

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



A Hysterical
Acrobat,
Hammock
Dance,
Sierra Leone.

A. Lisk-Carew, Photo., Freetown, Sierra Leone.

PRESS CLIPPINGS

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

as at:

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Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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Fisher Is New Special Court Appeals Trial Judge

With the Appeals Chamber of the Special Court expected to begin sittings in July in the RUF appeal against their sentence and conviction, a new Judge is to be sworn in on Monday next week.

She is an American, Shireen Fisher, whom Peter Andersen, the Special Court Public Affairs Officer

told us has vast experience in international criminal law. No further details about her is readily available.

Already, lawyers for the respective RUF convicts are still preparing their appeal papers to be submitted within the stipulated period set by the court.

Wayne Jordash, representing Issa Sesay, has earlier indicated that Justice Pierre Boutet's Trial Chamber judgement was totalling flawed. At a press conference that followed the judgement, he highlighted several key points, where, according to him the Judge went wrong, and subject to appeal.

He pointed out that in the about 800 pages judgement, only eight paragraphs dismissed the defence witnesses as unreliable and the defence's no case presentation as unconvincing.

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Adult Literacy Pilot Programme launched in Freetown

By Isatu Gbla

A Western Area civic education pilot programme on adult literacy was this week launched at 1 Janju Street Brookfields in Freetown to empower women and girls in Sierra Leone.

Mrs. Martha Chigozie, coordinator of the programme says the Adult Literacy classes are free after the payment of the Le5,000 registration and the course is for a duration of three months. Already, there are about 40 women and seven men on enrollment and they intend extending the programme to the provinces. Peace Maileni, a representative from Collective Minds,

advised women to participate in the learning process describing education as a key factor in society and insists that they will continue to support the programme and urges more women to take part in the learning process. Collective Minds, comprises three young ladies; two of them working at the Special Court for Sierra Leone while the third is a teacher in the USA.

Sierra Express Media

Friday, 1 May 2009

Westside Boys Released; New Prison for Matru Jong

The Prison Service of Sierra Leone has on the 28th of April 2009 released jailed Westside Boys who were imprisoned at the Pademba Road Maximum Prison for conspiracy in the year 2000 after the historic encounter with the British SAS force at Okra Hill on the outskirts of the capital Freetown. Foday Kally Osman Sesay, Alhaji Fofanah, Samuel Kargbo, Mohamed Savage and Foday Kamara were all released by the Prisons Service.

Speaking at the reception at the Maximum Prison, Chief Officer Class I Mohamed Soh told Sierra Express that the Westside Boys were remanded at the Maximum Prison in 2000 and were sentenced 5 years later in June 2006 by Justice Hamilton of the Freetown High Court for ten years each. Explaining their apparent early release, the officer said that the court after an appeal during the trial allowed the jail terms of the Westside Boys to serve their sentence on EPD; the release on Earliest Possible Date after a reasonable serving of much of their ten year jail term.

In an interview with one of the released prisoners who asked not to be named he said, "we are grateful to have been released after going through reformation at the Pademba Road Prison, we hope to reintegrate well into society."

In a similar development, the Justice Sector Development Programme - JSDP in partnership with the Sierra Leone Prison Service has commissioned a newly built prison facility at Matru Jong in the Bonthe District - Southern Sierra Leone. Acting Director of the Sierra Leone Prison Department Moses Showers and his entourage traveled to Matru Jong last week where the handing over of the Prisons facility was done him after the construction carried out by the JSDP.

Moses Showers said in an interview that Matru Jong has gone on without adequate Prisons facility for a very long time now and that the intervention of the JSDP in commissioning a new and adequate one will definitely help the department carry out its work in a contemporary environment. The Acting Director added "before this time, we used to be having a lot of problems with prison revolts due to inadequate facilities at the Matru Prison but now that we have a contemporary one, we see a forestalling of the problems."

He promised to do everything in his power to ensure that the Prison Department maintains the standard of the jail yard. Regional Commander-South Joseph Lamboi lauded the effort of the JSDP for what he said is a rescue from the drudgery of transferring prisoners from one prison to another after court sentences.

UNMIL Public Information Office Media Summaries 30 April 2009

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

International Clips on Liberia

Mutiny - 27 Soldiers Get Life Sentence

Akure, April 29, 2009 (This Day/All Africa Global Media via COMTEX) -- Twenty-seven out of the 28 soldiers standing trial on mutiny charge at the 323 Army Artillery Regiment, Owena Barrack, Akure, Ondo State capital were yesterday sentenced to life imprisonment by the Military Court Martial presided over by Brigadier- General Ishaya Bauka.

The remaining accused, Private Bala Aliyu, was, however, discharged and acquitted by the court because the prosecution could not prove the case against him beyond reasonable doubt. The 28 soldiers were arraigned before the court martial following their protest on July 5, 2008 over non-payment of their foreign mission allowances having served in the NIBAT 15 Peace Keeping Mission in Liberia between August 2007 and April 2008.

International Clips on West Africa

04/30/2009 05:12:43

Timeline For Election In Cote D'ivoire Now Predicated On Progress

Fearing that momentum was faltering towards holding early elections in Cote d'Ivoire, the head of the United Nations Mission in the divided West African country today told the Security Council that perhaps it was time to 'give some deep reflection to the Ivorian reunification problem', particularly since the timeline for any new poll now appeared to hinge on progress in the reunification process.

Local Media – Newspaper

U.S. Warns Against Election Delay

(National Chronicle)

- The United States Embassy in Monrovia has warned that the international community will “react negatively” to any delay in the 2011 elections caused by the failure of the country’s legislators to agree on reforms aligning constituencies more closely to the distribution of the population.
- The warning follows a decision of Liberia’s House of Representatives in March to reverse its decision to pass a law raising from 20,000 to 40,000 the number of people needed in a district to form a legislative constituency.
- The law, the Population Threshold Bill, sought to reapportion constituencies in keeping with the numbers and distribution of Liberia’s population revealed by a census carried out last year.
- The effect of the law and the census would have been to increase the number of representatives in the House from 64 to 86 but to reduce representation in less populated counties, especially in the south-east of the country.
- In a letter to the Liberian Senate, the U.S. Embassy said it recognizes that a final determination of constituencies is a “sovereign” duty for the state of Liberia and reassures the Senate that the U.S. has no opinion on the eventual number of seats there should be in the legislature.

