stripped of immunity whilst in office. Even Nuremberg which is considered the back bone of "civilian inviolability" reiterated in its Article 7 as follows:

"The official position of defendants, whether Heads of States or responsible officials in Government departments, shall not be considered as freeing them from responsibility or mitigating punishment."

In a theoretical perspective, immunities from persecution was solely established as only a means of strengthening and facilitating international relations by preventing the arraignment of foreign sovereigns or state representatives before a domestic court of other states. Later by the early twentieth century " the underlying principle was bifurcated, now distinguishing between acts committed under the official banner of the state and characterized as public acts (*acta jure imperii*) and acts perpetrated in the normal sphere of private law although committed by state agents (*acta jure gestionis*)". In general terms the later are not covered by immunity privileges. At present, there exists an incoherent body of jurisprudence as to which acts may be classified as either *jure imperii* or *jure gestionis*, although scholarly opinion thus suggest that what really matters is the nature of the act and not its purpose.

Recent events in the enforcement of universal justice, has brought the question of head of state immunity to such scholarly arguments. With the most recent *ad hoc* international tribunals, the issue of head of state immunity has been raised and two different legal proceedings compound the whole conundrum. In the first place, there is a distinction between a head of state serving in office and not. This was clearly seen in the case of Charles Taylor and the Congolese Foreign affairs Minister Yerodoa. In both cases, the immunity in question was *ratione personae*. Such immunity, attached to the person of the incumbent official, is functional necessity. For that reason it is absolute, unrelated to the nature of acts, because every violation of immunity would impede fulfillment of the function. The arrest warrant for the Congolese Foreign Affairs Ministers could not be effected due to the protection by the shadow of immunity *ratione personae*. "The Court emphasized, however, that the immunity from jurisdiction enjoyed by incumbent Ministers for Foreign Affairs does not mean that they enjoy impunity in respect of any crimes they might have committed, irrespective of their gravity". Immunity from criminal jurisdiction and individual responsibility are two basic concepts of law. According to the court, jurisdictional immunity is only procedural whereas criminal responsibility is a question of substantive law. Whereas immunity *ratione materiae* is inherently about the nature of the acts, the characteristic of immunity *ratione personae* is that it applies to a person irrespective of the nature of the act. "On the basis of statutes and practice one therefore argues that there is no immunity *ratione materiae*, for international crimes and crimes against humanity, but on the other hand immunity *ratione personae* are not affected by international crimes". Jurisdictional immunity may therefore only bar prosecution for a temporal period or for certain offences but it cannot exonerate an accused for all criminal responsibilities. However Rules governing the jurisdiction of national courts must be carefully distinguished from those governing jurisdictional immunities. The immunities under customary international law, including those of Ministers of Foreign Affairs, remain opposable before the courts of a Foreign State, even where those courts exercise an extended criminal jurisdiction. However many other questions arose from the Pinochet case, the case of Belgium versus the democratic republic of Congo and most recently the case of Charles Taylor and Hussein Habre?

Whiles Taylor's arrest warrant was only executed after he seized to be in office, the arrest warrant for the Belgian Foreign Affairs Minister was dropped for the same reason. It then became eminent that ruling heads of states could only be brought to face international criminal courts after they seize to be in office. What does the failure to execute the arrest warrants for incumbent Heads of States and Foreign Affairs Ministers portend? Does this mean that ruling heads of states could enjoy total impunity for crimes against humanity and war crimes? These are some of the questions causing the heated debate in the international dispensation of justice.

NB

This part of the paper is also strongly supported with references from the following academic resources.

1. Summary of judgment. In Arrest Warrant case of 11th April 2000: Democratic Republic of Congo v. Belgium. 14th February 2002 available at <http://www.icj.cij.org/icjwww>
2. Re Pinochet (3), (1999) 2 WLR 827, 880, 906; Ilias Bantekas, 'The Pinochet Affair'
3. Al-Adansi v UK (Judgment of 21 November 2001) (2002), 34 EHRR.
4. Ilias Bantekas: Head of state immunity in the light of multiple legal regimes.
5. A. Watts, 'The legal Position in International Law of Heads of State, Heads of Governments and Foreign Ministers.
6. Press Release: Arrest Warrant of 11 April 2000 (<http://www.icj-cij.org>)
7. Sarah M. Nouwen "The special Court for Sierra Leone and the immunity of Taylor: The Arrest Warrant Case.

