

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



**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:**

Thursday, 30 July 2009

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

Thursday, 30 July 2009

## **“I did not support Military intervention in Salone”- *Charles Taylor***

*By Betty Milton*

**T**he former president of Liberia and Special Court indictee Charles Taylor yesterday stated in his defence that he was not in support of the military intervention in Sierra Leone.

He told the court that the peace in Liberia was fragile and the military intervention was unilaterally conducted by Nigerian troops in ECOMOG. Taylor said he condemned it as it would have had a destructive effect in his country.

The agreement by ECOWAS the witness testified had not

reached a point of force and that even the British Ambassador to the United Nations General John Weston also spoke strongly about the way Nigeria was going about military intervention to restore Tejan Kabbah.

Taylor also testified that ECOWAS wanted the UN to pass Resolution seven (7) which would have enabled them to use force in Sierra Leone but it was not passed. “ECOMOG which was mainly composed of Nigerians decided to use force” he said.

*Continued on Page 6*

## **“I did not support Military intervention in Salone”- *Charles Taylor***

*From Page 2*

Charles Taylor further stated that member nations of ECOWAS were also not in support of the action of Nigerians since the action created an atmosphere of war through their bombing.

“I could not support ECOMOG because I did not have any interest in anything that will destabilize the peace in Sierra Leone” he said.

Between 1997 which was close to the indictment period the witness said he had nothing whatsoever in supporting the Armed Forces Revolutionary Council (AFRC) in Sierra Leone.

Testifying about his contact with Johnny Paul Koroma the leader of the AFRC he stated that on 3<sup>rd</sup> October 1997 he received a letter from him asking for his support but that he did not reply to the letter. A delegation he went on was also sent to him to know why Liberia was not in support of him but he did not respond to them adding that it is an indication of his non- support of the government.

New Vision  
Thursday, 30 July 2008

## UN Chief Hails Recognition of Rape as a Form of Genocide

UNITED Nations (UN) Secretary-General Ban Ki-moon has lauded the International Criminal Tribunal for Rwanda for classifying rape as a form of genocide.

In his latest report on the scourge to the UN Security Council, Ban said the tribunal in Rwanda recognised sexual violence was a step in the process of group destruction "of the spirit, of the will to live, and of life itself".

He warned that sexual violence was being "perpetrated mainly against civilians in direct violation of international humanitarian, human rights and criminal law".

Systematic sexual violence as a weapon, mainly against women, was rife in armed conflict in Africa, Asia and Europe. He called on countries concerned "to strengthen prevention and protection measures against the crime".

"In a number of contemporary conflicts, sexual violence has taken on particularly brutal dimensions, sometimes as a means of pursuing military, political, social and economic objectives," Ban wrote.

### Women Make Movies

While women and girls made up the majority of victims of such violence, the International Criminal Tribunal for the former

Yugoslavia and the Special Court for Sierra Leone had heard testimony about male victims.

"In eastern Democratic Republic of the Congo, at least 200000 cases of sexual violence have been recorded since hostilities began in 1996," Ban said. That was a conservative estimate with gross underreporting as many victims do not survive their attack.

"In eastern Chad, cases of rape and gang rape committed by officers and soldiers of the Armée Nationale Tchadienne have been documented. In Nepal, in the Tarai region, an estimated 15 to 20 armed groups are reportedly participating in violent activities, including sexual violence against women and girls," the report said.

Ban expressed concern at the inadequacy of measures to prevent sexual violence and protect civilians, and lack of action on discrimination against women and girls.

He called for the ratification of and implementation of human rights treaties; strengthening of capacity to hold all perpetrators of sexual violence accountable; and exclusion from amnesties and immunities of those who committed or commissioned sexual violence.

Cotton Tree News  
Wednesday, 29 July 2009

### **Special Court Sierra Leone trains local police prosecutors**

By Sahr Komba

The Special Court for Sierra Leone in collaboration with the Sierra Leone Bar Association on Monday organized a national prosecutors training for police prosecutors in Freetown.

The Deputy Prosecutor of the Special Court Sierra Leone, Joseph Kamara told CTN that the seminar was to orientate police prosecutors who operate in magistrate courts on the art and ethics of prosecuting cases in court. He said police prosecutors over the years had no formal training in prosecuting matters in courts. He said that had led to the wrong procedures been applied in certain matters before the courts.