Indian Diplomat Admonishes UL Graduates to Strive for Excellence – Promises Scholarships for Liberian Students

(Daily Observer, The Inquirer, The News, Heritage and The Informer)

- Delivering the 87th Commencement Address of the State-owned University of Liberia, the Ambassador Extraordinary and Plenipotentiary of the Republic of India to Liberia, Shamma Jain, admonished the more than two thousand graduates of the state-owned University of Liberia to strive for excellence, stressing the importance of capacity building, which she said has been a high priority for India.
- The Indian diplomat disclosed that her Government will provide three scholarships for Liberian students to undergo graduate studies in India beginning this academic year. Ambassador Jain also offered 10 local scholarships for undergraduate studies in Liberia in the fields of science and agriculture.

Fuss over Computer Dealership to UN, Government Agencies in Liberia

(Daily Observer)

- [sic:] Leading computer suppliers are fussing over the trademark rights to provide DELL computers to several government agencies and the United Nations (UN). Scores of computer dealers on one hand and Beever Communications Inc. on the other are claiming legitimate rights over the supply of the computer brand on the local market. The row grew out of the issuance of the DELL trade mark right to Beever Communications Inc. by the Ministry of Foreign Affairs.

President Sirleaf Dedicates New Military Camp

(The Inquirer)

- President Ellen Johnson Sirleaf has dedicated Camp Tubman Military Barracks in Gbarnga, Bong County.
- In remarks Tuesday at the dedication ceremony, the President stressed that the facility enables Government to meet its commitment to the men and women in arms. The Commander-in-Chief called on them to be law abiding.
- The President emphasized the growth in Sino-Liberian relations, adding that the projects undertaken by the Chinese Government have met her satisfaction as well as that of the Liberian people.
- The Liberian leader further indicated that the selection of Bong County as the host of this year's independence celebration shows that the Government is fully behind the people of the county.
- For his part, Chinese Ambassador Zhou Yuxiao presented a symbolic key of the facility to President Johnson Sirleaf and stressed that Sino-Liberian relations have become increasingly solidified. He revealed that Camp Tubman Military Barracks is the largest military facility ever built in Africa by the Chinese Government.

Royesville Residents Beam with smiles as UNMIL hands over Quinea Bridge to Community

(The News, Heritage)

- The inhabitants of Royesville Township have every reason to hold 13 April 2009 as a very memorable day. It was all joy and celebration as Pakistani Engineers moved the last piece of the Bailey bridge into place after several attempts had proved futile. The Quinea Bridge in Royesville Township, rural Montserrado County was damaged in April 2005 cutting off twelve villages from the capital, Monrovia. The bridge is situated at Royesville, 7.5 km from Monrovia, along the Tubmanburg road. There are 24 villages with an estimated five thousand people who live in the vicinity of the bridge. All these people were denied access to the capital city, Monrovia, and other big towns because of the damaged bridge.
- The people of Royesville used to risk their lives crossing the only narrow bamboo bridge they enacted to carry the sick to the nearest hospital. Schooling by pupils was also hampered

seriously, hence, it was a “dream come true” when the Pakistani Engineers launched the 80ft. Bailey bridge for the inhabitants on 13 April after almost four years of movement difficulty.

- In April 2006, Liberia Agency for Community Empowerment (LACE) provided materials for the rehabilitation of the bridge. The Pakistani Engineers at the time were requested to help with machinery. The community also agreed to supply sand and crushed rocks. However, the project could not materialize at that time due to the community's inability to provide the materials.
- In November 2007, the Superintendent of Montserrado County, Ms. Beauty Barcon met the then Special Representative of the Secretary-General, Mr. Alan Doss during his visit to the then Sector - 1 and highlighted the problem. Consequently, a Bailey/Acrow Panel Bridge was recommended for the site by the Pakistani Engineers after conducting a detailed reconnaissance in December of that year.
- The bridge could not be launched again due to the unavailability of combat bridges with the UN Mission in Liberia (UNMIL) Force Engineer and the project came to a standstill once more. In February 2008 the alternative of launching a timber bridge using wooden logs was agreed on at a coordination meeting, and the local community was asked to cut the logs. The project could not materialize again due to the community's inability to provide the logs required for the construction of the bridge

UN Deputy Envoy Accesses Rule of Law Institutions in Gbarpolu County

(The Informer)

- The Deputy Special Representative of the Secretary-General (DSRSG) for the Rule of Law, Ms. Henrietta Mensa-Bonsu, on Tuesday visited Gbarpolu County to assess rule of law institutions. Areas toured by Ms. Mensa-Bonsu included the 16th Judicial Circuit Court building currently under construction, the newly-constructed Liberia National Police (LNP) station and barracks, the Magisterial Court, and the Bureau of Immigration and Naturalization (BIN) offices.
- The DSRSG held meetings with the Human Rights Club of the Bopolu Central High School, as well as the local authorities and the UN Family.
- The Deputy UN Envoy was briefed by the Gbarpolu County Superintendent, Ms. Getrude Larmin about the Poverty Reduction Strategy (PRS) and County Development Agenda (CDA).
- Responding, DSRSG Mensa-Bonsu urged the county's authorities to encourage the participation of all citizens in the government's PRS and CDA programmes. She stressed the importance of ownership on the part of every Liberian relative to these programmes.

Local Media – Star Radio (News culled from website today at 09:00 am)

Government Requests Special Jury to Indict Suspected Criminals

- Criminal Court “A” is expected to set up a special grand jury to draw up indictments against some criminal suspects.
- A state request for the special jury is propelling the court's action.
- Early this week, the court summoned a group of citizens to appear before it today for the qualification and selection process. At least 15 ‘good’ citizens are needed to serve on a special jury.
- Under Liberian law, the state can ask the court to set up a special jury when its interest is at stake.
- Although the criminal suspects the state wants to indict are not yet known, many expect to see dismissed corrupt public officials from the present government indicted.

President Ellen Johnson Sirleaf “Contributive Investment” In Higher Education

- An Executive Mansion release issued in Monrovia quotes President Ellen Johnson Sirleaf as saying it is time for 'contributive investment' in higher education in Liberia.
- Speaking during the 87th commencement convocation of the state-owned University of Liberia, President Sirleaf called on stakeholders to make strategic choices that would develop national capacities, provide equity and access to ensure the timely and meaningful post-war reconstruction.
- Delivering the Commencement address, India's Ambassador to Liberia Shamma Jain, encouraged the graduates to strive for excellence stressing the importance of capacity building.