Time magazine
Friday, 2 February 2007

Pop Culture Finds Lost Boys

Friday, Feb. 02, 2007 By BELINDA LUSCOMBE

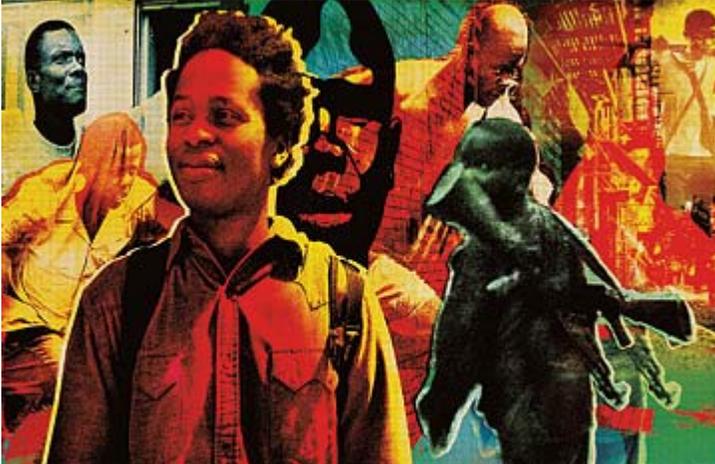


ILLUSTRATION FOR TIME BY SEAN MCCABE; PHOTOS (L. TO R.): NEWMARKET / NATIONAL GEOGRAPHIC FILMS; WARNER BROS.; REBECCA CASTILLO; RACHEL SUMPTER / MCSWEENY'S; WARNER BROS.; PLATT / GETTY; KAMBER / POLARIS

Ishmael Beah doesn't realize it, but he's about to become a rock star. Well, the literary-humanitarian equivalent of a rock star. (I'll eat my hat if he does not meet Bono in the next 12 months.) Beah, 26, slight and handsome with a ready but wary smile, has written a memoir, and it's a doozy. Separated from his parents at 12 when rebel soldiers attacked his Sierra Leonean village, by 13 he was a child soldier and a drug addict. By 19 he was living in the U.S., at Oberlin College, in Ohio. In February he's starting on a book tour.

Beah's book, *A Long Way Gone* (Farrar, Straus & Giroux; 229 pages), which comes out this month, is a breathtaking and unself-pitying account of how a gentle spirit survives a childhood from which all the innocence has suddenly been sucked out. It's a truly riveting memoir. But just as crucial to its success is its arrival at what might be called a cultural sweet spot for the African child soldier. The kid-at-arms has become a pop-cultural trope of late. He's in novels, movies, magazines and on TV, flaunting his Uzi like a giant foam hand at a baseball game. He's in the latest James Bond movie and *The Last King of Scotland* and is the key plot point of *Blood Diamond*. His American cousin was on the most recent season of HBO's *The Wire*. The Gorillaz have a song about him. The Onion.com has a parody.

Why the sudden prominence? As a symbol of a situation gone rancid, the weaponized child is nigh on irresistible. Aristotle would call him the essence of tragedy, a figure who inspires both pity and fear. Directors would call him a great scene setter. Even in an age when it's hard to get people to agree even on what they disagree about, nobody lobbies for sending children into battle, and the people who put them there serve as the kind of villains any storyteller would love. The first person the controversial International Criminal Court will try is a Congolese warlord accused of conscripting kids.

Hollywood, currently nursing a weapons-grade crush on Africa, has also turned its klieg lights on the plight of its children. Perhaps you heard about a couple of celebrities adopting kids from there? Fascination with the continent's woes dates back to Bob Geldof's famine-relief concerts in the mid-'80s. Bono picked up the baton in the '90s, and now every African nation seems to have its own celebrity benefactor. George Clooney has made the situation in Darfur one of his key talking points. Madonna is building an orphan center in Malawi. Brad Pitt helped produce and Nicole Kidman narrates *God Grew Tired of Us*, a documentary currently in cinemas about the Lost Boys of Sudan. It follows the lives of youngsters who, separated from their parents, banded together and walked more than a thousand miles to escape the civil war. As some of them eventually are resettled in the U.S., they face a whole new set of challenges (including escalators and freezers).

