

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



Autographed picture of Sir Maurice Henry Dorman, Governor of Sierra Leone until Independence after which he became Sierra Leone's first Governor-General.

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

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Afrique en Ligne

Wednesday, 20 April 2011

International Criminal Court Could Implement TRC Recommendations

Liberia - The TRC Consolidated Report of November 2009 recommends prosecution for scores of former warlords and battlefield commanders believed to bear the greatest responsibility for war crimes and crimes against humanity in Liberia's decade-long civil war. It also recommends the exclusion from political activities for 30 years, Liberians believed to have supported the war effort through financial donations. For several reasons, amongst which critics say is the lack of political will on the part of the Sirleaf Administration, the report is lying gathering dust – receiving only a token promise of a selective, phase-by-phase implementation. Now, former TRC Chairman Jerome Verdier says the International Criminal Court (ICC) could take jurisdiction of the recommendations. The Analyst, reports.

Former TRC Chairman Cllr. Jerome Verdier has suggested that the recent ICC accession of the international crimes case in Kenya could be applicable in Liberia, given the reported prevailing lack of political will and the citizens' mistrust of the criminal justice system in Liberia.

The former TRC chairman made the suggestion when he addressed, early this month, the Public Forum of the Center for Multi-party Democracy (CMD-Kenya) in held in Nairobi in Kenya, on the theme, "Post Conflict Justice, Local Ownership and Interventions of the ICC".

Juxtaposing the Sierra Leonean and Liberian cases

Cllr. Verdier, who is also a human rights lawyer and civil rights advocate, recalled that victims of the Sierra Leonean war excesses got justice because the international community intervened through a hybrid court. But he said the situation in Liberia, though slightly seen in different context, was terribly lagging behind to the point of taking on the character of support for impunity.

"In a slightly different context, justice is yet to take roots in Liberia, while Sierra Leone following a hybrid court trial the product of international agreement between the Sierra Leone Government and its sisterly partners, has successfully lay to rest the ghost of the war," he said.

He said without that level of collaboration, such level of the achievement of international justice would never have been possible.

In view of the success of the Sierra Leonean's search for justice, the former TRC boss said, the victims of Liberia's brutal civil war were unlikely to get justice unless the nation got the same international legal corporation.

"Without doubt criminal prosecutions in Liberia may never take roots in honest without similar robust assistance of the international community as was done in Sierra Leone," Cllr. Verdier said.

The counselor's statement, observer say, second guessed earlier TRC position that political will was all it would require for Liberia to prosecute the 500 plus suspected perpetrators of war crimes and crimes against humanity.

He said whereas the Sierra Leone Truth and Reconciliation (TR) process ran parallel to the prosecution mechanisms, that of Liberia recommended prosecutions in what he called the "form of a domestic criminal tribunal comprising both Liberian and international jurists".

Moreover, he said, Liberia's TRC recommended that a host of lesser crimes be tried under current criminal statutes of Liberia before existing criminal jurisdictions.

The human rights lawyer did not say what was wrong with the Liberian route to justice such that it failed to take on a life of its own where the Sierra Leonean route succeeded, but he said Liberia's problem was part of a larger African judicial problem.

“While other continents are recovering from their past legacies of abuse, violations of human rights and crimes against humanity, Africa appears to be repeating past legacies of crimes and violence which are no longer viewed in the context of legacies but rather an entrenched culture of impunity which has to be eradicated,” he said, falling short of conceding that the much-sung lack of political will may be an insignificant contributor to the problem of impunity.

In his view however, Africa would shed the legacy of support for its entrenched culture of impunity if it dispenses with the governance notion of ‘strongman or strongwoman’, which he said continues to destroy the continent and negate the values of human rights and promote impunity.

Why ICC takeover

With Africa locked in the vicious cycle of the legacies of the culture of impunity while African politics continues to favor strong-arm politicians, who invariably often reject international calls for the prosecutions of individuals who perpetrate crimes against humanity, it would be appropriate to allow ICC to step in.

ICC, in December 2010, assumed jurisdiction of the ‘crimes against humanity case’ by default due to non-action on the part of Kenyan Parliamentarians and rulers. The court acted in accordance with the terms of the Kenyan National Reconciliation Accord (2008).