Mr. Kamara said without in-depth training in prosecuting cases, the police would not know the objective of prosecuting cases, the proper procedures involved and how to respond to objections raised by defence lawyers. He said conducting such seminars would make police prosecutors ethically sensitive, and enhance their knowledge of the law.

He said the training has already been held in Makeni; the Special Court he disclosed will organize a similar session in Bo in September this year.

## New Vision (Uganda)

Wednesday, 29 July 2009

### **Uganda: Justice Sebutinde's Star Still Rising**

Kampala — YOU probably remember it. That front page newspaper picture of Lady Justice Julia Sebutinde passionately looking at a witness and numbly clasping her lips as her nearly teary eyes intently looked up to the man.

The year was 1999. Sebutinde, then chair of the judicial probe into corruption in the Police, appeared overcome. The witness was shedding tears and the lady justice seemed to struggle to hold back her own.

This was just one of the many sides of one of Uganda's most prominent high court judges. She sometimes hardened, lashing out at arrogant witnesses and commanding them into submission.

She put the fear of God into many otherwise untouchable souls with her calm but often firm tone.

"Today, I am going to have you for lunch and supper," she reportedly assured Uganda Revenue Authority (URA) officers in a much publicised probe into mismanagement of the tax body.

Sebutinde chaired three judicial probes - first corruption in the Uganda Police force, followed by the unscrupulous purchase of junk helicopters by the Ministry of Defence and then corruption in the URA.

At each of these probes, she exercised utmost authority, demanding accountability from errant bigwigs who sometimes tended to take her for granted.

It came at a huge cost, often putting herself and her family in danger but like a wounded lioness she soldiered on, trading her own safety for the restoration of sanity to a corruption-ridden country.

Her timely and thorough findings led to a wave of positive reforms in the Police force and the URA; bodies that were, before her judicial intervention, examples of corruption and mismanagement. For such and many other good works, the lady justice has stood out, but seldom been recognised. But it seems her day has come.

Sebutinde was one of two women recently awarded an honorary Doctor of Laws degree for their outstanding work by the University of Edinburgh.

The award presented to her last month recognised her contribution to justice and improvement of society.

She received the award together with Justice Unity Dow, the first female High Court Judge of Botswana and renowned women and child rights activist. Sebutinde acknowledged the honour with gratitude.

"The fact that a foreign university recognised my work and contribution not just nationally but internationally, in this manner was most exhilarating. The work that we do is often thankless and sometimes even unpopular," she said. Sebutinde and her family were present at Edinburgh University to receive the award that is usually bestowed upon a few outstanding alumni.

For her and those who know her, it has been a long, arduous walk to such a prestigious achievement.

It began in the mid 1970s when she enrolled to study law at Makerere University law school at a time when the course was a domain of male bright students. She gave it her all, excelling in a field that seemed to have been a fall-back.

"I chose to study law almost by accident. I thought I could make quite a good doctor but I was weak at chemistry and I quickly realised it was wiser to pursue something else instead. Law seemed the next best thing to me."

She steadily worked through the three-year course, graduating and later attaining a diploma in legal practice from the Law Development Centre (LDC) in 1978.

Her first job was with the Ministry of Justice where she worked for close to 12 years before enrolling for a master's degree in law at the University of Edinburgh in the UK. She graduated one year later with a distinction.

She thereafter worked with the Ministry of the Commonwealth in the UK and later joined the Ministry of Justice in the newly independent republic of Namibia. In 1996, she was appointed Judge of the High Court of Uganda and seconded nine years later to the UN-backed Special Court for Sierra Leone.

Two years later, she was appointed the presiding judge of Trial Chamber II, currently engaged in the trial of the former president of Liberia, Charles Taylor.

Throughout her life, Sebutinde has projected an exemplary image.

In school she was the humble but much-focused girl that commanded respect among students. "She was a very serious, focused and religious girl. She concentrated on her studies and was somewhat conservative," recalls Dr Edwadi Kayondo, Sebutinde's classmate at Budo in the early 1970s.

Justice Geoffrey Kiryabwire, who first met Sebutinde in church (then active in All Saints church activities) during his student days in the 1970s, describes her as very committed.

She works very hard but also loves telling a good joke and sharing a laugh," says Kiryabwire.

A commissioner at two of Sebutinde's probes, Kiryabwire recalls the long days and nights spent preparing and sifting through reports.