Congressional Quarterly

Monday, 5 February 2007

Genocide and the Rule of Law

Statement of Sigal P. Mandelker Deputy Assistant Attorney General Criminal Division Department of Justice
Committee on Senate Judiciary Subcommittee on Human Rights and the Law

Chairman Durbin, Ranking Member Coburn, and distinguished Members of the Subcommittee, thank you for inviting the Department of Justice to testify at this hearing. Perpetrators of genocide have participated in the commission of some of the ghastliest crimes in modern history, and so long as these individuals are at liberty they pose a continuing danger to the civilized world. As the Deputy Assistant Attorney General in the Criminal Division who supervises the Office of Special Investigations and the Domestic Security Section, I am pleased to address the Department of Justice's ongoing efforts against the perpetrators of genocide and other human rights violators.

Bringing these perpetrators to justice is a mission of the very highest importance. As Ambassador Alejandro Wolff, the Acting U.S. Permanent Representative to the United Nations, said just eleven days ago in introducing a landmark U.S.-drafted General Assembly resolution to condemn Holocaust denial, "all people and all states have a vital stake in a world free of genocide."¹ Acting on President Bush's injunction that those who commit war crimes must be pursued, both "to advance the cause of justice ... [and] to consolidate peace and promote the rule of law,"² we continue to utilize all avenues available against human rights violators found in this country - including criminal prosecution, denaturalization, extradition and removal. The United States also continues to provide assistance to foreign governments and to various international tribunals that are investigating and prosecuting cases abroad against these individuals.

Federal efforts directed against participants in genocide are part of an important and time-honored national commitment. The United States government has long been a key participant in global law enforcement efforts to help end impunity for genocide, war crimes and crimes against humanity. Thus, for example, our nation has taken a leading role in establishing and supporting such notable institutions as the Nuremberg and Tokyo Tribunals after World War II and, more recently, the International Criminal Tribunals for Rwanda³ and the former Yugoslavia, the Special Court for Sierra Leone, and the Iraqi High Tribunal. Most recently, the United States has been the worldwide leader in diplomatic efforts to stop the ongoing genocide in Darfur. In 2004, the U.S. State Department commissioned an Atrocities Documentation Team which on only a few weeks notice assembled a team of experienced law enforcement investigators and legal experts, including Department of Justice personnel. The team interviewed over 1,100 Darfurian refugees who had taken shelter in refugee camps in neighboring Chad. Based on the information elicited in those interviews, then-Secretary of State Powell was able to conclude and state publicly that genocide was occurring in Darfur.

The Department of Justice provides training and other assistance to national and international investigative and prosecutorial authorities that are pursuing justice in the aftermath of conflicts that were characterized by large-scale human rights violations. By way of example, the Department of Justice loaned a significant number of experienced law enforcement professionals to the International Criminal Tribunal for the Former Yugoslavia (ICTY). Indeed, the current head of the Domestic Security Section of the Department's Criminal Division was detailed to that tribunal by the Department, as was a senior Federal prosecutor who now serves in the State Department as the Ambassador at Large for War Crimes Issues. The Justice Department provides extensive assistance to authorities in countries in which human rights violations took place, in part via the training programs that the Department operates for foreign prosecutors and judges through its international network of Resident Legal Advisors.

Three components of the Justice Department's Criminal Division provide much of the assistance given to foreign law enforcement authorities. The Office of International Affairs (OIA) takes the lead in executing foreign requests for evidence or other legal assistance and works closely with the State Department in matters relating to international extradition. OIA has responded to dozens of requests for assistance in matters relating to war

crimes, genocide and other human rights offenses since 2000, including requests received from both the ICTY and the Rwanda Tribunal. Similarly, the Criminal Division's Overseas Prosecutorial Development and Training section (OPDAT) and the International Criminal Investigative Training Assistance Program (ICITAP) take the lead for the Department in providing training and assistance in criminal justice sector reform and development.

OPDAT has provided capacity-building assistance in the investigation and prosecution of war crimes to the various countries and jurisdictions of the former Yugoslavia, principally Serbia and Bosnia-Herzegovina, as well as Croatia, and to a lesser extent (and more recently) Kosovo, Macedonia and Montenegro. This has included provision of training services; advice on legislation; assistance in the development of witness protection programs; videoconferencing equipment (to allow witnesses in criminal cases, including war crimes cases, to testify from one country to another); and assistance to promote the exchange of information and cooperation among the countries and jurisdictions in the region. Prosecutors and other personnel of the National Security Division's Counterterrorism Section, the U.S. Attorney's Office for the District of Columbia, and the Criminal Division's Office of Special Investigations have also participated in the training programs in Croatia.

