

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



A shot from yesterday's outreach event in Moyamba.

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, 23 June 2011

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

2011 Report on Human Rights

SIERRA LEONE

REPUBLIC OF SIERRA LEONE

Head of state and government:	Ernest Bai Koroma
Death penalty:	retentionist
Population:	5.8 million
Life expectancy:	48.2 years
Under-5 mortality (m/f):	160/136 per 1,000
Adult literacy:	39.8 per cent

The government continued to rebuild institutions and infrastructure in the wake of the civil war, promoting development and providing basic health and education. In an effort to reduce the high rate of maternal mortality, the government introduced a free health care policy for pregnant and lactating women and for children under five. Despite some progress however, the country continued to suffer from widespread poverty-related violations of socio-economic rights; a high incidence of sexual and gender-based violence; violations of children's rights; impunity for past crimes against humanity; justice system weaknesses; non-implementation of crucial Truth and Reconciliation Commission (TRC) recommendations; prevalent corruption; and the looming threat of ethnic violence.

Background

Sierra Leone continued to move beyond the legacy of its 11-year civil war (1991-2002), which resulted in economic devastation, infrastructure collapse, mass displacement, and atrocities including sexual slavery, forced recruitment of child soldiers and amputations. There was progress on the legal front with some implementation of recent legislation such as the Chieftaincy Act, Child Rights Act, Domestic Violence Act and Registration of Customary Marriage and Divorce Act.

In October, Sierra Leone ratified the Convention on the Rights of Persons with Disabilities.

Despite the work of the Anti-Corruption Commission, which obtained a number of successful prosecutions, corruption remained a persistent problem.

Justice system

The justice sector remained beset by major challenges. The law reform process, including a constitutional review, made little progress.

The criminal justice system continued to suffer from an acute shortage of magistrates, lengthy delays

in proceedings, overloaded public lawyers, inadequate prosecutorial capacity, delays in the appointment of local court chairs, capacity constraints and corruption, all of which directly impeded Sierra Leoneans' access to justice.

Despite improvements in prison conditions, prisons were overcrowded and had inadequate medical supplies and food. Many detainees were held in prolonged pre-trial detention, and juveniles were detained together with adults. These and other problems combined to make detention in Sierra Leone dangerous and occasionally lethal; conditions were often so harsh that they constituted cruel, inhuman or degrading treatment or punishment.

Police and security forces

Police brutality, corruption, excessive use of force, poor conditions in police detention cells, and unlawfully prolonged detention without charge were commonplace. Police were also often ineffective in maintaining law and order. There were no effective police investigations into ritual murders and few investigations into sexual and gender-based violence.

■ In February, police were sent to quell disturbances by school pupils at the national stadium and injured many children, some as young as six years old.

■ No police were held accountable for the unresolved extrajudicial killings by police in Lungi in September 2009, where three people were shot dead and at least 13 others were injured.

Freedom of expression – journalists

Despite improvements in media freedom since the war, the government failed to abolish the provisions of the Public Order Act of 1965 on seditious libel, which placed undue restrictions on freedom of expression. A petition filed by the Sierra Leone Association of Journalists challenging the constitutionality of the Act was quashed by the Supreme Court in November 2009. No reform initiative took place in 2010, although the President had promised in 2009 that the government would review the Act.

Concerns were raised by journalists that some of the provisions of the Sierra Leone Broadcasting Corporation Act passed in 2009 could undermine the independence of the broadcasting corporation.

Children's rights

Children faced serious violations of their rights in many domains. The government failed to uphold and enforce its

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domestic legislation and to respect its international treaty obligations to protect children and guarantee their rights.

Thousands of children endured the worst forms of child labour in diamond mines and other ultra-hazardous sectors. Sierra Leone's thousands of child miners experienced gross violations of their basic rights. Denied education, health care and basic protections, they endured gruelling and dangerous work. Some died in collapsing pits or mining accidents. Others were scarred for life from the back-breaking work and from exposure to disease.

Few government programmes adequately addressed the continuing special needs of war-affected children and young people – orphans, unaccompanied internally displaced people and former child soldiers. Street children were vulnerable to a wide range of abuses, with little or no protection.