"We sometimes burnt the midnight candle, the deadlines were tight, the workload was immense and intellectually demanding but she never wavered," he says.

Sebutinde grew up in what she describes as a humble home, the second eldest of four children. "My father is a retired civil servant. My mother was a full time housewife," she says.

Hard work, prayer and good manners were to later influence her life. Through Lake Victoria Primary School in Entebbe to Gayaza High School and later Budo, Sebutinde received a holistic education, developing not just academically but also in other important values.

A self-confessed lover of music, Sebutinde says she "enjoys a good book or movie every now and then."

As a busy mother of two beautiful daughters, the lady justice knows the challenges of juggling a busy job and motherhood. But with the support of her loving and supportive husband, John Sebutinde, they have kept the family going despite the distance. "We travel a lot between our two homes. We try our best to spend the holidays together," she said.

For a busy mother, Sebutinde is not leaving anything to chance. "When you are a parent trying to raise two daughters in a difficult world, you want to be the best role model that you can possibly be," she says. She knows her beloved late mother would not have asked more of her.

"I regret that my mother Ida did not live to share such an event. She was a woman, who despite her own limited opportunities, instilled in us the determination that regardless of the challenges along the way, we can achieve anything we want to if we put our minds to it! This is the legacy I have passed on to my children."

Sebutinde might have a few regrets in life, but there is no doubt that she has made the most of what God, her parents and life have given her.

Sebutinde might have a few regrets in life, but there is no doubt that she has made the most of what God, her parents and life itself have given her.

During her youth, Justice Sebutinde was an active member of All Saints Church, participating in a variety of activities

Sebutinde is on Facebook, a social interactive friends network

She loves Indian cuisine and spicy food. She is a good cook

She is very good at sewing; used to sew her own clothes

Sebutinde is a Michael Jackson fan; she has a reasonable collection of the fallen star's hits and albums

She was a very good singer, often called upon to assist in the school band at Kings College Budo. Sebutinde sang with the famous school choir- The Nightingales and the Joint Heirs - a Christian youth choir

Pets are her thing. She owns two dogs called Sofi and Cindy

She is extremely neat and clean. During her school days, she would rush to brush her teeth after every meal to her friends' amusement.

As an organised lady, she always has all her belongings well arranged.  
She is very particular

Sebutinde keeps up with the times and knows as much about Beyonce and Usher Raymond as any young person  
She follows soccer quite a bit

She is a good swimmer, she has been since her school days and used to take her daughters swimming before they grew too big for her to carry them on her back at the pool

Sebutinde loves a good joke and will join in one

She is very close to and somehow still looks out for her sister Christine even today

For a judge of her status and calibre, Sebutinde is a very approachable person

*Compiled by Stephen Ssenkaaba*



United Nations  Nations Unies

United Nations Mission in Liberia (UNMIL)

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## UNMIL Public Information Office Media Summary 29 July 2009

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

### International Clips on Liberia

07/09/2009 07:46:49

#### **Liberia Did Not Recognize the AFRC Junta in Sierra Leone, Taylor Says**

Jul 29, 2009 (CharlesTaylorTrial.org/All Africa Global Media via COMTEX) -- Liberia, in concert with other West African countries and the rest of the international community did not recognize the Armed Forces Revolutionary Council (AFRC) junta in Sierra Leone, Charles Taylor told judges today at his trial before the Special Court for Sierra Leone. The AFRC junta was a group of Sierra Leonean soldiers who overthrew the government of former President Ahmad Tejan Kabbah in May 1997. The coup was met with widespread condemnation and non-recognition from the Sierra Leonean populace and the international community. The coup plotters who formed a merger with the Revolutionary United Front (RUF) rebels stayed in power until February 1998 when they were forcefully removed by peacekeepers of the Economic Community of West African States Monitoring Group (ECOMOG) and Tejan Kabbah's government reinstated. Charles Taylor has been accused of providing support to the AFRC junta by providing arms and ammunition for them in return for diamonds. Mr. Taylor has denied the allegations. Mr. Taylor told Special Court judges today that "**Liberia** did not recognize the AFRC junta.