- The University awarded degrees to more than 2,000 students in various disciplines, including Medicine, Law, Engineering, Business Administration, Political Science, Sociology, Education, Mass Communications, among others.

(Also reported on Sky F.M., Truth F.M. and ELBC)

Jurors Decide Bryant, Others Fate Decided Today

- Final argument of the financial crimes trial involving five former transitional government officials takes place today at Criminal Court "C".
- They include former NTGL head Gyude Bryant, Representative Edwin Snowe, Senator Richard Divine, Siaka Sheriff and Andy Quamie.
- They are accused of stealing nearly one million US Dollars from the LPRC during the transitional regime.
- The Government claimed the men did so through 21 dubious transactions but the men dismissed the claims and described their trial as a witch hunt.

(Also reported on Sky F.M., Truth F.M. and ELBC)

AllAfrica.Com

Wednesday, 29 April 2009

Liberia: After War, Creating Jobs for Peace

Roy Laishley

It was just a small loan worth the equivalent of \$100, from a UN-supported local microfinance bank. But it enabled Mojamah, just returned to her home in Kenema, Sierra Leone, after the country's civil war, to set up a dressmaking business to support her family of six.

In neighbouring Liberia, Amelia, a single mother with five children, received a loan of \$83 to help expand her work crushing rocks, which are then used in road building. The loan, from the Peace Fund established by the regional Economic Community of West African States (ECOWAS), worked so well she applied for another, worth \$200, to contract workers to blast additional rocks to help meet the growing demand from rehabilitation projects in post-war Liberia.

Generating decent and sustainable livelihoods for Africa's poor is at the heart of the continent's development plans and the ultimate goal of the New Partnership for Africa's Development (NEPAD), the blueprint adopted by African leaders in 2001. Achieving that goal, however, has proved to be profoundly difficult, especially so in countries struggling to recover from years of civil strife.

Resettling refugees and displaced people and demobilizing and reintegrating combatants were the first priorities for the new elected governments of both Sierra Leone and Liberia. With impoverished and disaffected youth predominant in many of the armed groups that had ravaged their countries, both governments were clear on the potentially lethal consequences of failing to provide employment for those aged between 15 and 35. It is a simple equation: "If they have an alternative, they do not fight," says Andrea Tamagnini, who heads up the reintegration, rehabilitation and recovery arm of the UN Mission in Liberia (UNMIL).

Today, generating employment, particularly for youth, is a central element in the poverty reduction strategies being implemented by Liberia and Sierra Leone. Both countries have enjoyed steady growth in recent years, but economic opportunities remain limited. As a result, the numbers of those unemployed or underemployed - that is, in jobs that keep them from rising above the poverty line - remain stubbornly high, at some 70-80 per cent of the work force. Generating jobs for all, not just ex-combatants, is crucial to continuing peace and stability.

Emergency employment

Disarmament, demobilization and reintegration (DDR) programmes have benefited some 70,000 ex-combatants in Sierra Leone and more than 100,000 in Liberia, as well as many displaced people. Assistance has taken a number of forms: cash handouts, skills training and short-term employment, usually in public-works projects (see *Africa Renewal*, October 2005 and April 2007).

"There were problems on many levels - political, social, funding," recalls Francis Kai-Kai, who headed up Sierra Leone's National Commission for Disarmament, Demobilization and Reintegration. Funding was often in short supply and programmes also had to deal with the trauma suffered by many ex-combatants. Many in their home communities were deeply angry over the violence and atrocities committed during years of war, and resentful that perpetrators were being unjustly "rewarded" for their violence.

To counter this perception, cash handouts and training were presented not as rewards, but as a humanitarian contribution to young people who themselves had often been abused and deprived of their

chance for schooling or to learn skills. "We were trying to make a level playing field for them," Mr. Kai-Kai says. But, he concedes, beneficiaries were more often than not being "reintegrated into poverty."

Vocational training was a key element in the package provided to the more than 50,000 beneficiaries of Sierra Leone's reintegration programme. But according to "Overview of DDR Programmes and Current Practices," a paper prepared for an international conference on DDR in Africa organized by the UN Office of the Special Adviser on Africa (OSAA) in July 2007 in Kinshasa, the Democratic Republic of the Congo: "The sustainable reintegration of ex-combatants into civilian life ... particularly male youth, has been stymied by low levels of economic growth, a lack of employment opportunities and poverty."

The programme in Liberia faced similar problems. In the latter part of 2006, two years into the reintegration phase of the DDR operation, a UN survey found that some 28 per cent of the 60,000 beneficiaries reported that they were unemployed, while only 8 per cent said they had seen a rise in their standard of living.

While more recent surveys show improvements, the continuing high number of unemployed or underemployed youth "remains a particular concern that could be used by spoilers seeking to undermine stability," UN Secretary-General Ban Ki-moon warned in a February report on Liberia to the Security Council. In January, Mr. Ban voiced similar concerns about Sierra Leone.

Complicating matters in both Liberia and Sierra Leone is the possible impact of unrest in neighbouring countries on a mobile and unsettled youth population. Mr. Tamagnini of UNMIL points to evidence that road repair schemes in Liberia's Lofa County, bordering Guinea, had helped frustrate such recruitment there.

Between 2006 and 2008, over 60,000 people were employed in Liberia's "Infrastructure for Employment" programme, rehabilitating the country's main road arteries. Carried out over two dry seasons, the programme created an estimated 2 mn working days and injected some \$6 mn in cash payments and food into the local economy. Importantly, the programme was not limited to ex-combatants, who made up only 30 per cent of those employed. Another quarter were returned refugees or displaced people and 45 per cent were from local communities. More than one in five were women.

Participants at an OSAA-sponsored conference on youth employment in Windhoek, Namibia, in 2005 argued that while early employment schemes in Liberia had enhanced the skills of ex-combatants, there was too little emphasis on job placement linked to wider government employment strategies.

Mr. Kai-Kai points out that the employment element of DDR was a short-term programme designed "to help calm the situation" in the immediate post-war period, as the economy slowly picked up. Such employment, Mr. Tamagnini agrees, is "the 'peace dividend' for poor people." But reflecting the views of many, he also argues that maintaining job creation programmes over "several years" is essential for successful peacebuilding.

Trying for the longer run

The biggest challenge, Mr. Kai-Kai and Mr. Tamagnini agree, is shifting to the promotion of long-term, sustainable employment for all. This is particularly relevant in Liberia, where the final phase of the reintegration programme - and the cash it provides - ends in April. The UN Development Programme (UNDP) is providing some \$3.5 mn to help continue the road repair programme, switching the focus from dry-season repairs to year-round maintenance, with execution by local communities. Ex-combatants are being encouraged to return to their communities.