Violence against women and girls

Domestic violence remained widespread. Few cases were reported to the authorities and these were overwhelmingly characterized by inadequate investigation, few prosecutions, out-of-court settlements and interference by traditional leaders. By the end of 2010, only one case had been prosecuted under the Domestic Violence Act 2007. Women's lack of access to the police, exorbitant fees charged by medical officers and pressure to make out-of-court settlements all contributed to impunity and state inaction.

Discriminatory customs continued, such as female genital mutilation (FGM) and forced or early marriage. NGOs made some gains in campaigns to stop FGM among girls but the prevalence was still estimated at around 90 per cent. Laws passed in 2007 – the Child Rights Act and the Registration of Customary Marriage and Divorce Act – prohibited marriage before the age of 18 but were widely ignored. Girls as young as 10 were often married.

Rape of girls by close relatives, schoolteachers and security personnel continued, as did teenage pregnancies, child trafficking, sexual exploitation, and gender discrimination in education.

Maternal mortality

President Ernest Koroma launched on 27 April a "Free Health Care Service" for pregnant women, lactating mothers and children under five. The new programme to abolish health care user fees reportedly cost US\$90m and was expected to cover 230,000 pregnant women and around one million children

under five in 2010 alone. Mothers and children were supposed to access a package of medical care that included all treatment and medicines at no cost, ensuring minimal essential care for all. This constituted a leap forward for a country with some of the worst maternal and child mortality rates in the world.

However, the launch of free care was rushed and ill-prepared. Requisition and distribution systems were inadequate, monitoring and accountability mechanisms were largely absent, so many women and children still had to pay for some or all medicines.

Many factors that contribute to maternal mortality remained unaddressed, such as unsafe abortions, female genital mutilation, early marriage and the lack of sexual and reproductive education.

International justice

The trial of former Liberian President Charles Taylor before the Special Court for Sierra Leone (SCSL) in The Hague continued in 2010.

Since 2002 the Court had sentenced eight men to prison terms: Moinina Fofana; Allieu Kondewa; Issa Sesay; Morris Kallon; Augustine Gbao; Alex Brima; Ibrahim Kamara; and Santigie Kanu. Sam Hinga Norman died of natural causes in 2007 as did Foday Sankoh in 2003. Sam Bockarie, was killed in Liberia in 2003 and Johnny Paul Koroma remained at large.

The few trials before the Court contributed to partial disclosure of the truth about the serious crimes committed in Sierra Leone's armed conflict since 1996. The convictions of the Revolutionary United Front (RUF) leaders Issa Sesay, Morris Kallon and Augustine Gbao were the first for attacks on UN peacekeepers as a violation of international humanitarian law and for forced marriage as an inhumane act constituting a crime against humanity.

However, fewer than a dozen of those responsible for hundreds of thousands of crimes under international law were held to account by the SCSL and most perpetrators went unpunished. The Lomé Accord of 1999 contains an amnesty provision for those responsible for crimes under international law committed in Sierra Leone. This is not a bar to prosecution before the SCSL, but prevails under Sierra Leonean law, so no investigations or trials for crimes committed in the civil war took place before national courts in Sierra Leone.

Concerns also remained regarding the SCSL's inaccessibility to the public, its cost management and slowness, selective justice, inadequate legacy

programmes (to rebuild the local justice system and strengthen local institutions), and failure to prosecute corporate actors such as diamond dealers. In 2010, as the SCSL was establishing a policy on access to its archives, concerns were raised that the policy could be overly restrictive and might not allow prosecutors to use the archives to pursue war criminals in other jurisdictions such as Liberia.

Political violence

The threat of political and ethnic violence between supporters of the two main political parties, the Sierra Leone People's Party (SLPP) and the All People's Congress (APC), grew ahead of elections in 2012. Violence and human rights abuses that occurred during the previous election in 2007, and after the APC victory in 2007, still had not been prosecuted or punished, although a judicial commission found that abuses did take place. Youth supporting the SLPP, the People's Movement for Democratic Change (PMDC) and the APC clashed throughout 2009 and again in mid-2010.

A 2010 initiative by the government to launch a Commission of Inquiry into the alleged extrajudicial execution of 26 people by the government in 1992 increased divisions along political and ethnic lines, as did the gradual replacement of roughly 200 high-level government professionals from the southern and eastern provinces with primarily northern APC supporters. With some major political parties adopting regional and ethnic opinions in their campaigns, 2010 saw a resurgence in identity politics and the sharpening of ethnic and party divisions along APC and SLPP lines.