#### **U.S. Secretary of State Hillary Clinton to Visit Continent**

Jul 29, 2009 (allAfrica.com/All Africa Global Media via COMTEX) -- The United States Secretary of State, Hillary Rodham Clinton, will begin a seven-nation trip next week during she will visit a range of key countries across sub-Saharan Africa. Clinton begins her trip in Kenya, after she will travel in turn to Southern, Central and West Africa, stopping in South Africa, Angola, the Democratic Republic of Congo, Nigeria, Liberia and Cape Verde. Announcing her visit, the U.S. State Department said that in Kenya, Clinton will focus on the linkages between investment and economic growth as well as opportunities provided to African countries through the U.S. law, the African Growth and Opportunity Act (AGOA). The department said in a press release that in that in Nigeria and Liberia, Clinton "will bring close attention to the Obama administration's commitment to helping nations around the world implement self-sufficient and sustainable food security." It added that Clinton will call for stronger African links with global markets and knowledge networks.

### International Clips on West Africa

#### **Sierra Leone Seeks to Adopt Decentralisation Policy**

Kigali, Jul 29, 2009 (The New Times/All Africa Global Media via COMTEX) -- A delegation of visiting Sierra Leonean parliamentarians has revealed that their country is on the course to emulate Rwanda's decentralization programme in a bid to spur participation in governance and development of the country.

The delegation, composed of 17 lawmakers is in the country on a study tour aimed at equipping them with the country developmental and governmental achievements, with special interest on the

decentralization policy. Speaking after their briefing with Christine Nyatanyi, the State Minister in charge of Social Affairs Christine Nyatanyi, Bintu Myers - a member of the delegation - observed that his country was open to learn and to emulate Rwanda's decentralization model.

### **Local Media – Newspaper**

#### **Namibian President In the Country for Two-day State Visit**

(The News, The Inquirer, The Analyst, Daily Observer, Heritage)

- The President of Namibia Hifikepunye Pohamba has arrived in the country on a two-day state visit.
- Addressing a joint session of the Legislature, the Namibian President called for constructive engagement among stakeholders in Liberia saying the leaders of the country and political parties must engage to promote peace and stability.
- President Pohamba stressed the need for promotion of democracy and governance, gender and agriculture to move the Continent forward.
- Earlier Speaker Alex Tyler welcomed President Pohamba to the Legislature and thanked Namibia for supporting peace in Liberia.
- The Namibian leader will on today hold bilateral talks with President Ellen Johnson Sirleaf and visit the Firestone Rubber Plantation.

#### **Liberia Among Seven Nations Targeted for U.S. Secretary of State Visit**

(The News, Heritage)

- The United States Secretary of State, Hillary Rodham Clinton, will begin a seven-nation trip to Africa next week.
- The trip will highlight the Obama's administration commitment to making Africa a priority in U.S. Foreign policy.
- Clinton will begin her trip in Kenya, after she will travel in turn to Southern, Central and West Africa, stopping in South Africa, Angola, the Democratic Republic of Congo, Nigeria, Liberia and Cape Verde.

#### **New Police Chief Takes Office, Promises 'Change'**

(The Informer)

- Following weeks of confirmation difficulties, Marc Amblard has finally taken over as Liberia's new Police Inspector General.
- The Senate withheld Mr. Amblard's confirmation for weeks after he disclosed he had no knowledge on policing.
- At a brief ceremony at the Police headquarters Tuesday, Mr. Amblard called for full cooperation from officers of the LNP to ensure the organization implement its mandates.
- Turning over, Attorney Brown expressed happiness that transition is now peacefully taking place in government Ministries and agencies.
- Attorney Brown called on Mr. Amblard to work with the Community Policing Forum if he is to succeed in the fight against crime.

#### **UNDP Donates Vehicle, Others to Justice Ministry**

(Heritage)

- The United Nations Development Programme (UNDP) has presented a 16 seated mini-bus and a consignment of computers valued at over US\$35,000 to the Bureau of Correction and Rehabilitation and the Human Rights section at the Ministry of Justice.
- According to a UNDP release, the donation is in support of the project to Strengthen Rule of Law and Administration of Justice in the country.
- Receiving the items, Justice Minister Christiana Tah described as timely the donation saying the lack of transportation is one of the major problems affecting the bureau.

### **Nigerian Gets Life Imprisonment for Murder**

(National Chronicle, Daily Observer, The Inquirer)

- A Nigerian national, Chuku Dwi Afika, has been sentenced to life imprisonment for killing a Liberian youth, Joshua Dennis, at the Gopachop market area in the commercial district of Redlight in Paynesville in March this year.
- The sentence by Criminal Court 'B' yesterday followed a unanimous guilty verdict brought down against him by a 15-member panel jury.
- When arraigned in March this year, the convict pleaded not guilty to the indictment connecting him to the murder of the victim.