Without disclosing details of the terms, Cllr. Verdier said one way Liberia would end the apparent impasse regarding the implementation of the TRC recommendations was for Liberia to adapt the Kenyan example.

“The actions of the Kenya People to invite the ICC is ground breaking and may very well inform situation in Liberia where, as in Kenya, the parliament and largely the entire government is reluctant to pursue the course of domestic prosecution,” Cllr. Verdier said to show similarity between the Liberian and Kenyan situations.

He said the reluctance to prosecute wrongdoers in Liberia, as in Kenya where ICC was now intervening, was that the political elites share greatly in the responsibility for the violence, crimes and war which deprives them of the political will and moral authority to provide pivotal leadership in pursuing justice for crimes committed by their ‘comrades’.

What was regrettable, he said, was that those leaders were using the cliché, “African solution for African problems” as alibi to shield themselves and their protégés and relatives from prosecution.

He said the cliché was based on an African solidarity that holds that “We are all guilty of similar crimes in our respective countries so prosecution for one is precedence for prosecution for all”.

“African solidarity against no action or prosecution of perpetrators of heinous crimes in Africa is at its highest on the continent in this age of liberation, freedom and espousal respect for human rights, justice and the supremacy of the rule of law,” the former TRC boss claimed.

The solution to the growing continental problems therefore, he said, was for ICC to take over the human rights and crimes against humanity cases in keeping with the 1998 Rome Statute, which 106 countries, including 30 from African, ratified.

Already, he said, the court was either handling or have concluded trials on the continent from the Sierra Leone, DR Congo, Uganda, Central African Republic, Sudan and now Kenya.

“The crimes over which the ICC exercises jurisdiction, as are the crimes committed in Kenya, Liberia, Sierra Leone, Uganda, the Sudan and perhaps in Iraq, are of such serious nature that they are at best described as international crimes, the effect of which is international, extraterritorial and beyond borders or without borders for justice,” Cllr. Verdier reiterated without saying how ICC obtained jurisdictions of these trials.

But he said that the 30 African countries signed the Rome Statute without coercion meant that they should have no problem recognizing the jurisdiction of the court.

“African states I believe, sought membership of the ICC on account of the inherent dysfunctional nature of African governance and judiciary structures and institutions. Not only is the judiciary in Africa characteristically weak, they are subservient, compromised and corrupted by greed, political interest and partisanship, patronage and justice peddling,” Cllr. Verdier claimed.

Bottlenecks against Liberia acting alone

The human rights lawyer said the weakness of the courts exposed justice seekers to prejudice and local bias, which often let the accused off the hook without much ado due to their political connections, influence, wealth, power or access to power.

He said a TRC Liberia research revealed that because of inherent mistrust of the judicial institutions in Liberia, justice is not the first interest of victims of war and conflicts.

“Combined with other interests, justice is preferable even in the immediate but of priority to survivors and victims are security and basic survival needs which may take the form of reparations or compensation for their harm,” he said.

The former TRC boss, whose commission based most of its recommendations on the contention that “there can never be peace without justice” surprised observers when he noted that “justice alone was never enough on account of the mistrust and dysfunctional nature of justice institutions in Africa”.

“Hence, never guaranteed of justice, they (the poor) want something for themselves that benefit their families and respond to their survival needs,” he said notwithstanding what observers considered a change of position, which they say may be necessary for a fresh look at the TRC recommendations.

Cllr. Verdier said the way out of the lack of guarantees of justice therefore was for Liberia to establish strong and credible institutions of justice that will be transparent, fair and accountable.

“To do this there must be the political will to dispense justice evenly, fairly and without favor or fear. Further to this, the capacity of judicial institutions must be strengthened and resourced to the enviable point of independence that will boost transparency and reduce the risk of mistrial and the political fallout that could result,” he said without commenting on current efforts in Liberia to reform the judiciary and the security sector and to build anti-corruption institutions.

But even political will and judicial capacity building may be insufficient to guarantee justice in Liberia, according to the justice advocate. Other obstacles to justice guarantee in Liberia, according to him, was insecurity for those who may want to testify against perpetrators of injustice against the people.