Perceived ethnic and political biases in the police and army also increased mistrust and hostility. Doubts were raised about the independence of the army and tensions were reported in the ranks. In addition, the ruling APC co-opted "youth leaders" and recruited a number of ex-militia combatants – some implicated in serious attacks on political opponents – to join the Operational Support Division (OSD) of the police. Fears rose that if this practice continued, the opposition might similarly recruit from among the thousands of resettled former fighters, posing a grave threat to the country's medium and long-term security.

Death penalty

Sierra Leone was reviewing its Constitution, and the latest draft apparently retained the death penalty. A new death

sentence was passed in the High Court in Kenema in November. A member of the military convicted in August 2009 after a court martial for a killing was sentenced to death by firing squad but the President had not signed the death sentence by the end of the year. Ten men and three women remained on death row.

Amnesty International visits/reports

- ✈️ Amnesty International delegates visited Sierra Leone in April and October.
- 🏠 Sierra Leone: Government launches free maternal health care (AFR 51/003/2010)
- 🗳️ UN Secretary-General Ban Ki-moon must encourage the government of Sierra Leone to do better on maternal mortality (AFR 51/004/2010)
- 🏠 Sierra Leone: Inquest or commission of inquiry into 1992 extra-judicial executions must form part of a comprehensive plan to end impunity (AFR 51/007/2010)

Phnom Penh Post

Thursday, 23 June 2011

Jurisdiction key in 003 fight

James O'Toole



Photo by: ECCC/POOL

Co-prosecutors Andrew Cayley (left) and Chea Leang.

Cambodia's war crimes tribunal will convene the initial hearing on Monday in a trial that has been more than a decade in the making.

Legal wrangling between the United Nations and the Cambodian government dating back to the 1990s dragged on for years before the two sides settled on an arrangement that satisfied both UN concerns about judicial independence and local sovereignty desires.

Long judicial probes followed legal and logistical negotiations, and pre-trial appeals against the indictment in the case took several months to resolve following the conclusion of investigations last year.

But for all the preparation that has led up to the second trial, it has been overshadowed of late by controversy over the court's Case 003, with tribunal judges standing accused of deliberately botching their investigation under pressure from the Cambodian government, which opposes prosecutions beyond Case 002.

Rights groups and international co-prosecutor Andrew Cayley have urged that the investigation be reopened, a request that so far has not been heeded.

With staff from the investigating judges' office having begun resigning in protest, the conflict over Case 003 appears to have reached full bloom in recent weeks. Some observers say, however, that the seeds for the present disagreement were planted long ago.

"The real crux of the issue appears to be a disagreement over the scope of the tribunal's jurisdiction — a disagreement that was never adequately resolved in the political negotiations to create the court," John Ciorciari, an assistant professor of public policy at the University of Michigan, said in an email.

The 2003 agreement between the government and the UN that established the Extraordinary Chambers in the Courts of Cambodia, as the tribunal is formally known, sets out its mandate to prosecute "senior leaders" and those "most responsible" for crimes under the Khmer Rouge.

Although defence teams are likely to contest the point, there is little controversy over whether the four defendants in Case 002 fall into the category of “senior leaders”.

With their cabinet-level positions in the regime, former KR Brother No 2 Nuon Chea, head of state Khieu Samphan, foreign minister Ieng Sary and social action minister Ieng Thirith had long been envisaged as possible suspects for the court ahead of their arrests in 2007.

In the case of Kaing Guek Eav, the former S-21 prison chief who last July became the first person convicted at the tribunal, Ciorciari said both the UN and the Cambodian government “clearly” considered the infamous jailer to fall into the category of most responsible “due to the particularly heinous nature of his offences and the abundance of evidence against him”.

Alex Hinton, director of the Centre for the Study of Genocide, Conflict Resolution and Human Rights at Rutgers University, called the jurisdiction negotiations a “tricky” issue.

“On the one hand, the negotiators wanted clarity,” he said in an email. “On the other hand, negotiators can’t make the final decisions about who will be tried. This had to be left to the jurists at the court.”

The suspects in Case 003 remain officially confidential but are widely known to be former Khmer Rouge navy commander Meas Mut and air force commander Sou Met.