### **UNFPA Pledges Commitment to Fistula Projects**

(The News, Daily Observer)

- The United Nations Population Fund (UNFPA) has reiterated its commitment to building the capacity and improving fistula projects in the country.
- UNFPA Country Representative, Rose Gakuba made the assertion at the weekend at a graduation ceremony of the of the fistula rehabilitation and reintegration programme.
- Thirteen students out of 20 of the fistula survivors graduated in various skills including soap making, cosmetology, pastry and tailoring.

### **Civil Society Gives Government 60-Day Ultimatum**

(National Chronicle)

- Civil Society Organizations in the country have given Government a sixty-day ultimatum to urgently take measures aimed at resolving the constitution and operations of the Independent National Commission on Human Rights.
- The groups also want civil society to play an integral party in the reconstitution of the process.

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

### **Namibian President In the Country for Two-day State Visit**

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

### **New Police Chief Takes Office, Promises 'Change'**

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

### **Home for Retarded Children Call for Additional Support from Government**

- The Supervisor of the Antoinette Tubman Cheshire Home has called on government to increase its support to people with multiple disabilities in the country.
- In an interview, Mrs. Famatha Collins said the current level of support given disable homes in Liberia was insufficient.
- Mrs. Collins when a philanthropic agency, Keep in Touch International provided rice and assorted items to the home.

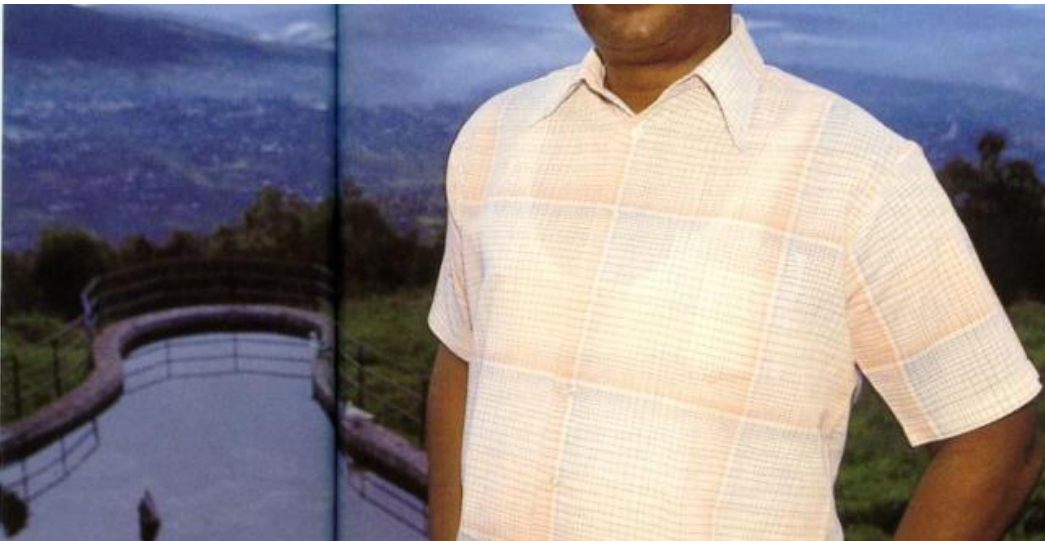
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## Radio Netherlands Worldwide

Thursday, 30 July 2009

### New genocide museum for Rwanda; 'history in former president's palace'

By Thijs Bouwknecht



*Kigali, Rwanda*

Everything will remain as it is and within that luxury Rwanda tells its history and culture. The small East-African country plans to transform the luxurious palace of assassinated President Juvenal Habyarimana into a museum to promote

reconciliation 14 years after his death, which triggered the genocide in the central African nation.

Habyarimana died on 6 April 1994, when his private jet was shot down close to the presidential palace near Kigali, Rwanda's capitol. Rwanda has decided to transform his house into a genocide museum "to showcase Rwanda in its entirety and promote Rwandan culture, unity and reconciliation." The memorial is expected to be inaugurated early next year.

#### **Palace**

Habyarimana's former residence is located in Kanombe, some 20 kilometres from central Kigali. The eight-bedroom presidential palace has been left much as it was that day in 1994, with big leather couches, gold-plated French-style chandeliers and carpets still in place. The premises also house a nightclub, a small church and shrine.