Mr. Tamagnini does not underestimate the challenge. "Liberia's economy simply doesn't offer enough jobs for everybody," he points out. Both Liberia and Sierra Leone are feeling the impact of the current

global economic slowdown. In Sierra Leone, diamond and rutile mining operations have been hit by falling prices and other factors, leading to job losses. In Liberia, the spectacular fall in rubber prices on the world market in recent months has forced wage cuts and layoffs at some plantations, sometimes prompting violence.

Employment generation, particularly for youth, is central in the poverty reduction strategies adopted by both countries, as they are across Africa, as governments struggle to find the right strategies to create jobs.

Relevant Links

The Sierra Leone government's blueprint for the next three years, Agenda for Change, presented by President Ernest Koroma in December 2008, views youth unemployment as one of the three main and immediate risks to peace and security, along with corruption and illicit drug trafficking. The government estimates the country will need to create over 200,000 jobs a year.

The picture is similar in Liberia, where unemployment in the formal sector is some 80 per cent. "Job creation is a top priority," declares the country's Development Assistance Framework for 2008-2012.

Today's Zaman

Friday, 1 May 2009

Police symposium says children should be considered children in the eyes of the law

As experts from many countries at the International Symposium on Children at Risk and in Need of Protection held in Ankara on April 27-29 suggested that children should be kept as far away from the penal process as possible, 11 minors were convicted in Adana this week under the Anti-Terror Law.

“The experts here and the officials in Turkey know very well how to handle the problem, but the implementation is extremely important,” said Justice Renate Winter, president of the Special Court for Sierra Leone and one of the keynote speakers at the symposium.

Under the auspices of Parliament Speaker Köksal Toptan and with the support of UNICEF, the Turkish National Police organized the symposium. Experts at the symposium -- who came from many countries including Germany, the Netherlands, Azerbaijan, Sudan, Macedonia, Syria, the US, Switzerland, Russia, Uzbekistan, Oman, Iran, Serbia and Sierra Leone -- made many suggestions and decided that the symposium should be turned into summit in order to put pressure on decision makers when it comes to children at risk.

The experts said children should not be subject to any discrimination and that instead of punishing children when they are in conflict with the law, a system of mediation and conciliation should be implemented. Some other suggestions made during the workshops at the symposium are as follows:

The juvenile justice system should be based on the “actor” not the “action”; the judicial system should work faster for children; punishment should be avoided as much as possible; rehabilitation and prevention should be given priority; all children should be considered children and should not be considered criminals; and the conditions for postponing court cases against children should be expanded.

But while experts discussed these solutions, this week in Adana in separate court cases, 11 minors between the ages of 13 to 18 were convicted and sentenced to prison terms of up to seven years.

A 2006 amendment to the Anti-Terror Law made it possible to try minors between the ages of 15 and 18 as adults when the crime involves terrorism. Recently Justice Minister Mehmet Ali Şahin, while answering a question in Parliament, noted that during 2006 and 2007, 1,572 minors were prosecuted under the Anti-Terror Law and 174 of them were convicted. More court cases against minors have been launched since then.

Justice Winter, while commenting on the situation in Turkey, pointed out that even if children are used as soldiers by any group or organization, they are not the ones who should be punished. “Not the used children, but the ones who are using them should be punished,” she said, adding that throwing stones should not be considered an act of terror.

JTA

Thursday, 30 April 2009

<http://jta.org/news/article>

Justice Dept. will try to prove genocide in citizenship case

By Eric Fingerhut · April 30, 2009

WASHINGTON (JTA) -- For the first time, the U.S. government will attempt to prove genocide in a federal court.

Lazare Kobagaya was charged last week with illegally obtaining U.S. citizenship by covering up his involvement in the Rwandan genocide. In making their case, Justice Department prosecutors will have to show that the 82-year-old Kansas man participated in the massacre of Tutsi by Hutus.

Human rights experts called it an important moment in ensuring that perpetrators of genocide would not be able to live out their lives in freedom.

“It's a significant step,” said David Crane, a professor at the Syracuse University College of Law and the founding chief prosecutor for the Special Court for Sierra Leone, the international war crimes tribunal in West Africa that indicted former Liberian President Charles Taylor. “It's really important to see the United States doing this kind of work.”

The Justice Department's Office of Special Investigations, which for the past 30 years has prosecuted Nazi war criminals living in the United States, will handle the case.

A U.S. official with knowledge of the case, who asked not be identified, explained that while previous OSI cases have dealt with those who had participated in the genocide of Jews during the Holocaust, the law that created the office only required proof that a U.S. citizen or resident had participated in “perpetrating acts of persecution on behalf of Nazi Germany” or its allies from 1933 to 1945.

This case, said the official, is the first OSI prosecution since the office's responsibilities were expanded in 2004 to revoke the citizenship of any naturalized citizen who participated in genocide abroad. (A 2007 federal statute allows for the prosecution of anyone residing in the United States on charges of genocide, but the law is not retroactive and thus cannot be used in this case.)

The indictment, which was handed up in January and unsealed last week, cites five separate incidents in which Kobagaya, of Topeka, either allegedly participated in the killing of Tutsi or directed others to do so. For instance, the indictment states that on April 15, 1994, Kobagaya at a marketplace called Birambo “directed a gathering of Hutu to commit arson as part of the genocide against the Tutsi,” making “derogatory remarks” and directing “the Hutu who were present to burn the houses of local Tutsi” -- orders, the indictment notes, that were carried out.

The next day, the indictment states, Kobagaya ordered “Individual A” to participate in killing Tutsi. Individual A refused and Kobagaya stabbed him in the leg. In response, Individual A murdered an “unknown individual.”

Then, from April 16 to 19 of the same year, Kobagaya allegedly took part in multiple attacks against hundreds of Tutsi who had fled to escape the genocide. The defendant “mobilized attackers and ordered and coerced them to continue their participation of those Tutsi,” the indictment states, with hundreds eventually being murdered.

Asked when he was applying for citizenship and an alien registration card in 1997 whether he had committed "a crime for which he had not been arrested," Kobagaya did not disclose any of this information, the indictment says.

Kobagaya's family says he is innocent of the charges and was too old and ill to have committed the crimes with which he is charged, according to The Associated Press.