The pair are alleged to have been responsible for thousands of deaths, though Cambodian court officials have nonetheless argued that the men fall outside the tribunal’s jurisdiction.

“The suspects mentioned [in] the Case File 003 were not either senior leaders or those who were most responsible,” Cambodian co-prosecutor Chea Leang said in a statement last month. The agreement establishing the tribunal, she added, “envisaged the prosecution of a limited number of people”.



But David Scheffer, who was involved in the talks to establish the court in his former role as United States ambassador-at-large for war crimes issues, wrote in an essay last month that negotiators “typically spoke of up to 15 or so individuals ultimately being prosecuted”.

“I am struck by how a distorted view of the personal jurisdiction of the ECCC still appears to deeply influence the work of those whose responsibility lies with an accurate reading of the ECCC Law and the UN-[Cambodian government] Agreement,” Scheffer wrote.

A report released last week by the Open Society Justice Initiative, which monitors the court, supports Scheffer’s point, noting that Meas Mut and Sou Met held positions of significant authority in the KR hierarchy in addition to their alleged direct links to mass atrocities.

“Taken at face value, it is difficult to comprehend how senior officials such as Meas Muth and Sou Met could legitimately be found not to fall under . . . the ECCC’s jurisdiction,” the report said.

The tribunal's international prosecutors have said they will pursue no further cases beyond Case 003 and Case 004, which involves a trio of mid-level KR officials.

Press reports from 2001 cite Prime Minister Hun Sen discussing the possibility of around 10 suspects being tried at the court, but more recently, the premier has been resolute in opposing Cases 003 and 004, telling UN secretary general Ban Ki-moon last year that they "will not be allowed".

Hun Sen has previously cited the potential for "civil war" in response to additional prosecutions, though few commentators see this as realistic. Equally, there is no danger of any high-level officials in the Cambodian People's Party leadership being targeted for prosecution, though Hun Sen may fear that trials beyond Case 002 could nonetheless strike fear into the ranks of former Khmer Rouge defectors now integrated with the government.

"Those in power will never let it get to a level at which it could spread out in any unpredictable way," historian David Chandler said.

Hans Corell, who served as the UN's undersecretary general for legal affairs during the talks to establish the tribunal, said in an email that negotiators "certainly foresaw conflict, mainly manifested in a situation where an international co-investigating judge or an international co-prosecutor wanted to pursue a case and the Cambodian counterpart was of a different opinion".

In Case 003, however, German co-investigating judge Siegfried Blunk has apparently joined his Cambodian counterpart in quashing the investigation, leaving limited recourse for international prosecutors.

Corell said the language setting out the court's jurisdiction "is clear enough", noting that a similar provision at the Special Court for Sierra Leone had been implemented successfully. Instead, he said there were fundamental flaws in the make-up of Cambodia's tribunal.

"The problem is really that the idea of establishing a truly international tribunal for Cambodia was not accepted by the government," he said.

Council of Ministers spokesman Phay Siphon declined to discuss the government's view of the court's mandate, calling this a task for "the lawyers and the judges".

"My suggestion is to go back to see what is the mandate through the law – what is the mandate through the government and the UN," he said.

Agence France Presse

Wednesday, 22 June 2011

War crimes prosecutor seeks to open I. Coast probe

The prosecutor of the International Criminal Court will ask judges Thursday for permission to launch a probe into post-election war crimes allegedly committed in Ivory Coast, his office said.

Prosecutor Luis Moreno-Ocampo "will request authorization from the judges to open an investigation into war crimes and crimes against humanity allegedly committed in Cote d'Ivoire," it said in a statement on Wednesday.

"If the chamber grants the prosecutor authorization to investigate, an independent and impartial investigation will be opened into alleged crimes committed in Côte d'Ivoire," it noted.

The office said Moreno-Ocampo will ask ICC judges "for either summons to appear or arrest warrants for those believed to be most responsible for alleged crimes in Côte d'Ivoire," based on evidence collected.

UN investigators believe about 3,000 people died in the bloody post-election crisis before internationally recognised leader Alassane Ouattara finally ousted his rival Laurent Gbagbo following disputed presidential elections last November.

Tens of thousands more have still to return to the homes they fled.

Fighters on both sides of the conflict have been accused of war crimes, and Ouattara's government has come under fire from rights campaigners claiming only the losing side was being investigated.