"Everything will remain as it is and within that luxury we want to tell the history and culture of Rwanda," said John Butoto, who is overseeing the museum conversion project. "Our children should grow up knowing that what happened was very bad and should never be repeated," he added.

The house will tell the story of the 1994 bloodshed, including exhibits of some of the machetes and hoes used by militias to carry out the slaughter. Part of the wreckage of Habyarimana's plane will be displayed in the museum as well. "It is a museum that will serve future generations in the struggle to ensure there is never another genocide," says Joseph Habineza, Rwanda's Minister of Sports and Culture.

#### **Habyarimana's assassination controversy**

Habyarimana's death was a catalyst for the mass slaughter that began the next day on 7 April 1994. According to the United Nations, around 800,000 minority Tutsis and moderate Hutus were slaughtered in the few weeks that followed.

Who shot down the plane has never been firmly established. Rwanda's President Paul Kagame has said Habyarimana, a Hutu, was killed by Hutu extremists who then blamed the incident on Tutsi rebels, led by Kagame himself, to provide the pretext for the genocide. French and Spanish judges have accused Kagame and other senior officials of shooting it down, allegations they have always denied.

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## Ghanaian Chronicle

Wednesday, 29 July 2009

### **Kofi Annan puts politicians on the spot over poll violence**

The Kenyan government has until the end of September to set up an independent special tribunal on the post-election violence of December 2007. On 9 July, former United Nations Secretary General Kofi Annan handed over to the International Criminal Court (ICC) in The Hague an envelope listing alleged perpetrators of the violence that followed the 2007 elections.

The list was compiled by Justice Philip Waki's Commission of Inquiry into the Post-Election Violence (CIPEV) and handed to Annan last year. His July action pre-empted an earlier agreement with the government, giving it an extension until the end of August to set up a special tribunal. The Waki Commission had intended this tribunal to be independent from Kenya's judicial system, with international and local judges and investigators.

Annan had become involved in Kenya's reckoning in January 2008 as the African Union's (AU) mediator. Two months later, President Mwai Kibaki and Prime Minister Raila Odinga signed an agreement which included setting up the CIPEV. In mid-October 2008 in Nairobi, Justice Waki handed over the CIPEV's report and a secret envelope containing a list of high-level perpetrators to Annan for safekeeping.

Annan gave up waiting for the government to take action after a delegation of Kenyan politicians visited him in Geneva, took a tour of the ICC in The Hague and met the Chief Prosecutor, Luis Moreno-Ocampo. The team was led by Minister of Justice Mutula Kilonzo (President Daniel arap Moi's former lawyer), with much-criticised Attorney General, Amos Wako; Minister of Lands James Orengo; Assistant Minister of Justice William Cheptuno; and three other officials.

The delegation had been seeking more time and suggested that the accused should be tried not by a special tribunal but by a specially constituted section of Kenya's own High Court. That would not require a constitutional amendment, unlike the special tribunal, but the court's independence would be questioned. During the months before he went to Geneva, Justice Minister Kilonzo had been pressing for more time and consideration of Kenya's special circumstances.

### **Kenyans want a trial in The Hague**

Kilonzo argued that a tribunal would divide Kenya and that the government did not have the necessary funds. He made plans in June for Ambassador Bethwell Kiplagat, a former diplomat and civil servant from the Rift Valley, to organise a conference in July to get feedback about a special tribunal, all of which caused further delays; Kiplagat has been suggested as head of a truth and reconciliation commission. The recent budget from the Minister of Finance, Uhuru Kenyatta, provided no money for witness protection (AC Vol 50 No 12). All this helps explain why 53% of those surveyed in May by the South Consulting Group (which was originally contracted by donors to inform and educate Kenyan voters before the elections) wanted a trial in The Hague, with only 33% supporting a special tribunal. A poll by Steadman shows 68% supporting a trial in The Hague, with 13% favouring a local trial.

To safeguard himself against spin by the Kenyan politicians, Ocampo asked them to agree and sign minutes of their meeting on 3 July, which are posted on the ICC's website. They show that the Kenyan government has until the end of September to provide the following: a 'report on the status of the investigation and prosecutions' and any other information requested by the ICC prosecutor; 'information of measures put in place to ensure the safety of victims and witnesses'; and 'information on the modalities for conducting national investigations and prosecutions of those responsible for the 2007 [post-election] violence through a special tribunal or other judicial mechanism adopted by the Kenyan parliament, with clear benchmarks over the next 12 months'.

