

**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, 8 December 2011

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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Awareness Times
Thursday, 8 December 2011

SLANGO Donates to Female Prisoners at Special Court

By Aruna Turay

The Sierra Leone Association of Non-Governmental Organisations SLANGO yesterday 7th December 2011 donated used clothes, toothpastes, toothbrushes, soaps, and sanitary pads etc. worth thousands of Leones to inmates detained at the Special Court of Sierra Leone New England in Freetown.

Presenting the items to the twenty-six inmates, the National Coordinator for Sierra Leone Association of Non-Governmental Organisation, Shellac Davies said the donation is part of SLANGO's activities in observing the sixteen days of activism for women. She cited that for the past four months SLANGO's gender sectoral meetings have been focused on the issue of women within the justice system, particularly those detained in prison. Shellac Davies noted that these women are part of the family embraced within the 16 days of activism which is being observed worldwide and is recognising the role women play in society and seeks to empower women and improve their lots in every possible circumstance. Madam Davies revealed that their visit to the female prison is aimed at highlighting the challenges the female prisoners are facing and to encourage Non-Governmental Organisations to

look into their plights, especially the reformatory aspect of imprisonment. She said the visit is also aiming to put in place mechanisms that will aid the prison system to reform the convicted prisoners, build their capacity so that they will become productive members of society upon their release.

She used the forum to appeal to the Human Rights Commission and the Judiciary to investigate bottlenecks that kept some of these women prisoners in long term remand and also appealed to the Human Rights

Commission and NGOs working in reproductive health to work towards the prevention of pregnancies whilst in prison.

"While calling on the Ministry of Health to help out where pregnancies occur and to extend the primary maternal health care to the prison system, I want to thank the Ministry of Internal Affairs for giving us the opportunity to visit the female prisoners," she said. On her part, the Officer in-Charge of Gender Affairs in the Sierra Leone Prisons Mrs. Salamatu Kohyee

Bangura thanked SLANGO on behalf of the inmates for what she described as their kind gesture to the inmates.

She said at present, she has twenty-six female inmates in detention.

She revealed that one is serving life imprisonment, ten serving sentences, five on trials and ten are in remand.

She revealed that all the inmates are in good health.

She also used the forum to appeal to other organisations to follow the footsteps of SLANGO.

The New York Times

Tuesday, 6 December 2011

Consolidate International Justice

Letter

Regarding the news article "Ivorian ex-leader appears in court" (Dec. 6): The recent arrest and transfer to the International Criminal Court of the former president of Ivory Coast, Laurent Gbagbo, should raise serious concern about our piecemeal system of global justice.

In addition to the I.C.C., there are currently five different U.N.-affiliated courts adjudicating cases of crimes against humanity: the Special Court for Sierra Leone, similar hybrids for Cambodia and Lebanon, the International Criminal Tribunal for Rwanda, and its counterpart for the former Yugoslavia. These last two are scheduled to be subsumed by the clumsily named International Residual Mechanism for Criminal Tribunals.

Efforts to hold political and military leaders accountable for their crimes are laudable, but this multitude of mechanisms inevitably suffers from an excess of bureaucracy, poor coordination and duplication of efforts. The way forward lies in strengthening the I.C.C.

Chris Hennemeyer, Silver Spring, Maryland

Republica

Wednesday, 7 December 2011

Truth through justice

JOHN ANTHONY TUCKNOTT

We win justice quickest by rendering justice to the other party.

---Mahatma Gandhi

Conflict leaves behind a terrible legacy: the dead, wounded, broken families, destruction. War tears apart societies and weakens states. Violence sets back development, and leaves psychological scars that can take a generation to heal. Countries seeking to consolidate the peace often focus on the physical ruins of the conflict—police posts, schools, minefields. But for that peace to be sustainable you have to delve deeper, look at root causes, help the conflict-affected piece their lives back together, and ensure that the society you are rebuilding does not lapse back into violence.

Nepal will soon join the list of countries that have set up a truth and reconciliation commission (TRC). Such mechanisms have been looked to as ways to establish a single version of what happened during the conflict, to give a voice to victims and witnesses, and to move society forward on the basis of mutual understanding. They have also sought to address at least the most serious violations of fundamental human rights—violations that were in most cases already crimes. In Nepal it was never lawful to abduct, torture, rape, disappear or murder civilians.