The Justice Department's efforts in the former Yugoslavia have been coordinated with the ICTY. For example, we have sponsored study tours by Bosnian prosecutors to the Tribunal (at The Hague), and ICTY representatives have participated in conferences that we have sponsored, such as a regional conference held last October in Montenegro. The October conference was attended by officials from all six jurisdictions of the former Yugoslavia (Serbia, Croatia, Bosnia and Herzegovina, Montenegro, Macedonia and Kosovo).

The assistance that we have provided in the former Yugoslavia, as elsewhere, is given in large part with a view toward increasing the ability of these countries and jurisdictions to prosecute war crimes cases. This capability is especially important now that the mandate of the ICTY is drawing to a close and the Tribunal has begun transferring cases to the individual countries in the region.

ICITAP has similarly provided assistance directly to foreign law enforcement authorities in the former Yugoslavia. In Serbia, ICITAP conducted extensive assessments of the needs of the Interior Ministry's War Crimes Unit and Organized Crimes Directorate. Equipment, software, and training that ICITAP subsequently supplied has significantly enhanced the capacity of the Serbian authorities to identify and investigate complex and politically charged crimes. In Croatia, ICITAP, in coordination with OPDAT, provided specialized training to members of the criminal justice system who are directly responsible for the investigation and prosecution of war crimes cases. That training focuses on evidence collection, courtroom presentation, and witness protection. The work undertaken in this field by OPDAT and ICITAP draws extensively on the resources of Federal investigating agencies and the U.S. Attorney's Offices. It is an integral part of the Justice Department's commitment to assisting foreign governments and tribunals that are investigating genocide and other human rights violations.

When evidence surfaces that implicates residents of this country in genocide or crimes against humanity, the Federal government moves swiftly to investigate and take legal action. In some instances of human rights offenses committed outside the United States, Federal criminal prosecution is possible. However, even when offenders are not subject to prosecution here (for example, when the crimes were committed before the applicable Federal statutes were enacted, as was the case with World War II-era Nazi criminals, among others), the U.S. government can often employ other effective law enforcement tools, such as extradition (or, alternatively, denaturalization and/or removal) or prosecution for such crimes as visa fraud, unlawful procurement of naturalization, and making false statements.

Among the numerous Federal agencies involved in these law enforcement efforts are the Department of Justice's Criminal Division (primarily through the Domestic Security Section, the Office of International Affairs and the Office of Special Investigations) and National Security Division (through its Counterterrorism Section), the United States Attorneys Offices, the Federal Bureau of Investigation, and the U.S. Immigration and Customs Enforcement (ICE) within the Department of Homeland Security. Their efforts receive important support from the State Department and other components of the Federal government.

At the Justice Department, we have made great efforts to facilitate the criminal prosecution abroad of the perpetrators of genocide and other human rights violators found in this country. For example, in March 2000, following the conclusion of hard-fought extradition litigation,⁴ the United States turned over Elizaphan Ntakirutimana to the International Criminal Tribunal for Rwanda (ICTR). He had been a pastor in Rwanda at the time of the 1994 genocide. Ntakirutimana was accused of devising and executing a lethal scheme in which Tutsi civilians were encouraged to seek refuge in a local religious complex, to which he then directed a mob of armed attackers. With his participation, the attackers thereupon slaughtered and injured those inside. The United States surrendered Ntakirutimana to the ICTR in response to a request made by the Tribunal pursuant to an Executive Agreement by which the U.S. agreed to transfer Rwandan suspects in its territory to the ICTR for trial.⁵ Indeed, this is the only case to date in which an international tribunal has made a formal request for extradition. In 2003, Ntakirutimana, a onetime Texas resident, was convicted by the Tribunal of aiding and abetting genocide and he was sentenced to ten years' imprisonment. A prosecutor from the Justice Department played a significant role in charging Ntakirutimana.

