

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



Aerial view of Lumley Beach.

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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Local News

The Sierra Leone Judiciary and the TRC... / *Sierra Express Media* Pages 3-5

International News

Contempt Trial of Eric Koi Senessie Opens... / *Star Africa.Com* Page 6

Partial justice in West Africa / *The Post and Courier* Page 7

Taylor Sentence Draws Attention to Rape / *The Inquirer* Page 8

Time for Much-Delayed Reconciliation and Reform / *International Crisis Group* Pages 9-11

The Absurd International Criminal Court / *The Wall Street Journal* Pages 12-13

Sierra Express Media (Online)

Monday, 11 June 2012

The Sierra Leone Judiciary and the Truth and Reconciliation Commission Recommendations: A case of motion but no progress?

By: Sonkita Conteh

On 29th May 2102, the Sierra Leone Truth and Reconciliation Commission (TRC) website was re-launched with support from the Open Society Initiative for West Africa (OSIWA), after a long period offline due to financial constraints. That same week Charles Taylor was slammed a 50 year jail term by the Special Court for Sierra Leone. While the latter event was covered by major news outlets all over the world, the former was pretty low key, but in my opinion no less important. Going through the refurbished website, which contained the very detailed report of the commission, I was drawn to the 'recommendations matrix' which records progress on the implementation of the TRC's recommendations. The report itself is a poignant account of the causes and course of the decade-long civil conflict as told by those who were lucky to be left alive, as well as a rousing call to action to prevent the recurrence of such a national calamity. As shown by the matrix, the pace of implementation is rather lethargic giving rise to accusations of apathy on the part of the government. The fact that the website was offline for a long time until resuscitated by OSIWA speaks volumes about national commitment to propagating the outcome of such an important process.

For someone working on access to justice issues, the findings of the TRC with respect to the failure of justice makes miserable reading even today, 8 years after the report was made public: 'Institutions such as the judiciary... had become mere pawns in the hands of the executive. Corruption in the judiciary... was rife'.[1] 'Lawyers and jurists in Sierra Leone have failed to stand up to the systematic violation of the rights of the people'.[2] 'There is little or no meaningful access to the courts for the majority of Sierra Leoneans'.[3] In effect, the commission found that the judiciary shared responsibility for the outbreak of war in Sierra Leone- a very substantial indictment for an institution of justice.

In relation to the judiciary, the TRC put forward what it called 'imperative recommendations' which were intended to be acted upon immediately or 'as soon as possible' and in good faith. The commission called for the judiciary to discard laws or practices contrary to justice or which undermined the rights to liberty, equality and justice.[4] It also urged the judiciary to uphold the values that underlie an open and democratic society such as human dignity, equality and freedom.[5]

Ten years after the official end of the civil conflict, has anything changed at all, in the justice sector? There have certainly been several developments in the justice sector, due in part to the stout contribution of overseas development partners and local and international civil society organisations. A few more court buildings have been erected to cope with demand, some in rural areas; there have been a number of local and international recruitments to boost judicial manpower; a code of conduct for judicial officers has been adopted; a fast track commercial court has been established; a raft of legislation have also been enacted including most recently a legal aid act with more, such as a sexual offences law, in the works and a judicial training institute is also taking shape. The government has adopted a new Justice Sector Reform Strategy and Investment Plan 2011-2014, its blueprint for 'bringing justice to the doors of Sierra Leoneans', a previous one with similar objectives having expired in 2010. Has the cumulative effect of these developments translated into palpable improvements in the dispensation of justice by our courts?

Many will agree that in spite of these efforts at pushing through reforms, several critical challenges continue to beset the judiciary, which if not boldly confronted, will continue to situate the judiciary in the

muck of our unpalatable recent history, causing it to lose the confidence of a public that it is meant to serve.

Foremost amongst these challenges is the issue of corruption. A 2010 national public perception survey on corruption[6] put the judiciary in the six topmost institutions where corruption is most prevalent. 75% of respondents also identified the judiciary as ‘being most responsible for the failure of the war against corruption’.[7] For many who have had contact with courts, the survey merely confirmed a long-held view that the judiciary has remained corrupt throughout the post-conflict period despite huge capital and other investments to reform it. The failure by the country’s Anti-Corruption Commission to prosecute two judges accused of involvement in corruption, even though one of them has repeatedly called for such prosecution and the controversial convening of a tribunal by the judiciary instead, reinforces the negative public perception of the judiciary either as protectionist or simply ineffectual. Currently, the trial of a deputy registrar of the high court charged by the anti-graft body for corruption has not proceeded after the initial appearance apparently because someone within the judiciary is playing the role of ‘the godfather’. There are many reports of justices of the peace, magistrates and judges habitually urging litigants to give them incentives directly rather than secure the services of a lawyer. Reports also abound about judicial support staff demanding and receiving payments before they carry out their official functions. Unless bravely and coherently tackled, the issue of corruption will continue to blight the courts forcing many to resort to external means of resolving disputes.