That is why many in civil society, and amongst Nepal's international friends and partners, attach great importance to the bill currently under discussion. We are disturbed by reports that some sections of society seek amnesties for those implicated in serious crimes. This would mean that alleged perpetrators would not even face justice in a court of law for the crimes of which they are accused. No implicit deal to excuse those alleged to have perpetrated heinous crimes—on either side of the 10-year conflict—is worthy of the name “gentlemen's agreement”. Gentlemen do not seek to subvert the rule of law, to worsen the anguish of victims, or to play with justice like tokens in a game of dice.

The UK has supported many TRCs around the world, and we are a key supporter of the International Criminal Court. In Sierra Leone, for example, a TRC granted wide amnesties, but a Special Court also successfully dealt with some of the most terrible crimes. Some countries have concentrated purely on truth-seeking and healing, whereas others have sought to deal with the past through TRCs in parallel to extensive prosecutions. There is no one model of transitional justice, and the world community does not always get it right; but there are minimum standards. Indeed, international law and the global political mood have moved away from the provision of blanket amnesties.

There are minimum standards of transitional justice. International law and global political mood have moved away from blanket amnesties.

Yet a dose of pragmatism is plainly required. In order to be successful, mechanisms need to look both backward and forward: they should reflect not only the nature of a country's conflict but also its peace-building needs. In Nepal many victims may indeed choose financial reparations instead of criminal prosecutions—but they must be given that choice. Those who argue that prosecuting the most serious cases would hamper or derail the peace process are wrong.

Looking at TRCs around the world, no country has the capacity (or the evidence) to prosecute every last perpetrator from a complex conflict. Nor would such a move meet the important aim of healing, rather

than widening, divisions in communities across Nepal. And a vindictive TRC might deter important witnesses from coming forward with their testimonies, frustrating the equally important goal of establishing the truth about the conflict.

Nonetheless, certain crimes cannot be subject to blanket amnesties, and the TRC (as well as the Commission of Inquiry on Disappearances) must have the power to recommend cases for investigation. It is the UK's concern that if the TRC proceeds on the basis of blanket amnesty, including for the worst crimes, Nepal may find itself in breach of international law, against its own treaty obligations, and counter to the commitments it made to the UN Human Rights Council.

Unfortunately Nepal does not have a proud history of commissions. While conflict victims, who should be the focus of the TRC, are clear what they want, you need only look at the sorry tales of the Malik and Rayamajhi Commissions to understand why expectations are low. The TRC and Disappearances Commission have to be different if they are to be effective and to embed the rule of law in a democratic Nepal. The political parties and security forces must ensure that they work freely and independently, with the access needed to call witness and inspect documents.

One way to do that is to appoint expert commissioners after public consultations, rather than the usual horse-trading between the parties. And if the Nepali people are to have confidence in the work of these commissions, they will need to strike an appropriate balance between reconciliation and justice. That balance will have to take into account international law as well as the domestic context in which the commissions will operate.

As Nepali politicians finalize the details of the two bills, they should be asking themselves: what do we want Nepal to look like after these two commissions have reported? They have the power to determine the answer. We could see a Nepal which is largely healed, with an appropriate number of prosecutions for the most serious crimes, impunity addressed, the truth established, and with reparations to victims.

Communities would be able to bridge divisions, and victims and perpetrators could find reconciliation. International law would be respected and the democratic transition consolidated. Or will politicians, egged on by those who wish to run from the past, decide simply to pay off victims, storing up resentment for the future? Will they force reconciliation on widows, sons and daughters, whether they wish it or not? And will they help create a Nepal where even the most serious, international crimes are not prosecuted, weakening accountability?

A country embarking on a journey of social, economic and democratic development cannot start by institutionalising impunity. Nepal will have to find the right balance that allows peace to take root without excusing the worst crimes of the past. Politicians will have to show courage, wisdom and vision to do what is right by victims and right by international law. By rendering justice to others, they will themselves win justice.

The writer is the British Ambassador to Nepal

Jurist

Wednesday, 7 December 2011

Political Interference and Judicial Misconduct Impede Justice in Cambodia

JURIST Guest Columnist Nisha Valabhji, Officer-in-Charge of the Defence Support Section of the UN Assistance to the Khmer Rouge Trials, argues that political interference and judicial misconduct in the Extraordinary Chambers in the Courts of Cambodia are matters of grave concern that require immediate investigation...