“Without permanent guarantees of security for person and family, foreign venues and jurisdictions like the ICC seems the appropriate strategy for delivering justice to local populations in Africa. This is even reinforced by the fluidity of the political environment in Africa which, far from being stable, is always changing, increasing the risk of reprisals during upheavals that put an entire population at risk,” Cllr. Verdier told his Nairobi audience.

He conceded that allegations of ICC’s biases against accused persons in Africa – such as its failure to prosecute former US president George Bush and British Prime Minister Tony Blair for their roles in Iraq and Afghanistan – may hold water.

But he said the strong judicial processes of those countries allow for strong evidence against their nationals to be prosecuted by their governments.

Meanwhile Cllr. Verdier said unless Liberia made efforts to remove the impasse against the establishment of justice, “we will continue to deprive our people of the justice they deserve and the ICC and other mechanisms will become the appropriate venues by default simply because we fail to lead, govern and be fair, transparent people of integrity and honor who respects human rights and the rule of law and above all else, the people”.

The Vancouver Sun

Tuesday, 19 April 2011

Accused war criminal lied to officials to enter Canada

Branko Rogan says he was 'scared' he and his young family would not be accepted if he disclosed he was reserve officer at Yugoslavian jail

By Kim Bolan



This 1996 file photo shows an investigator for the UN International Crimes Tribunal for ex-Yugoslavia removing earth from bodies in a mass grave outside the village of Cerska, near Srebrenica, Bosnia, 40 miles (65 km) southeast of Tuzla in the Serb entity.

Photograph by: ODD ANDERSEN, AFP/Getty Images

Alleged war criminal Branko Rogan admitted to the RCMP back in 1998 that he lied to Canadian officials about working at a notorious jail where Muslim prisoners were beaten and tortured.

In a videotaped interview played in Federal Court on Monday, Rogan said he was worried he would not have been allowed to come to Canada if he disclosed that he was a reserve police officer in 1992 at the jail in Bileca, in the former Yugoslavia.

"I was scared that they will not accept me," Rogan told RCMP Insp. Paul Richards, then with the war crimes section in Ottawa.

Rogan said he was desperate to get out of the region with his wife and three small children.

"I was there with no food, my children had nothing to eat. I had to go somewhere," Rogan said in Croatian to another officer who translated for Richards.

The Canadian government is attempting to revoke Rogan's citizenship, claiming it was fraudulently obtained because Rogan lied about where he was living when the war broke out, as well as his position as a jail guard.

He is challenging the revocation in the Federal Court in a Vancouver hearing that began last week.

Rogan has not attended the case so far, but is expected to come next week to tell his story.

The allegations against him were spelled out in detail during the 90-minute interview at the Burnaby RCMP detachment on Oct. 7, 1998.

Rogan told Richards he knew some Bosnian Muslims living in B.C. had made allegations against him.

"Those neighbours of mine -Muslims -I knew this was going to happen. They were looking at me every day on the street and threatening me -'How come a Serb is here?'" Rogan said. "I should be accusing, not them."

He told Richards that he did work for just 15 days at the jail where Muslim political prisoners were held, but did not participate in any beatings or torture sessions.

He acknowledged, however, that he had heard that beatings were taking place at two separate jails in Bileca.

Richards told Rogan he had information that "some Muslims were tortured with electricity."

Rogan replied: "I heard that." But he denied reserve police had anything to do with it.

"The reserve police were just in the hallways," Rogan said. "The regular police were the ones interrogating these Muslims in those rooms."

Rogan said that while he heard about the torture: "I never saw it."

Richards told Rogan he had travelled all over the world interviewing former prisoners in Sweden, the Netherlands and Austria about their allegations against Rogan and others who had been working at the detention centres in the summer of 1992.

Last week, two men from Sweden testified in Vancouver that they had been beaten and tortured at the Bileca jail and saw Rogan calling out prisoners to be taken away for the brutal assaults. And two Vancouver brothers who were also detained in Bileca for being Muslims told Federal Court Judge Anne MacTavish that Rogan was there and participated in the beatings.

Rogan denied to Richards that he ever struck anyone while working as a guard.