Following Kobagaya's first appearance in a U.S. District Court in Wichita on April 24, during which he did not file a plea, one of his sons said his father was in Rwanda at the time alleged, but he was actually a refugee from Burundi. His family also charged that the Rwandan government was retaliating against Kobagaya, who was due back in court Wednesday, for giving a statement in support of another Rwandan genocide suspect under investigation in Finland.

Crane cautioned that genocide is a "difficult charge to prove." One must prove a "specific intent" of terminating an entire group of people, and some kind of "written directions" are usually necessary, the Syracuse professor said.

That can get complicated, said Pamela Merchant, who as executive director of the San Francisco-based Center for Justice and Accountability brings civil suits against human rights violators living in the United States. She noted that sometimes so many other political opponents have been killed, it's hard to demonstrate that a specific group was the actual target.

"It seems easy, but sometimes the evidence doesn't quite get you there," Crane said.

That standard of proof is a reason, he said, why the United States has declared the Darfur situation a genocide but the international community has yet to follow suit.

Just bringing the case is "enormously significant," said Michael Abramowitz, director of the U.S. Holocaust Memorial Museum's Committee on Conscience.

Abramowitz returned earlier this month from a 15th anniversary commemoration of the Rwandan genocide, where he met with survivors and attended memorials.

"It says there's no statute of limitations" for genocide," Abramowitz said. "It's never too late to try to hold people accountable for genocidal actions in the not-so-distant past."

Africa: Reforming Security Forces

In Africa's new democracies, reformers are seeking to create armies that protect civilians and uphold human rights.

"Liberia is building a new army and we are very strict regarding its standards," says Lieutenant Eric Dennis, who teaches international humanitarian law to recruits. In a country where previous armies - government and rebel alike - committed widespread atrocities, he hopes to help build a new institution that "will never tarnish the image of our army and our country. We want an army of professional soldiers."

Recruitment for the new army began only in 2006, and its 2,000 troops - some 100 of whom are women - are still being trained. Liberians are cautiously optimistic. A February 2008 opinion survey found that 55 per cent of Liberians polled expressed confidence in the army. That was less than the level of confidence in the national government and election system, but more than for the country's banks or courts.

A few thousand kilometres away, in the Democratic Republic of the Congo (DRC), creating a new military is proving to be a more troubled process. Although UN peacekeepers and European advisers have sought to professionalize the force, there still have been incidents, especially in the troubled eastern provinces, of looting, rape and other abuses by troops.

"We soldiers are a reflection of the people, and therefore we must conduct ourselves so that the people see themselves in their army," Lieutenant Colonel Georges Mukole told a group of Congolese officers. But that image, he admitted, is still "being fashioned."

From South Africa to Burundi and Côte d'Ivoire, a number of other countries in Africa are also seeking to restructure and professionalize their armies, police and intelligence services. The process is fraught with difficulties, but is increasingly seen as vital for the continent's long-term peace and stability.

The momentum for such reform is growing as more countries seek to consolidate democracies or rebuild after debilitating wars, notes Major General Carl Coleman, a former commandant in Ghana's armed forces. Previously, political elites used their armies and police primarily to maintain power, "without any regard for the people that they governed," he told Africa Renewal in an interview at the Accra, Ghana, offices of the African Security Dialogue and Research (ASDR), a pan-African non-governmental think tank, where he is now a senior analyst. But in Africa's new democracies, "security" is now being redefined to place "people at the centre."

From problem to solution

For too long, General Coleman and others have pointed out, Africa's militaries, police and intelligence agencies were a major source of conflict and insecurity for ordinary Africans. Sometimes poorly paid, their ranks robbed and extorted civilians simply to get by. Presidents and other politicians used their armies to put down popular protests or eliminate rivals. And frequently, military commanders staged coups to take the reins of power themselves.

In a January 2009 ceremony, more than 100 new female police officers take their oaths in Liberia.

In Africa, as elsewhere, says UN Secretary-General Ban Ki-moon, "Security forces that are untrained, ill equipped, mismanaged and irregularly paid are often part of the problem, and perpetrate serious violations of human rights."

With little civilian oversight or public accountability, soldiers and police routinely were able to get away with the worst abuses. In some countries, notes retired Major General Ishola Williams, secretary-general of the Nigerian chapter of the anti-corruption advocacy group Transparency International, security institutions became part of a "culture of impunity and violence."

In a number of countries that have emerged from civil wars or long periods of dictatorship, reformers are seeking to break with the past. Usually as part of broader moves to democratize political systems, they have taken steps to restructure their security forces and subject them to the control of elected civilian governments.

"Security sector reform" (SSR) is the term most commonly used to describe such initiatives, although there are others. Whatever the variant, the concept of "security" extends beyond just "hard-core" institutions, such as the army and police, explains General Coleman. Preferably, the courts, prison systems and civilian oversight bodies, such as government ministries and parliament, should also be part of the reform process. "All of it is intertwined. You can't do one to the neglect of the other." The ultimate aim, he says, is to ensure the creation of security forces that guarantee "the protection of the ordinary person."

Emerging from war

Most African countries could use some degree of security reform, argues Kwesi Aning, head of the conflict prevention department of the Kofi Annan International Peacekeeping Training Centre (KAIPTC) in Accra, which instructs military and police personnel from across the continent. Even in Ghana, he told Africa Renewal during an interview at his KAIPTC offices, the army and police do not coordinate very well in handling local disputes, as in Ghana's strife-ridden Bawku region in the north. "Even in non-conflict societies, there is a need for much more effective oversight of security institutions, and for coordinating and consultative mechanisms."

However, the impetus for fundamental reform has usually been greatest in countries just coming out of war. In Sierra Leone, efforts to restructure the national army began in 2000, even before that country's decade-long civil war came to an end the following year. With significant funding from the UK and under the command of British officers and technical experts, the programme sought to restructure the armed forces from top to bottom.

The military was especially weak at the command level, with many of the most professional officers either dead or in exile, "so we had to grow this almost from scratch," Major General Jonathon Riley, the UK commander, later recalled. Meanwhile, the UN's peacekeeping mission helped to train the police.

The situation in Sierra Leone has remained relatively calm since then, including during the sharply contested election of September 2007. Not only did the security forces not interfere on behalf of the ruling party, as had happened frequently during the period from the 1960s through the 1980s, but they supported a smooth transition in power after the opposition won. Currently, the authorities are planning to reduce the army's size from 10,000 to 8,500.