The ICC has expressed particular concern about reported massacres in the western Ivory Coast.

Several hundred people were reportedly massacred in the western town of Duekoue, with forces loyal to rivals Gbagbo and Ouattara blaming each other.

Human Rights Watch has said that forces loyal to Ouattara killed or raped hundreds of people and burned villages in a rampage late March.

Ouattara, backed by much of the international community, took power when forces loyal to him, with support from UN and French troops, captured Gbagbo after a fierce battle in Abidjan in April.

Gbagbo refused to quit power after UN-certified results showed he had lost the presidential election.

Ouattara was sworn in on May 6.

Ivory Coast has been under preliminary examination by Moreno-Ocampo's office since October 1, 2003 after its government accepted the jurisdiction of the ICC.

Last December, Ouattara confirmed acceptance of the ICC jurisdiction for alleged crimes committed in the aftermath of the November 28 poll.

He asked the ICC to investigate the most serious crimes, while the Ivorian justice system will handle lesser crimes.

Hirondelle News Agency

Wednesday, 22 June 2011

Verdict Friday for ex-minister and son

Whatever the verdicts and whatever the sentences to be rendered by the International Criminal Tribunal for Rwanda (ICTR) on Friday, June 24, to the six persons jointly accused for genocide and crimes against humanity, it will go down in history.

Judgment of the case dubbed "Butare Trial" comes 10 years after the commencement of the trial on June 12, 2001, 16 years after the arrests of some of the accused and more than two years after the case was officially closed.

Nyiramasuhuko (65), former Rwandan Minister for Family and Women Affairs and her son, Arsene Shalom Ntahobali (university student during the 1994 genocide) have been tried alongside four other government officials from Butare prefecture, South Rwanda for their alleged participation in the 1994 genocide which left over 800,000 people dead in 100 days.

The other accused are two ex-governors of Butare prefecture, Sylvain Nsabimana and Alphonse Nteziryayo and two former mayors, Joseph Kanyabashi and Elie Ndayambaje.

Proceedings lasted over 726 days with 59 prosecution witnesses whereas the defence teams fielded a total of 130 witnesses.

Kanyabashi and Ndayambaje were arrested on June 28, 1995 in Belgium while Nyiramasuhuko and Nsabimana were arrested on July 18, 1997 in Nairobi. Ntahobali was arrested six days later in the same East African country. Nteziryayo was apprehended on April 24, 1998, in Bukina Faso.

Charges and deliberation

Apart from a separate charge of direct and public incitement to commit genocide, Nyiramasuhuko is indicted alongside her son for 10 joint counts including conspiracy to commit genocide, genocide, complicity in genocide, crimes against humanity (murder, extermination, rape and persecution) and war crimes.

The two former governors, Nteziryayo and Nsabimana and ex-mayors, Ndayambaje and Kanyabashi are booked for nine counts each, namely conspiracy to commit genocide, genocide, complicity in genocide, direct and public incitement to commit genocide, crimes against humanity (murder, extermination, persecution and other inhuman acts) and war crimes. They all denied the charges.

The trial was particularly long because of difficulties with the witnesses, and extreme slowness of the questioning. In addition, several expert witnesses were called in the trial and some would remain for a month in the witness box.

During the proceedings and closing arguments, prosecution claimed before the court presided by Tanzanian Judge William Sekule that the six accused supported the mass killings of mostly ethnic Tutsis in Butare between April and July 1994..

"The Butare six heeded the call of then Interim President (Theodore Sindikubwabo) to exterminate ethnic Tutsis[in Butare]," Holo Makwaia, told the three-bench judges when presenting prosecution's oral arguments. The President's call was made on April 19, 1994.

She argued that during the speech, Sindikubwabo exhorted the crowd to fight Inyenzi (cockroaches, meaning Tutsis). "Pauline was in charge of pacification campaigns which meant killing the Tutsis," Makwaia charged, adding: " Shalom was not very far from following his mother's footsteps as he was a killer and rapist."

Another prosecuting counsel, Canadian Madeleine Schwarz, who dwelt specifically on Nyiramasuhuko's alleged participation, said that the defendant was instrumental in giving orders to her son, Shalom, Interahamwe militia and soldiers to abduct, rape and ultimately kill Tutsi girls, women and men.

"Instead of protecting the desperate families [as designated to her ministry], Pauline decided to exterminate the families," Schwarz argued.