The United States has extradited other human rights violators to other countries to stand trial in their domestic courts. A recent extradition of an accused human rights violator in the bilateral context was the January 2006 extradition of Mitar Arambasi. . . to Croatia. Arambasi. . . had been convicted in absentia in Croatia and sentenced to twenty years' imprisonment for crimes against humanity and war crimes perpetrated against civilians during the break-up of the former Yugoslavia. The charges included the murder of two Croatian police officers in 1991 and the beheading of civilians with an axe. The Department of Justice vigorously and successfully pursued this extradition, which was contested by Arambasi. . . in litigation spanning three years. The Justice Department also accomplished the extradition of several accused participants in Nazi crimes between 1973 and 1993 (when the last such extradition request was received).

Extradition matters are coordinated in the Justice Department by the Criminal Division's Office of International Affairs, which also responds each year to thousands of requests and inquiries from foreign law enforcement authorities for assistance in their investigations and prosecutions. The Federal government works diligently to locate international fugitives and return them to the countries in which their alleged crimes were committed. Extradition, however, is contingent upon receipt of a request from a foreign government with which the United States has an extradition treaty for the surrender of a fugitive human rights violator found in this country who has committed an offense covered by the treaty. The United States has received relatively few requests for the extradition of human rights violators; indeed, there have been fewer than 20 since 2000.

Human rights violators in this country who have violated Federal criminal laws are prosecuted for those violations by the Department of Justice. Although the Title 18 genocide statute, which was enacted in 1988, is limited to cases in which genocide has either been committed in the United States or committed abroad by a U.S. national,⁶ the Justice Department makes use of other criminal and civil charges to ensure that the perpetrators of genocide or other egregious human rights violations do not find safe haven in the United States. The Criminal Division's Office of Special Investigations has compiled a 27-year record of identifying, investigating, and bringing civil denaturalization and removal actions against World War II-era participants in genocide and other Nazi crimes. OSI has successfully pursued more than one hundred of these criminals and it is widely considered to be the most successful law enforcement operation of its kind in the world. The program's most recent victory was recorded on January 3, when a U.S. immigration judge ordered the removal of Josias Kumpf of Racine, Wisconsin. By his own admission, during a mass killing operation in occupied Poland in 1943 Kumpf stood guard at a pit containing dead Jewish civilians and others he described as "halfway alive" and "still convuls [ing]," with orders to shoot to kill anyone who attempted to escape.

To date, some 60 Nazi criminals have been returned to countries of Europe that possess the criminal jurisdiction that the United States lacks in the World War II cases. OSI continues to work with prosecutors overseas to facilitate the criminal prosecution of Nazi criminals, including, of course, those perpetrators whom we succeed in removing from the United States. Those efforts have borne fruit in a number of important instances. For example, in Vilnius, Lithuania, in 2001, former OSI defendant Kazys Gimzauskas became the first person ever convicted on genocide charges in any of the successor states to the former Soviet Union. Year after year, in recognition of its commitment to, and success in, pursuing justice in the World War II Nazi genocide cases, the United States

government has been the only government in the world to receive the "A" rating of the Simon Wiesenthal Center, the Los Angeles-based organization named after the renowned Nazi-hunter.

In 2004, the Intelligence Reform and Terrorism Prevention Act expanded OSI's mission to include investigating and bringing civil denaturalization cases and criminal prosecutions for unlawful procurement of U.S. citizenship against post-World War II participants in genocide, extrajudicial killings and torture perpetrated under color of foreign law. With this law, OSI became only the newest component of a comprehensive Federal interagency effort to ensure that perpetrators of these terrible crimes find no sanctuary in this country. A leading role in this effort is played by the Department of Homeland Security, particularly ICE and its Human Rights Violators and Public Safety Unit and Human Rights Law Division, as well as Citizenship and Immigration Services. Other components of the Department of Justice that participate in this effort are the Criminal Division's Domestic Security Section and Office of International Affairs, the National Security Division's Counterterrorism Section, the FBI and the U.S. Attorneys Offices. In 2005, seeking to strengthen their collaborative work on these often very challenging cases, the aforementioned agencies, along with the Department of State and the Central Intelligence Agency, formed an ad hoc working group on human rights violator matters. The member agencies meet frequently to share information and to coordinate enforcement strategies.

This law enforcement partnership has achieved numerous significant successes by employing a variety of legal tools, including criminal prosecution for such Federal offenses as visa fraud, unlawful procurement of naturalization, and false statements, as well as seeking civil and administrative remedies like denaturalization and removal.