The government has committed itself to ending the impunity of those responsible for the most serious crimes and is bound to refer such cases to the ICC under Article 14 of the Rome Statute, should parliament fail to approve the establishment of a special tribunal. Wilfred Nderitu, head of the Kenyan chapter of the International Commission of

Jurists, thinks that this means that if the ICC receives no assurances from the government of a special tribunal by the end of September, Ocampo will take over.

The ICC, which has been looking at the Kenya situation since 5 February 2008, is empowered to begin a formal investigation as a court of last resort only if Kenya fails to meet its commitments. Yet Kenya could nominally comply while carrying on as usual and procrastinate for up to another year until June 2010 - or undermine any court that is set up, particularly if it is an alternative mechanism such as a special section of the High Court. That means the cases would be heard in the run-up to the 2012 elections, risking more chaos. Kenya's wily politicians might then take the opportunity to ask for another extension.

Ocampo explained that if Kenya did not meet its deadlines or if the court did not conform to international standards, the ICC would then take over and decide whether to take the case up. The recommendations of the Waki Commission also state the ICC should take over the case if a special tribunal is set up, but the process has been subverted (see Box). Leaks to the local press from the closed-door meeting between the Kenyan team and Ocampo speak of charged exchanges. Ocampo should expect more subterfuge from the politicians.

### **No justice, no faith**

Just after Ocampo's meeting with the Kenyan officials, Annan announced that he was handing over the Waki Commission's list to The Hague, saying 'justice delayed is justice denied'. This move short-circuited the attempts of those politicians who have little interest in establishing a special tribunal or in prosecuting anyone but their adversaries to delay any resolution by proposing an alternative 'judicial mechanism' instead of the special tribunal.

On 1 July, Annan told the AU that their 'outcry against justice demeans the yearning for human dignity that resides in every African heart', and 'represents a step backward in the battle against impunity'. We hear that before he announced that he was passing the Waki envelope to Ocampo, Annan had six boxes of supporting material air-freighted out of Kenya. After that, Kenya's government faces huge pressure to get the special tribunal set up before September.

Pictures in the Nairobi Daily Nation of Liberia's ex-President Charles Taylor defending himself against war-crimes charges in The Hague are a sharp reminder to those who masterminded the 2007 post-election violence. The Waki Commission's envelope and the boxes of supporting material reached the ICC on 16 July. Ocampo already has opened the envelope and is keeping the contents secret in a vault.

The Chief Prosecutor will decide what to do next if the Kenyans have done nothing by September. Beatrice Le Fraper du Hellen, the ICC's Director of Jurisdiction, Complementarity and Cooperation, has been analysing information on Kenya, with a recently increased team of 14. She said in April that if the ICC decided to act, it would do so 'relentlessly and immediately'. Diplomats from Western countries, including the United States, which is not a signatory to the ICC, have backed Annan's handover - although they say a special tribunal within Kenya would still be the best option.

On 16 July the European Union's representative in Kenya, Anna Brandt, backed calls for a special tribunal. She said that Western donors will cut off aid to Kenya and help the ICC if Kenya does not take action. It is not known if this statement was coordinated with those of Annan or Ocampo. A week earlier, Brandt had signed a five-year 17.5 billion Kenyan shilling (US\$22.9 million) Swedish aid agreement: those and other commitments are now under threat.

On 14 July, the Kenyan cabinet met to consider the two draft laws, wrangled for four hours but failed to reach a consensus. The same thing happened again on 20 July, with continued splits along the party and factional lines that had divided parliament in February. Some MPs oppose any prosecutions for the election violence. Having voted against the special tribunal bill in February, when they said they favoured the ICC, they now say they want a truth and reconciliation commission.

This group includes a block of politicians from the Rift Valley: William Ntimama (listed in the Akilano Akiwumi report on ethnic clashes in the 1990s as a person who should be investigated further), Najib Balala, Franklin Bett

and Charles Keter in the cabinet, Benjamin Langat, Zakayo Cheruiyot and Julius Kones, in parliament. They have recently been joined by the Orange Democratic Movement's (ODM) Minister of Agriculture, William Ruto, who had earlier disagreed with Odinga and favoured referral to the ICC when there was little prospect of a Hague trial. He said he feared the Kibaki government would be biased against politicians from the Rift, where most of the violence occurred. Like other MPs from various parts of the country, he seems to have thought that the ICC would not do anything until well after the 2012 election.