According to the evidence adduced by prosecution witnesses the abductions, rapes and killings occurred at several places including at the prefecture office, Butare University Teaching Hospital, Anglican Primary School (EER) and at the roadblocks erected at various areas in the city.

Another prosecuting counsel, Lansana Dumbuya from Sierra Leone, pointed out how Shalom raped Tutsi women and later invited the notorious interahamwe militiamen to continue the serial rapes.

The prosecution has asked for life imprisonment for all the six accused, a maximum sentence the UN Tribunal can hand down to convicts.

Defence teams on the other hand did not let prosecution arguments go unchallenged. During their submission at different times they called for the acquittal of their clients.

"To argue that Pauline Nyiramasuhuko distributed condoms is an insult to her and to the victims and to argue that she even ordered her own son to rape young Tutsi women is an abomination," lamented the seemingly irritated Canadian lead Counsel, Nicole Bergevin in her closing arguments.

Canadian Normand Marquis, lead Counsel for Ntahobali claimed during closing argument that his client should be set free because "several prosecution witnesses failed to identify the accused in the court room and others lied." And Cameroonian Josette Kadji, lead defence Counsel for Nsabimana declared "Nsabimana never asked anyone to kill Tutsis."

NI/FK/ER/GF

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Wednesday, 22 June 2011

Former militiaman arrested after 17 years on the run

Rwandan police has arrested a former leader of the Interahamwe, Claver Zirimwabagabo aka Muhutu, as he was going from Kigali to the place where he was living in Mount Shyorongi, Radio Rwanda reported on Wednesday.

In 2007, Zirimwabagabo, 54, had been sentenced in absentia by a gacaca court to 30 years in jail for crimes of genocide and crimes against humanity, notably for killings of Tutsis in Remera, one of Kigali's neighborhoods.

According to Radio Rwanda, Zirimwabagabo had been living for 17 years in Shyorongi, 20 kilometers from Kigali, where he was working in a mine.

He will be granted a new trial as he was sentenced in absentia in the first place.

SRE/ER/GF

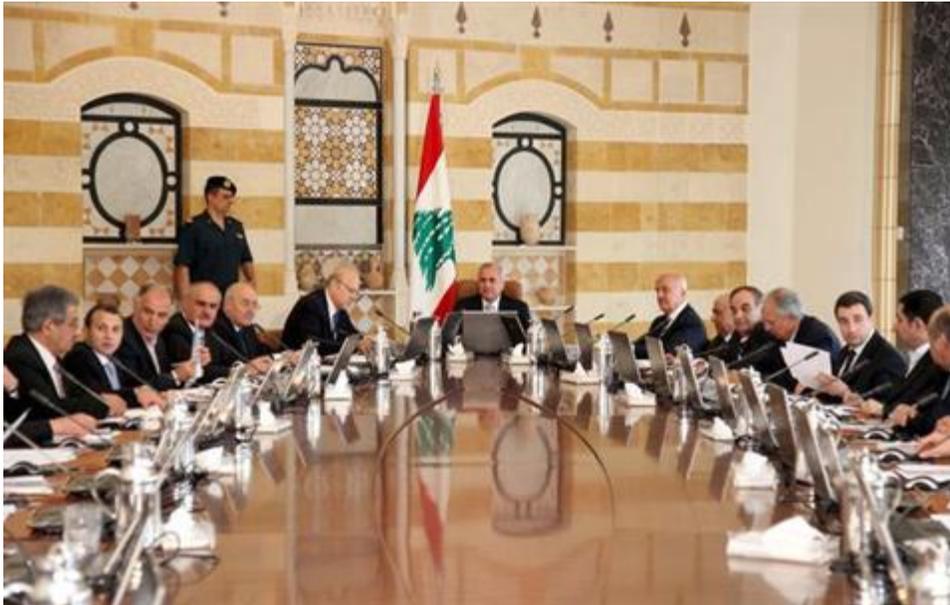
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The Daily Star (Lebanon)

Wednesday, 22 June 2011

Cabinet policy stalls over STL

By Hassan Lakkis



BEIRUT: Discussions over the government policy statement were stalled Tuesday over the Special Tribunal for Lebanon, pending an agreement between Hezbollah and Prime Minister Najib Mikati.