In Angola, after nearly a quarter-century of civil war, peace was finally established in 2002. Tens of thousands of fighters from both sides of the conflict were disarmed and demobilized. Significant forces from the former rebel group were incorporated into the national army, and one national police force was created.

Burundi's national army and police were restructured in stages, after opposing armed factions in that country's civil war signed an initial peace agreement in 2003. Numerous government and insurgent combatants were demobilized, but many former rebels were also incorporated into the regular security forces. Plans to reduce the combined strength of the army and police from 25,000 to 15,000 have stalled since April 2008, however, as another rebel faction awaits incorporation.

In Côte d'Ivoire, a peace agreement in 2007 established a new coalition government and outlined plans for reintegrating the country, creating a unified army and holding national elections. But the disarmament and demobilization of combatants has proceeded slowly, and differences have arisen over how to forge a unified national army and police force.

Plans for security reform have also been discussed in a number of other countries, including the Central African Republic and Guinea-Bissau. But continuing political instability, reflected most dramatically by the killings of Guinea-Bissau's president and army commander in early March, has forestalled serious restructuring.

And in countries where some security reform measures have been initiated, they usually have not been well coordinated with other post-conflict steps, such as disarmament, demobilization and reintegration (DDR) programmes for ex-combatants seeking to return to civilian life (see Africa Renewal, October 2005 and October 2007). At a June 2007 international conference on DDR organized by the UN Office of the Special Adviser on Africa, an entire session was devoted to promoting better coordination between DDR and SSR operations.

South African transformation

One of the most far-reaching and successful military restructurings in the continent took place in South Africa. It was so fundamental and sweeping that South Africans prefer to call it a "transformation," not just a reform. Previously the South African army, supported by several pro-government ethnic "homeland" military forces, concentrated on defending the country's white supremacist political system against movements for liberation among the African majority. But with the end of apartheid and the first democratic election in 1994, virtually all government institutions were slated for overhaul.

South African peacekeeping troops in the Congo: After a thorough restructuring, South Africa's armed forces are now oriented towards defending democracy at home and peace abroad.

The guiding principle of South Africa's new approach, according to a 1995 defence strategy, was to ensure that the military, police and other security institutions took as their "paramount concern" the "security of people," to protect their freedom, peace and safety. Not only was that orientation radically different from that of the previous security system, it could only be realized through changes to these institutions' "racial, ethnic, geographic and gender composition," notes Major General Roland de Vries, a key figure in the early defence transformation process.

Accordingly, a new South African National Defence Force (SANDF) was created, starting in 1994, through the integration of seven different armed forces: the guerrilla wing of the victorious African National Congress (ANC), a smaller liberation group, the regular army of the previous regime and four "homeland" armies. That process was accompanied by steps to strengthen civilian control, including the establishment of parliamentary oversight and the "demilitarization" of the Ministry of Defence. The country's various police forces were similarly unified, as was the court system.

With further restructuring and training in subsequent years, the SANDF and the national police have been crafted into highly professional forces dedicated to combating crime and other forms of insecurity at home and contributing to African and international peacekeeping operations abroad. According to the late Colonel Rocky Williams, a former commander in the ANC's military wing, a number of factors contributed to the relative success of this transformation: a strong state, a robust economy and "the fact that South Africans themselves managed the transition."

Congolese minefield

As in South Africa, the conflict in the DRC ended with an agreement among the belligerents to bring their forces together into a new national army. But the results so far have fallen short. As Congolese Minister of Defence Charles Mwando Nsimba acknowledged in January, the army remains riddled with "widespread indiscipline at all levels, links with criminals, violence against women and the diversion of soldiers' pay."

The war in the DRC had been especially destructive, and it was also complex, involving numerous domestic factions and the armies of a half-dozen neighbouring states. In 2002 the main contenders signed a peace agreement. It established a power-sharing transitional government and included a commitment by the factions to demobilize some troops and merge the rest into a single army. After some delays, the country's first democratic elections were held in 2006.

The new constitution specified that "the armed forces are republican. They are at the service of the entire nation." According to Professor Mwayila Tshiyembe, a Congolese expert in international and military affairs, this notion of an army that does not only protect the government, but that also "defends democracy" and "guarantees the security of people and property," was the most innovative idea to come out of the peace accords.

Unfortunately, during the transition period partisan infighting led each faction to exaggerate the numbers of its troops. Many of these numbers were actually fictitious. Surveys by South African and European advisers later eliminated 130,000 "ghost soldiers" from the initial rolls of 340,000. Some 75,000 real troops were also subsequently demobilized.

More seriously, there was very little screening of troops. They included commanders of factions suspected of war crimes, and their patterns of behaviour have carried over into the new army.

Unsteady 'integration'

Creating unified structures for the new army proved especially troublesome. In theory there were to be 18 "integrated" brigades, in which troops from the different factions were merged, retrained and then posted to areas outside their home zones. This process, known by the French term *brassage* ("intermixing"), was intended to break down the old chains of command and forge loyalty to the new national institution.

A UN peacekeeper instructs Congolese troops: Training has also sought to promote human rights awareness and counter sexual violence.

General Gabriel Amisi, head of the army's ground forces, told assembled troops in August 2008 that they should not resist serving outside their home areas. "There are no soldiers of Katanga or soldiers of Kivu. You are all troops in a national army."

But some did not see it that way, especially in the eastern DRC. General Laurent Nkunda, a civil war commander, initially brought his troops into the army, but resisted their full integration or deployment to other areas. He claimed they had to remain in North and South Kivu to defend his ethnic group. As tensions revived, troops loyal to General Nkunda's *Congrès national pour la défense du peuple* (CNDP) deserted their "integrated" brigade in 2006 and resumed armed actions, including against government forces.

With such incidents in mind, Lieutenant General Babacar Gaye, force commander of the UN Mission in the DRC (MONUC), remarked to *Africa Renewal* in 2007 that the decision at the peace talks to amalgamate the different groups into a single army "was a really good idea" for ending the war. "But unfortunately, it didn't produce a good military."

In October 2008 fighting between the national army and General Nkunda's CNDP escalated into major confrontations. Some army units rapidly crumbled, and only a prompt deployment of MONUC peacekeepers prevented General Nkunda's fighters from taking Goma, the capital of North Kivu.