Ruto (who was recently made a Sabaot elder in conflict-ridden Mount Elgon) argues that establishing a special tribunal would precipitate more violence. He is against any legal proceedings on the post-election events which, he says, stemmed from the disputed 2007 election. Ruto wants the poll-riggers charged, but Ocampo has made it clear that the ICC is not a political but a criminal court.

Most MPs have vowed to vote against a special tribunal, suspicious that it will be manipulated. Among the most outspoken voices is Gitobu Imanyara, an MP and human rights activist, who wanted Annan to hand over the Waki envelope in January. Among Central Province politicians Imanyara and Safina party leader Paul Muite have claimed that they face threats for their stand against a local tribunal.

In May, a report by South Consulting claimed that 60 witnesses already have left Kenya in fear for their lives; the UN's Special Prosecutor, Philip Alston, said the same of witnesses who spoke to him. Others who voted against the special tribunal in February might do so again. The first law anchoring the tribunal in the constitution requires a two-thirds majority; the second setting up the special tribunal needs only a simple majority and thus could easily be used to water down the second law after the first was passed. Many MPs fear that this might allow the President or the Attorney General to dismiss judges, grant amnesties, end cases or otherwise interfere. Some of those against a special tribunal do not want it because they fear justice might be done, others because they fear it will not.

Those who do support a tribunal include those who believe it is desirable and possible, those who do not want to see Kenya labelled as a failed state, those who want to see more rather than fewer perpetrators tried, some lawyers who would prefer judicial proceedings to be on their turf and in full public view and some who fear that the ICC might not take up the case. The ICC could decide that the case does not qualify in terms of the number or duration of the killings; that it does not have evidence of deeds amounting to crimes against humanity as defined; or the evidence might not sustain an indictment.

In an interview published on 10 July by The Standard newspaper, Ocampo said that 'the crimes were probably crimes against humanity', and if necessary he would reach an impartial conclusion about whether or not to investigate the individuals named in the Waki envelope, while also considering other evidence.

Some supporters of President Kibaki's Party of National Unity, including Justice Minister Kilonzo, want a trial by a separate unit set up within the High Court, rather than by a special tribunal. Given the wide disrepute in which the judiciary, seen as malleable and subject to political manipulation, is held, many Kenyans would not support any connection to the High Court. Some lawyers say that if the tribunal became a division of the High Court, the Attorney General could terminate cases. PNU ministers Kiraitu Murungi, Moses Wetang'ula, John Michuki and George Saitoti were said to be against the amended laws necessary to establish a tribunal, presented by Kilonzo to the cabinet on 14 July. They would not support clauses stripping President Kibaki of his immunity from prosecution or other measures designed to preclude executive interference in any tribunal.

Martha Karua, who resigned this year as Minister of Justice, does not consider that either Kibaki or Odinga have the political will to set up a local tribunal. Odinga, who draws support from the areas worst affected by the post-election violence, appears isolated because of his support for a local tribunal. Some MPs believe that criminal convictions would eliminate their political opponents. The PNU has said that any of its members who are charged will be on their own, perhaps a sign of other partings of the way to come.

Already the ODM is split between Prime Minister Odinga and William Ruto, who claims that Odinga has abandoned his Rift Valley base. Meanwhile, there are other veiled hints of a new KK (Kikuyu-Kalenjin) alliance between Ruto and Finance Minister Kenyatta in anticipation of the 2012 election.



This speculation might be wishful thinking by all. Even if - against expectation - parliament approves a bill to set up the tribunal, the government may still decide to ignore or undermine it. Now, with the Waki envelope safely in The Hague, the ICC could take up the case even before the June 2010 deadline set by Ocampo for the government to reach its one-year benchmarks.

The increasing uncertainty about how Kenya's post-election violence will be addressed comes amidst a lack of leadership, an upsurge in criminal and gang violence and increasing ethnic polarisation and corruption. It leaves an irate public fearful of the future. Leaflets warning of future violence are circulating in the Rift Valley, while the criminal Mungiki gangs are said to be rearming their supporters. Without a resolution of the legal and political crisis, politicians are preparing for a worsening confrontation in the run-up to the 2012 elections. Africa Confidential.