A political source told The Daily Star that the ministerial committee tasked with finalizing the draft policy statement will hold daily sessions until consent is reached over the article on Lebanon's commitment to international resolutions, particularly the U.N.-backed STL.

Mikati, who headed the committee's meeting, said discussions were positive and will be followed up Wednesday.

Hezbollah Minister of State for Administrative Reforms Mohammad Fneish told reporters at the Grand Serail to "forget about the Tribunal," when asked whether the committee tackled the issue in its second meeting Tuesday.

"There are more important points, like the economy," he added.

Information Minister Walid Daouk said that the committee will finalize its work over the draft policy statement during the session Wednesday.

Daouk added that the article touching on Lebanon's commitment to the Tribunal had not been completed.

"We are almost done with the statement's political section ... Discussions over the issue of the STL were not completed and there are ideas being assessed and will be finalized in the next meeting," he told reporters.

Hezbollah ally Free Patriotic Movement leader Michel Aoun had said earlier in the day that the ministerial policy statement will not be at odds with justice but added that the March 8 alliance opposed the manipulation of the truth.

“We will not confront anyone and we want justice but we refuse forgery and decisions taken in violation of international law. Our struggle with them is legal,” Aoun said, referring to the March 8 argument that the U.N.-backed tribunal was established illegally.

The STL, tasked with investigation of the 2005 assassination of former Prime Minister Rafik Hariri, is one of two fiercely disputed issues between the March 8 and 14 camps.

Discussions over the disputed issue of Hezbollah’s weapons were concluded as expected, after the committee decided to endorse in its policy statement its commitment to support the “tripartite equation of the Lebanese Army, resistance and people,” similar to the previous government.

The March 14 alliance had withdrawn its support for the above article, which former Prime Minister Saad Hariri had originally approved in his Cabinet policy statement, before a U-turn when Hezbollah and its allies toppled the government in January after Hariri refused to halt Lebanon’s cooperation with the tribunal.

Hariri’s media office said Tuesday that the Future Movement leader had left for Montreal, Canada, on a private visit with his family after having held talks with March 14 officials over two days in Paris. Political sources told The Daily Star that the ministerial statement would be concise, in contrast to the previous government’s statement.

Mikati’s formation of a Cabinet, in which Hezbollah and its allies hold a majority of seats, has raised fears in the West of the Cabinet’s intention to end cooperation with the STL.

A U.S. official recently described the government make-up as disappointing.

However, U.N. Special Coordinator for Lebanon Michael Williams welcomed the formation of the new government after a meeting with Speaker Nabih Berri Tuesday.

“I welcomed the formation of the Lebanese government last week and also the positive role that Speaker Nabih Berri played in its formation,” Williams said. “Speaker Berri and I agreed that Lebanon now has the opportunity to address many challenges, for example social and economic challenges, that affect the Lebanese people. Security in Lebanon is another challenge,” he added.

Williams added that he agreed, during talks with Berri, over the need to support the full implementation of U.N. Security Council Resolution 1701.

Among other topics on the Cabinet’s agenda is the approval of a new electoral law, which is likely to adopt proportional representation. Sources said that the adoption of the new electoral law was discussed during the ministerial committee’s meeting and will be featured in the policy statement.

Asian Human Rights Commission

Tuesday, 21 June 2011

NEPAL: Review of the UPR recommendations-3 Transitional justice and impunity

A Joint Statement by the Asian Human Rights Commission and Advocacy Forum

During the interactive dialogue of the Universal Periodic Review, continuous impunity for grave human rights violations had appeared as the major concern of the international community. Peer countries have recalled that continuous impunity undermines respect for the rule of law and hampers the peace-building and democratisation process. In response to those concerns, Nepal expressed its full commitment "to establishing Constitutional supremacy, ensuring the rule of law, good governance and human rights, as well as providing a positive conclusion to the peace process by eliminating insecurity and addressing impunity". AF and the AHRC welcome this focus on impunity and the commitments taken by Nepal. Addressing impunity and transitional justice requirements should be made the cornerstone of the government post-UPR action. Nevertheless, recent developments in Nepal have shown that the commitments to bring perpetrators of human rights violations to book and to establish the supremacy of the rule of law are still likely to go unheeded. Such moves are in contradiction to the promises made by the government to the international community. This requires immediate scrutiny from the international community to closely monitor the implementation of the government pledge to put an end to the culture of impunity, as well as renewed commitments from the part of the government to promptly implement the following recommendations in good faith, in a transparent manner.