"If these Muslims want to tell the truth, they can say how many letters I brought them from their wives, how many times I gave them things to eat," Rogan said, adding that he also gave them their medicine and even alcohol their wives provided.

Richards asked Rogan who was giving the orders to guards at the jails to beat and torture Muslims.

"Nobody was forced to beat Muslims, but there were people who did it, but nobody had to do that, nobody forced nobody," he said. "There wasn't an order for that."

Richards informed Rogan he was under investigation for war crimes and Rogan called his lawyer from the interrogation room. He then told the RCMP his lawyer had advised him to go home and say nothing, but that he wanted to set the record straight about what happened.

"My lawyer told me not to say anything, but I will say because it is the truth and because I wish to tell that," Rogan said.

The hearing continues.

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Hirondelle News Agency

Monday, 18 April 2011

Former Rwandan governor admits offering no support against Tutsis' attacks

Former Governor of Kibuye prefecture (Western Rwanda), Clement Kayishema, Monday admitted before the International Criminal Tribunal for Rwanda (ICTR) having not supported Rwandan Mayor Grégoire Ndahimana when he sought his assistance following attacks of Tutsi refugees at a church in his commune in 1994.

Kayishema, a genocide-convict, told a Trial Chamber presided over by Judge Florence Rita Arrey that he spoke to Ndahimana, former mayor of Kivumu Commune, on April 15, 1994, at his prefecture office. Ndahimana briefed him on the situation at the Nyange Church and sought for reinforcement of gendarmes to control such attacks.

"I had nothing to give him. Even the few gendarmes who were in Kibuye, three quarters of them had left to the front in Kigali. He (Ndahimana) went away frustrated and he was uncomfortable because I did not meet his request," said Kayishema, currently serving his life imprisonment sentence in Mali, following his conviction of genocide.

He was testifying in French for Ndahimana at the resumption of defence hearing. Kayishema alleged further that he could not follow up what was going on at the parish because he had no vehicles and fuel and even telephone connections had been cut off.

Asked by the defendant's co-counsel, Wilfred Nderitu, whether Ndahimana was in position to stop what was happening at Nyange Church, the witness quickly responded, "he could do nothing given the scope of assailants who were there."

The witness could not, however, account the number of assailants who were at the church as opposed to Tutsis who had taken refuge at the area.

Cross-examined by prosecutor Holo Makwaia, Kayishema admitted that on April 11, 1994, Ndahimana went to the prefecture office to seek for reinforcement and was given three gendarmes, who were deployed to guard the Nyange Church.

The trial continues Tuesday. The prosecution alleges that more than 2000 Tutsi refugees were killed at the church when it was attacked on April 15 and 16, 1994. Ndahimana, who is charged with genocide or complicity in genocide, in the alternative and extermination, as a crime against humanity, is accused of planning the massacres jointly with other officials.

They include parish priest Athanase Seromba, currently serving life imprisonment sentence for his involvement, businessman Gaspard Kanyarukiga, who was sentenced to 30 years imprisonment for similar involvement and Judicial Police Inspector of the commune Fulgence Kayishema, who is still at large.

Ndahimana was arrested in the DRC on August 10, 2009. He was transferred to Arusha on August 21, 2009. He made his initial appearance on September 28, 2009 and pleaded not guilty to all the charges.

FK/GF

Daily Nation
Tuesday, 19 April 2011

Judge to rule on four Hague petitions

By OLIVER MATHENGE omathenge@ke.nationmedia.com



File | NATION Head of Civil Service Francis Muthaura (centre) arrives at the International Criminal Court for the initial appearance.

challenge

In his application, Ocampo wants evidence disclosure to be put on hold until Chamber makes decision on the admissibility

International Criminal Court judge Ekaterina Trendafilova is considering up to four submissions on the Kenyan case even as the defence awaits the calendar to be followed in the disclosure of evidence.

The judge is expected to evaluate submissions made on Monday by the defence and the prosecution to come up with the calendar that will be followed during the disclosure of evidence.

Key among these applications is one by prosecutor Luis Moreno-Ocampo who wants the disclosure of evidence to be put on hold until the Chamber makes a decision on an admissibility challenge filed by the Kenyan Government.