General Nkunda was arrested in Rwanda in late January, paving the way for a ceasefire. The government started talks with the remaining CNDP forces on their incorporation into the army. Father Apollinaire Malumalu, a leading Congolese mediator, welcomed the integration move as a possible step towards peace. But he also insisted that protecting civilians must come foremost and cautioned the authorities to not "fall into the errors of the past."

UN Secretary-General Ban, during a visit to the eastern DRC at the beginning of March, also urged care. He cautioned that no one accused of sexual violence "be integrated into the national army or police."

Meanwhile, MONUC instructors and other experts have stepped up the professionalization of the army's integrated brigades, in addition to improving the discipline of the national police. Hundreds of army officers have been trained in civilian-military relations and combating sexual violence. Enhancing the military's public image somewhat, hundreds of troops of the army engineer corps have been mobilized for reconstruction projects, to rebuild roads, bridges and other essential infrastructure.

The abuses by government troops during the Kivu fighting have also met with a prompt response. A number of soldiers and officers were tried and sentenced by military courts, some to life in prison. The army prosecutor in Goma reported in December 2008 that some 400 troops were under detention awaiting trial. There have been several cases elsewhere in the country, including of officers accused of embezzlement.

At a January seminar on reforming the army and police, Minister of Justice Luzolo Bambi Lessa emphasized the need to strengthen both the chain of command and the military courts in order to "quickly eradicate the flaws of corruption, embezzlement of state funds, sexual violence and violence against vulnerable civilians." The Congolese national police force has adopted a guiding "vision" statement committing the police to protect human rights in the country and vowing to sanction any police personnel who engage in abuses.

Liberia: small and professional

Like the DRC, Liberia suffered through years of devastating war, with numerous armed factions vying against each other. And as in the Congo, multiparty negotiations in 2003 established a transitional government in which most of the main groups were represented.

But there was one crucial difference: the peace agreement did not call for amalgamating the existing groups into a single army, but essentially for fashioning an entirely new armed forces. While the US was asked to "play a lead role" in training the new military, peacekeepers of the UN Mission in Liberia (UNMIL) took on the restructuring and reforming of the national police.

The building of a new army did not actually begin until 2006, after democratic elections replaced the coalition transitional administration with a new government headed by President Ellen Johnson-Sirleaf. By that point, more than 100,000 fighters from the old factions had gone through a disarmament and demobilization programme directed by UNMIL. More than 14,000 more were slated for demobilization from the old national army and the Ministry of Defence.

The peace accord had stipulated that the soldiers of the new Armed Forces of Liberia "may be drawn from" the previous armed groups, but as individuals and only if qualified. When recruitment began in January 2006, more than 12,000 Liberians applied - for a force of just 2,000 troops.

The selection criteria were very rigorous. To be accepted, applicants not only had to be physically fit, but needed to have had at least 12 years of schooling. "Vetting" panels assessed each candidate's suitability. This included eliminating anyone involved in past human rights abuses. Recruiters travelled to the candidates' home communities to verify their records and encouraged the public to come forth with information about them. Ultimately, three-quarters of all applicants were rejected. More failed the initial training courses.

The recruitment drive also sought some ethnic and geographic balance, contrary to previous military forces, which often favoured one ethnic group or another. The government hoped that 20 per cent of the recruits would be women, but could not find enough applicants - the proportion is currently around 5 per cent.

For transparency and ownership

While many Liberians applaud the goal of building a professional army that will not prey on civilians, certain aspects of the initiative have stirred controversy. A number of security analysts have questioned the decision to build an army of just 2,000 troops. That may be sufficient in the short term, while UNMIL continues to maintain basic security, but what happens when the peacekeepers leave? Will such a force be able to contain a new insurgency or guard Liberia's borders, in a region that has known numerous wars and conflicts?

According to Thomas Jaye, a senior researcher at the KAIPTC who prepared an assessment for Liberia's Governance Reform Commission, "the decision to train 2,000 soldiers for the army was influenced by the purse and not by any threat assessment." General Coleman of the ASDR, referring to donor-directed security reform initiatives more generally, said: "They want to see it done, but they want to do it only cheap."

The US government's decision to subcontract the training of the new army to two private US security companies has also brought criticism, in part because the details of those contracts are secret. "A lot of money has been spent," President Johnson-Sirleaf told researchers for the International Crisis Group, a non-governmental think tank based in Brussels. "We do not know what on. There's simply not enough transparency and accountability in the way this money is spent."

Some also point to the absence of public consultations to help identify Liberians' views about the types of security structures they would like. The Governance Reform Commission, which advises the government on broad reform initiatives, has expressed concern over "the lack of participation of civil society and the national legislature in the SSR process."

Amos Sawyer, head of the commission and a former interim president, notes that technical training, however proficient, will not by itself create the kind of army Liberia needs. He recalls that "every armed group that

plundered Liberia over the past 25 years" had troops that were trained by US experts. The real problem was political. To ensure that the new army and other institutions are under effective political control and serve the interests of the nation, his commission insists on more "local ownership" of security reform efforts.

Widening the debate

That is an issue that extends well beyond Liberia. Proponents of reform generally agree that broad national consultations should help shape SSR programmes and build public support for them. But in the difficult conditions that usually prevail after war, when new governments are struggling to get on their feet and address the many challenges of economic and social recovery, public discussions on military or police reform have been rare.

Security reform advocates argue that government officials and military commanders in Africa should no longer be suspicious of public scrutiny of security arrangements. Similarly, General Coleman of the ASDR urges African civil society groups to become more actively engaged. "Civil society has a critical role to play," he says. But to avoid stirring resentment, he adds, they should proceed with some tact, "without being too hard on the government and without appearing to be the tool of an external [donor] agency."

The UN, which is working to better coordinate its own support for security reform efforts in Africa and other parts of the world, seeks to promote wide consultations. "SSR models are too often imposed by external actors," says Assistant Secretary-General Dmitry Titov, who heads the peacekeeping department's Office of the Rule of Law and Security Institutions. "Should we not focus on the end recipients of SSR, that is, the population, the societies and governments living in insecurity? Shouldn't it be their ambitions and vision driving SSR efforts?"

Africa itself must take greater initiative, insists Major General Martin Agwai, a Nigerian officer who served as deputy force commander of the UN peacekeeping mission in Sierra Leone. "African nations must stand up and accept the torch of responsibility for transforming their own security sectors," he argued in 2003. "Africans must kick-start this process themselves, and the assistance of the broader international community will follow."

BBC Online

Friday, 1 May 2009

Special courts for Gujarat riots

India's Supreme Court has ordered the establishment of five special courts to try cases related to communal riots in the state of Gujarat in 2002.