The issue of political interference in the work of the judiciary at the Extraordinary Chambers in the Courts of Cambodia (ECCC) and its impact on the fundamental right to a fair trial has become a matter of grave concern. The ECCC is a UN-assisted court located in Cambodia and established pursuant to the Agreement between the Cambodian government and the UN [PDF], signed in 2003. Several major NGOs, the executive director of the International Bar Association, and individual commentators have addressed this issue in recent months, calling for measures to be taken.

On October 5, 2011, the Cambodia Daily newspaper reported Cambodian Foreign Minister Hor Namhong as saying that only Cambodia can decide how many additional suspects the Khmer Rouge tribunal will prosecute. This statement echoed similar remarks made by other high-level Cambodian government officials, including Prime Minister Hun Sen, which were reported in the local press. The foreign minister's remarks came at a critical time with Cases 003 and 004 before the ECCC.

Such remarks evince a clear and blatant disregard for the concept of the independence and impartiality of the judiciary, as well as a gravely erroneous assumption that the Cambodian government must be able to dictate the outcome of a legal process. Developments in Case 003 have unfortunately only reinforced this view. Commenting on the long-standing and deep-seated problems in the Cambodian judiciary, UN Special Rapporteur on the Situation of Human Rights in Cambodia, Surya Subedi, emphasized on October 23, 2011, that "the independence of the judiciary needs to be anchored in fundamental laws on the judiciary, which have been awaiting adoption since 1993."

A principled approach must be taken with regard to the manifold problems at the ECCC and the rule of law must be upheld. If an institution responsible for adjudicating allegations of the most serious crimes — serious violations of international humanitarian law — is subject without doubt to governmental interference, fair trial rights cannot be guaranteed in its proceedings, and any decision in any case which has political implications for the ruling government will likely be subject to political interference.

Where such interference manifests itself in judicial decisions which lack legal basis and appear to be written to force particular outcomes, and which, as in three recent opinions of the ECCC's Pre-Trial Chamber in Case 003, consistently demonstrate a split between the national judges (who constitute a majority in every judicial chamber, in line with the Agreement) and the international judges, dangerous and undesirable legal precedents are set in the still-developing field of international criminal law. In their dissenting opinions in these recent decisions, the international judges meticulously set out what they consider to be numerous irregularities and legal errors in the work of Co-Investigating Judges Siegfried Blunk and You Bunleng in Case 003. Judge Blunk recently resigned from the court.

Tellingly, in another decision rendered on September 9, 2010, concerning a defense appeal related to requests to summon six high-level officials as witnesses in Case 002, the Pre-Trial Chamber split again on national and international lines. The minority international judges held that "no reasonable trier of fact could have failed to consider that the above-mentioned facts and their sequence constitute a reason to believe that one or more members of the [Cambodian Government] may have knowingly and willfully

interfered with witnesses who may give evidence before the [Co-Investigating Judges]." The dissenting international judges concluded with an appeal, stating that it was imperative that the Pre-Trial Chamber "do its utmost to ensure that the charged persons are provided with a fair trial." Further, pursuant to the court's internal rules, if a supermajority decision by the second instance chamber (such as the Pre-Trial Chamber) cannot be reached, the decision rendered in the first instance stands, thereby depriving the parties of the right to a decision on appeal.

Such a situation is detrimental to the truth-finding process and to the determination of the precise boundaries of individual criminal responsibility — a complex process in and of itself — and undermines the rights of the accused in Case 002 and the suspects in Cases 003 and 004.

While independent and impartial investigations into political interference and judicial misconduct at the ECCC should be conducted immediately, the UN should also start exploring other solutions for the court without delay. It should, for example, consider revisiting the terms of the Agreement. Or it should consider the withdrawal of cooperation and ceasing to provide assistance to the court pursuant to the provisions of Article 28 of the Agreement.

This issue also has important implications for the work of other courts in the international criminal justice system and is therefore not isolated to the future of the ECCC. It must be resolved in full accordance with the rule of law and principles set out in the UN Charter, rather than with an adherence to the current framework whose negative legacy is only too painfully obvious to see.

Nisha Valabhji is the Officer-in-Charge of the Defence Support Section of the UN Assistance to the Khmer Rouge Trials. She previously worked at the UN International Criminal Tribunal for the former Yugoslavia (2000-2011) and the law firm of Holland & Knight LLP in New York, where she is admitted to practice law. She received her JD from Georgetown University Law Center, her MSc in International Relations from the London School of Economics, and graduated summa cum laude from Brandeis University.