Mr Moreno-Ocampo argues that the disclosure of the identities of witnesses increases their exposure to risk, and should be done only after a final decision on the admissibility challenge is rendered.

The judge is also waiting for submissions by the prosecution, defence and victims on the Kenyan Government challenge to the admissibility of the cases. The different teams have until April 28 to make their submissions before the Chamber deals with the challenge.

Another application is also by the prosecutor in which he is seeking additional conditions for the six suspects — Mr William Ruto, Mr Henry Kosgey, Mr Joshua Sang, Mr Uhuru Kenyatta, Mr Francis Muthaura and Maj-Gen Hussein Ali.

Also on judge Trendafilova's desk are the responses by the defence to the application by the prosecutor on the new conditions.

The six have asked the Pre-Trial Chamber to reject the application, terming the new conditions “unnecessary”.

According to the defence teams, the earlier conditions imposed by the ICC had not been breached to warrant imposing new and tougher conditions.

Mr Moreno-Ocampo wants the six to be appearing in person before the Chamber at least once every six months.

Goldstone's Statements Do Not Trump International Justice

Op-ed

The Cairo Institute for Human Rights Studies



A woman shows blood on her hands during the Gaza war in 2009.

The 26 undersigned human rights organizations express great concern over the attempts undertaken by Israel to bury the recommendations and conclusions of the Goldstone Report, viewing them as clear attempts to ensure impunity for perpetrators of war crimes in the Occupied Palestinian Territories and Israel during Operation Cast Lead in December 2008 and January 2009, during which more than 1,400 individuals were killed, amongst whom were more than 900 Palestinian civilians as opposed to 3 Israeli civilians.

On April 1, 2011, Justice Richard Goldstone stated in his article in the *Washington Post*, "If I had known then what I know now, the Goldstone Report would have been a different document." Perhaps the most significant statement that Goldstone made in the article described his newly developed belief that Israel did not target civilians during the war on Gaza deliberately and as a matter of policy. Consequently, the Israeli government's calls to disregard the entire Goldstone Report, which holds both Israeli and Palestinian parties responsible for committing crimes that amount to war crimes and crimes against humanity, have increased. Additionally, Israel has asked to drop the subsequent Committee of Expert's reports on national investigations into war crimes, which further outlined the ineffectiveness of the national investigations conducted by the Israeli and Palestinian sides.

This latest push for impunity comes while the Israeli government continues to perpetrate grave violations of international humanitarian law and human rights by constructing more settlements in the West Bank, suppressing peaceful protests and continuing the blockade on Gaza—a policy of collective punishment against the entire civilian population of the Gaza Strip. It also comes at a time when the current Israeli government has proven unwilling to take any meaningful steps toward peace by increasing its attacks on Gaza and killing more civilians during the past few weeks.

It is within this context that we urge the international community to seriously confront the systematic impunity that has characterized the Israeli-Palestinian conflict and to begin to hold accountable those responsible for war crimes. International justice and granting retributions to victims are crucial, especially following the failure to provide for true accountability for the crimes that have been committed on a national level.

We further stress that Justice Goldstone's opinions, which he expressed several months following the conclusion of his report and subsequent reports, do not possess any legal authority to annul the findings of the reports, nor should these opinions be used as a tool to impede further investigations. The war on Gaza was not only documented by the Goldstone report but also by the reports of dozens of international human rights organizations.

Thus, it is the responsibility of the international community to ensure that such crimes are referred to the International Criminal Court for investigation, in light of claims that domestic investigations have lacked independence, impartiality, effectiveness and promptness over the last two years, as noted in the report of the Committee of Experts that was presented before of the 16th session of the Human Rights Council. It is clear that investigations by Israel and Hamas into war crimes have not conformed to international standards. Therefore, recourse to international mechanisms of justice, including the ICC, is not only appropriate, but essential in order to begin to address impunity.

The undersigned organizations urge the international community and all actors involved to not impede referral of war crimes and possible crimes against humanity, carried out by any actor during Operation Cast Lead, to the International Criminal Court for investigation.