The fast-track courts, which will hold daily hearings, will be set up in Ahmedabad, Anand, Sabarkanta, Mehsana and Gulbarg districts.

Activists and the National Human Rights Commission (NHRC) wanted the trial to be held outside Gujarat.

The trial was halted in 2003 after allegations of witness intimidation.

More than 1,000 people, mostly Muslims, died in the riots which began after 60 Hindus died in a fire on a train.

The cause of the fire has never been clearly established.

Hindu groups alleged that it was started by Muslim protesters, but an earlier inquiry said it was an accident.

'Best Bakery case'

A three-judge bench, headed by Justice Arijit Pasayat, ruled on several petitions filed by the NHRC and various non-governmental organisations and riot victims.

The court constituted a Special Investigation Team (SIT) on 24 March last year to inquire into the riot cases.

The court said it decided to set up the fast-track courts on the basis of the recommendations made by the probe team.

The NHRC and activists wanted the cases transferred out of Gujarat in 2003 after a court in the state acquitted 21 men accused in what is known as the "Best Bakery case".

Fourteen people, including 12 Muslims, died in the arson attack on the Best Bakery in the city of Baroda, in Gujarat.

In 2004, the Supreme Court ordered a retrial in the case and in 2006, nine people were finally convicted and sentenced for life in jail.

On Tuesday, the Supreme Court ordered that the role of Gujarat Chief Minister Narendra Modi, a leading member of the Hindu nationalist Bharatiya Janata Party (BJP), should be investigated.

In particular the team has been told to investigate the murder of a senior Muslim politician from the Congress party, Ehsan Jafri, and nine other specific cases.



The riots left at least 1,000 dead - mostly Muslims



Mr Modi has always denied wrongdoing

The court was acting on a petition filed by Mr Jafri's widow.

Narendra Modi is one of more than 60 people who have been named as co-accused.

In the past the Supreme Court has criticised the government of Gujarat for failing to protect its Muslim citizens.

Mr Modi's supporters have always said he could have done little under the circumstances to prevent the violence.

Last year, a commission of inquiry set up by the state government exonerated Mr Modi over the riots.

The Christian Science Monitor

Thursday, 30 April 2009

Spanish judge opens Guantánamo investigation

Baltasar Garzón is bringing the case based on 'universal jurisdiction,' in which serious crimes can be tried outside national borders.

By Robert Marquand | Staff writer of The Christian Science Monitor

Berlin - Spanish investigative judge Baltasar Garzón, known in international legal circles for his efforts to extradite Chilean dictator Augusto Pinochet, said Tuesday that he will open a preliminary investigation into the creation of the Guantánamo camp.

If followed through, the investigation could bring out in a European court many of the materials already uncovered in the United States – through congressional committee hearings, recently declassified CIA memos, and media outlets – on the sanctioning of extreme methods of interrogation that have widely been called "torture."

Judge Garzón, known as "the superjudge" in Spain for his high-profile indictments, appears to be focused less on those in the US who carried out extreme measures, and more on the conceptual "framers" of then-secret memos that enabled the interrogations.

The scope of Garzón's filing includes "any of those that executed and/or designed a systematic plan of torture or cruel, inhuman, and degrading treatment of the prisoners [at Guantánamo] that were under their custody."

Sources familiar with the case say that pressures by the Spanish government to slow or stop Garzón are intense, and that Spanish justice officials and even Garzón himself would prefer that the US administration carry out a serious investigation in line with the requirements of the 1984 Convention on Torture (of which the US is a signatory), which demands such an inquiry.

The legal basis for the case is known as "universal jurisdiction," in which heinous crimes can be tried outside national borders; Indeed, a US court in New York this January exercised universal jurisdiction in a torture case involving Roy Belfast Jr., the son of Charles Taylor, the former Liberian dictator.

The situation highlights a White House trying to show the world a different face of America in the area of rule of law, moral authority, and that wants to "lead by example," as President Obama has said – but without adding to an already toxic controversy on the US domestic political scene.

The Garzón notice came as US Attorney General Eric Holder was on a five-day visit to Europe to set a new tone from the Justice Department on cooperation with European allies, and to seek help in placing some 30 Guantánamo detainees that, it says, are ready for release. Mr. Holder told reporters in Berlin that Guantánamo had made the US and its allies "less safe" since the introduction of practices like waterboarding, which he has described as an unambiguous form of torture and "a chief recruiting tool" among terror cells.

Most European leaders are eager for good relations with the Obama administration at a time of war in Afghanistan and an economic crisis, and, if anything, are sending signals to their independent judiciaries not to push prosecutions of Bush administration officials that could create problems for the new president.

But Europeans have also consistently articulated opposition to Guantánamo and torture, even while governments here often drifted into gray areas in working with the US in the war on terror, points out Anthony Dworkin, legal specialist with the London office of the European Council on Foreign Relations.

"What this [Garzón] investigation shows is the incredibly difficult legacy that has been left by the Bush administration, acting at odds with international law," Mr. Dworkin says. "Most governments in Europe are keen to improve relations with the US, to reset the relationship. The Spanish government hopes to see a credible investigation begin in the US. The Spanish attorney general has said the first responsibility is not with Europe but with the US."

Though some US opinionmakers say the motions of one Spanish judge will have little impact, US diplomats are not as quick to dismiss them. Subpoenas and indictments would not only restrict travel as a practical matter for US officials, but the case itself could bring unforeseen dynamics both at home and abroad.

"It really only takes one court in Europe to set in motion an entire process that we will ultimately have to deal with, not ignore," a US diplomat in Europe says.

Legal experts like Philippe Sands, a British barrister and author of the new work "Torture Team," who knows Garzón, says the Spanish judge and his colleagues have been saying for months that they would open investigations if there is no clear process established in the US.

But they have also indicated that they would probably drop the case if the Obama administration were to move forward with an inquiry that comports with the requirements of the 1984 Convention on Torture. The convention obliges its signatories (which include the US) to investigate allegations and to recommend prosecutions if warranted.

"If there are no US investigations, the Europeans will hold one, believe me," says Mr. Sands. "But Garzón, I think, will drop it if the rule of law in the US can be seen to be satisfied, maybe by a nonpartisan commission."

Holder, in Berlin, said that currently, he feels the US Justice Department has "all the necessary" tools to conduct an investigation, and that he was not at this time ready to appoint independent counsel or a special prosecutor for the torture allegations.