- "Take necessary steps to set up the Truth and Reconciliation Commission and the Commission on the Inquiry on Disappearances since the failure to act on human rights abuses undermines the respect for the rule of law" (Czech Republic)

More than a dozen countries have inquired about the government's plan to pass the bills establishing the transitional justice mechanisms mentioned in the Comprehensive Peace Agreement and recommended for such passing to occur without delay to establish accountability for conflict-related human rights abuses. AF and the AHRC are encouraged that the government has pledged that those bills should not include any form of amnesty for grave human rights violations and that it would ensure its independence from political interference, in line with international standards. The bills have been tabled before the Parliament for endorsement however, amendments have been introduced targeting core provisions prohibiting amnesty for those accused of gross human rights violations, in accordance with the government commitments. AF and the AHRC warn that scrapping the prohibition of amnesty would contribute to turn the commissions into paper tigers, unable to play a decisive role in the eradication of impunity and would be in clear contradiction to the international standards of transitional justice. We

therefore urge the government to comply with its commitment to establish without delay strong and independent transitional justice commissions and to clearly ban all possibility of amnesty for those having committed human rights abuses during the conflict.

- "Tackle impunity by investigating and prosecuting human rights violations and abuses committed by State and non-State actors during and since the conflict, implementing court orders including on the Nepal Army, and ending political interference (United Kingdom) "

In complement to transitional justice institutions, the criminal justice system of Nepal must be strengthened. The government indicated that it remains committed to implement court orders and agreed to the recommendations to implement the court orders related to conflict-time or present human rights violations. Nevertheless, there is no denying that since the end of the conflict, the persisting trend of non-implementation of court orders against alleged perpetrators has allowed accused of serious crimes to go scot-free. Members of the military, police forces and the Maoists accused of human rights violations during the conflict have remained above the reach of the law, violating the rights of victims to access legal remedies. That court orders have to be binding to all, without distinction, is one of the foundations of a functioning criminal justice system able to bring to book human rights violations and this much-needed commitment must therefore be translated into concrete actions without delays. Nevertheless, four months after accepting this recommendation, no concrete action has been taken to implement pending court orders. The nomination of a minister of Information and Communication against whom a murder case has been registered following a Supreme Court order for his alleged involvement in the disappearance and murder of a school teacher, Arjun Lama, during the conflict raises questions toward the government's commitment to respecting the authority of the courts of justice.

By the same token, the government accepted recommendations to put an end to political interference in the course of justice. Political intervention in the due process of justice has been a major factor contributing to the impunity of human rights violations. We are concerned to see that in spite of the government commitment to stop political interference, the Home Minister recently declared that his office was planning to withdraw cases filed against Maoist cadres from the time of the conflict, which may include cases of grave human rights violations. This makes a mockery of the commitments taken to a zero-tolerance to impunity.

The government should size up the requirements of a commitment to accountability and accordingly put an end to the inclinations to undermine the independence and authority of justice and grant amnesty to alleged human rights abusers. Similarly, it is the duty of the international community not to settle for mere lip-service in the fight against impunity but insist upon immediate action to turn this token agreement into a comprehensive and transparent set of actions.

- "Start the investigation of all outstanding allegations of human rights violations committed during or after the conflict and to bring perpetrators to justice in proceedings which meet international standards" (Netherlands)

Recommendations specifically related to investigations of human rights violations have not been explicitly accepted by Nepal who insists that “allegations of human rights violations have been investigated in accordance with the laws of Nepal”. This is a complete denial of the reality that in a majority of allegations of human rights violations, the lack of professional, thorough and independent investigation fostered impunity. The AHRC and AF recall that it is of crucial importance that Nepal takes concrete and specific commitments to better the way investigations into allegations of human rights violations are being conducted, including by developing a system of accountability for police officers who fail to undertake satisfactory and credible investigations into allegations of human rights violations. Additionally, the government should show a strong political will to have the past crimes properly investigated and prosecuted and send clear and imperative instructions to the police and prosecutions system to properly register and investigate allegations of human rights violations.

Advocacy Forum and the Asian Human Rights Commission will continue to closely monitor the state of implementation of the UPR recommendations in Nepal.