A historic opportunity exists to convey a clear message throughout the MENA (Middle East and North Africa) region that perpetrators of war crimes are not immune to accountability. This is an opportunity to demonstrate to citizens struggling for democracy across the region that international justice is not a mere tool in the hands of power but rather an impartial force of protection for all victims of war crimes and human rights violations without distinction.

This release was originally distributed by the Cairo Institute for Human Rights Studies: www.cihrs.org/english/default.aspx. The undersigned organizations are as follows:

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Defining 'the crime of crimes'

By Paul Hockenos

Should the slaughter of 'social and political groups' be considered genocide? There is a controversial addition to the debate.

Stanford University historian Norman Naimark is profoundly dissatisfied with the current definition of genocide and has set out to change it.

He is certainly not the first person to argue that the wording of the 1948 UN convention on the prevention and punishment of genocide – the first time genocide as such was introduced into law – is both vague and excessively narrow, letting a raft of modern atrocities off the hook.

The convention, which was one of the legal underpinnings of the Nuremberg trials of Hitler's henchmen, singles out the systematic extermination of ethnic, national, racial, and religious groups. Since then, the term has been refined and elaborated upon by a wealth of scholars and the deliberations of international courts, such as the International Criminal Tribunal for the former Yugoslavia, which have added the bloodlettings carried out in the 1990s in Rwanda and Bosnia-Herzegovina to a list that is also agreed to include, at the very least, the First World War-era Armenian genocide at the hands of the Ottoman Turks.

Naimark's particular beef is that the convention dropped the inclusion of "social and political groups" as possible victims of genocide – at the insistence, primarily, of Stalin's Soviet Union. The original definition of the anti-genocide crusader Raphael Lemkin and all of the early drafts of the convention included social and political groups, but, in the end, the United States and most others acquiesced with Stalin's wishes.

This omission, argues Naimark, is no reason for the Stalin regime of the 1930s and early 1940s – nor, for that matter, Mao's China or Pol Pot's Cambodia – to remain free of the stigma of genocide for their campaigns of mass killing against many millions of their own citizens. His highly controversial thesis is that, taken together and sometimes by themselves, Stalin's various murder sprees constitute genocide.

Murderous episodes

These episodes, each of which earns a chapter, include forced collectivisation (dekulakisation), the 1932-33 famine in Ukraine, the wartime deportations of "punished peoples", and the Great Terror of 1937-38. Together, these particularly murderous episodes in Soviet history claimed the lives of an estimated 15-20 million people.

Perhaps Naimark chose too limited a format in this book – he calls it more of an extended essay – to make his argument in full, as in most places it raises more questions than it answers (admittedly, also a valuable exercise).

Although there is a strong case for including “political and social” groups as potential candidates for genocide, the group would have to be more clearly defined than it is by Naimark, as “enemies of the Soviet state” – a general, shifting term that ranges across landed peasantry, Polish officers, assorted “asocial” elements (such as criminals), ethnic-German and Korean minorities, Baltic elites, out-of-favour Bolsheviks, and others.

There is also the issue of how systematic these killings were. There was nothing like Hitler's racial laws, the means of the mechanised mass killing factories of the gas chambers, or the costly, strategic involvement of the state apparatus to entirely wipe out any one, much less all, of these state enemies. Although Naimark concludes that “the points of comparison between Stalin and Hitler, Nazism and Stalinism, are too many to ignore”, he also admits that there are major differences and that the Holocaust was, on many counts, “worse”.

Oddly, Naimark spends quite a few pages making the point that Stalin was a bloodthirsty, paranoid and exceedingly brutal dictator of the worst sort. But it is difficult to understand how this or Stalin's tortured childhood history figure in his argument about genocide.

In fact, Naimark's description of Stalin lends credence to the counter-argument – that Stalin was a mass murderer, psychopath and criminal, but not a genocidaire like Hitler, who had long been filled with hatred for a people whom he intended to wipe off the face of the planet once and for all.

Naimark's book has come in for substantial criticism along these and other lines. While he claims that he is broadening a flawed, excessively restricted definition of genocide, others say that he is watering it down to a point where the term is meaningless. But this has not put Naimark off. His next project is a sweeping history of genocide, which will certainly compel him to provide a definition of this “crime of crimes” that is more, rather than less, explicit.