For example, in April 2005, ICE removed Enos Kagaba from this country to his native Rwanda on the basis of his participation in the genocide that ravaged his country in 1994. His removal was effected on the grounds of a provision of the Immigration and Nationality Act, added by Congress in 1990, that renders any alien who "engaged in conduct that is defined as genocide" by the International Convention on the Prevention and Punishment of Genocide removable from this country.⁷ In 2004, Jean-Marie Vianney Mudahinyuka was convicted in Chicago of lying on his U.S. immigration forms to gain entry to the U.S. as a refugee. He was sentenced to 51 months in prison for that offense and for assaulting Federal officers who arrested him. Upon his release from prison, Mudahinyuka will also be subject to removal. He is wanted in Rwanda for charges of genocide and crimes against humanity.

In September 2005, more than a dozen Bosnian Serbs who lied on immigration forms about their prior service in the Bosnian-Serb army were arrested by ICE in Phoenix and indicted by the U.S. Attorney's Office on immigration-related charges. Two of those who have since been removed by ICE to Bosnia were indicted this past December 13 by Bosnian authorities on charges of murder and other serious offenses. And in December, sixteen individuals in six states were charged with criminal violations in connection with their efforts to obtain refugee status in the United States by concealing their prior service in the Bosnian Serb military. One of the defendants is described in a Federal affidavit as having been a commander of a police unit that cooperated with other Bosnian Serb entities in the Srebrenica massacres. Two of those who have since been removed by ICE to Bosnia were indicted this past December 13 by Bosnian authorities on charges of murder and other serious offenses.⁸ All but one of the defendants face criminal charges that include immigration fraud and/or making false statements. The maximum sentence for making false statements is five years in prison, while the maximum sentence for immigration fraud is 10 years imprisonment. One defendant is a naturalized U.S. citizen, and he has been charged with unlawful procurement of citizenship and making false statements, offenses that carry maximum potential sentences of 10 and 5 years, respectively. The cases were investigated by ICE special agents with assistance from the Justice Department's Office of Special Investigations. They are being prosecuted by the U.S. Attorney's Offices for the Middle District of Florida; Eastern District of Wisconsin; Middle District of North Carolina; District of Colorado; Eastern District of Michigan; and Northern District of Ohio. (The Office of Special Investigations is also participating in the prosecution of the U.S. citizen defendant, in Tampa, Florida.)

The Kelbessa Negewo case is another example of Federal agencies working together to pursue justice in human rights violator cases. Negewo served as a local official under the repressive military regime that ruled Ethiopia from 1974 to 1991. He subsequently immigrated to the United States, settled in Georgia, and obtained U.S. citizenship. Three Ethiopian women later filed suit against him under the Alien Tort Claims Act in U.S. District

Court in Atlanta, alleging that they had been tortured in a jail that he had controlled. The district court found that Negewo had both supervised and directly participated in the torture of the women, and the court awarded damages. A civil denaturalization action was filed against Negewo in May 2001 by the U.S. Attorney's Office in Atlanta. His U.S. citizenship was revoked in October 2004 pursuant to a settlement agreement negotiated by that office. Removal proceedings were initiated by ICE in 2005 following Negewo's denaturalization. These proceedings were the first to charge participation in torture and extrajudicial killings, charges that were added under amendments made to the Immigration and Nationality Act by the 2004 Intelligence Reform and Terrorism Prevention Act. This past October, Negewo was removed to Ethiopia and handed over to Ethiopian authorities, where he had already been convicted in absentia of numerous human rights violations, including murder, disappearance, torture, and unlawful taking of property.

In conclusion, Mr. Chairman, I would like to express to you and the Subcommittee the Justice Department's appreciation for this opportunity to discuss the government's ongoing efforts to ensure that justice is pursued both here and abroad on behalf of the victims of genocide and other serious human rights violations. We are very grateful for the tools that Congress has provided for law enforcement use in these enormously important cases. We will continue to wield those tools, both to bring the perpetrators of these terrible crimes to justice and, it is to be hoped, to hasten the arrival of the day in which the post-Holocaust imperative "Never Again" becomes, at long last, not just a slogan or a barely imaginable aspiration, but a reality.

I would be pleased to answer any questions that the Subcommittee may have.