The structure of the judiciary is hierarchical for good reason- to maintain a system of oversight. This however has not helped in ensuring that there is appropriate supervision across all tiers. Many of the courts, particularly the lower ones are painfully shambolic and unproductive. The situation is worse in rural areas where proper judicial management hardly extends. Presiding officers, particularly those on the lower bench routinely behave like part time employees commencing court sittings very late and only for a few hours while litigants and lawyers would have been waiting for hours. The unlucky ones, mostly those without lawyers endure repeated adjournments or lengthy detention until they become disinterested or disillusioned. Now, plaintiffs cynically remark that the reason they take disputes to court is merely to waste the other party’s time rather than seek justice. When they do sit on matters, judicial officers often do not conform to rules of procedure or wield their enormous powers capriciously, especially in relation to bail. A certain judge is cited as being averse to recording court proceedings in the usual long hand; as a result lawyers find it difficult to for instance ‘perfect’ orders based on his pronouncements in court. This usually leaves them and litigants alike ‘high and dry’. In criminal matters, accused persons especially those that are not represented by counsel spend inordinately long periods in detention without their cases being heard on the merit. Presently, a certain court in the rural areas has over 100 cases awaiting trial on indictment due in part to the judge’s very irregular schedule. Most of the accused persons are in detention and some, because of overcrowding, have had to be transferred to another jail, notorious for its terrible conditions. Supervision is essential to ensure consistent performance over time and judicial officers must be accountable for how they spend their time. By adopting a laidback attitude to work, they are essentially denying justice to those seeking it. Besides, there are serious moral questions to be asked of a judge or magistrate who gets paid by taxpayers for doing little or nothing.

A communal criticism from the lower bench directed mostly at senior officers has been the latter’s penchant for interference in court proceedings at the lower level. Magistrates’ courts are the work horses of the judiciary dealing with both criminal and civil cases on appeal, at first instance or as preliminary investigation. It is not uncommon, reportedly, for a magistrate to be telephoned by superiors, while presiding over a case in court and given instructions. Often, this will be about whether or not to grant bail to an accused. Failure to comply with such instructions can attract censure in the form of reduced case docket or constriction of available opportunities. Needless to say that such a practice denigrates the principle of independence that should characterise judicial existence. The judiciary should not just be independent from the other arms of government, its judges and magistrates should also be free from interference from their superiors. Pulling rank on a magistrate to take a particular line of action not only

affects the fairness of the proceedings, it also undermines the presiding officer's self-confidence. Meddling should give way to monitoring.

The adversarial nature of our legal system requires that judges and magistrates exhibit both neutrality and fairness in proceedings. They should be dispassionate and non-partisan, swayed only by compelling evidence and arguments. These traits inspire confidence in even unsuccessful litigants about the even-handedness of the process and positively influence public perception of the judiciary. Increasingly however, there have been reports of legal practitioners developing unwholesome relationships with magistrates in particular, to gain an unfair advantage in matters before their courts, mostly in exchange for money. Many magistrates are quick to point out that theirs is not a well-paid job, but that is certainly no excuse for such a dishonourable conduct. Lawyers who thrive on such ignominious practice may not need to work hard to earn a living in the short term, but eventually, word does get out to the public and their long term practice is jeopardised. Legal malpractice complaints to the law practice regulatory body have also risen sharply, with lawyers being variously accused of misdeeds such as tampering with or misappropriation of clients' funds, conflict of interests and negligence. The general reluctance of lawyers to represent clients wishing to bring legal action against their transgressing colleagues and the perceived inability of the regulatory body to act robustly nurtures the wrongly but widely held belief that lawyers are above the law. That 70% of respondents in the perception survey voted lawyers as the most corrupt professionals is therefore not surprising.[8]

The Sierra Leone constitution and myriad international human rights instruments guarantee the inherent dignity of everyone irrespective of their status. They also enshrine the principle of presumption of innocence, which means that a person accused of a crime is presumed to be innocent until his guilt is proven. A disturbing observation and a clear cause for concern is the sometimes discourteous treatment of litigants, witnesses and accused persons by both judicial officers and lawyers. Magistrates fail to protect them from the coarse goading of lawyers who mask their inability to properly examine witnesses in insult. Regrettably, magistrates have been observed joining in ridiculing witnesses especially in sexual offences cases. Accused persons in detention, and without legal representation, fare worse. Their cases often get called up last only to be postponed, perpetuating a constant pattern of fruitless court appearances and continued detention. During proceedings accused persons are at the mercy of uncivil lawyers or terrifyingly powerful presiding officers. A certain magistrate in the provinces once threatened to imprison an unrepresented accused for two years because he dared to raise his hand in court for permission to apply for bail. The accused had been told in jail that he had a right to speak in court and apply for bail. Clearly the magistrate had a different understanding. That same magistrate also reportedly sentenced an accused to a term of imprisonment without any plea or evidence. For many, contact with the formal justice system is a traumatising experience in which presiding officers and lawyers play an unenviable part.

So, 8 years and lots of investments later, is the judiciary still a pawn in the hands of the executive? Is corruption still rife in our courts? Are lawyers still failing to stand up to violations of rights? Is there meaningful access to courts for the majority of Sierra Leoneans? There certainly will be many different and probably no definitive answers depending on who one asks. A favourite refrain of judiciary apologists is that the courts are 'a work in progress' pointing to the various developments mentioned earlier. Others claim that 10 years after the end of the war, access to justice is in a sorer state now than it was before. Whatever view one might adopt, one thing is however certain- public confidence in the judiciary and lawyers is currently at an absolute low and this is as clear a barometer of progress in the judiciary as one can hope to get. Something more profound than an image repair is urgently required to turn the tide of public perception and rebuild confidence in the judiciary as independent and impartial forum where ordinary people can get justice. The resuscitated TRC website nevertheless provides an opportunity to, be reminded of the challenges of our troubled past, measure present actions and hope that in our lifetime, things might so improve in the judiciary as to command a volte-face in public opinion.

By Sonkita Conteh Esq.

Star Africa.Com
Monday, 11 June 2012

Contempt Trial of Eric Koi Senessie Opens at the Special Court for Sierra Leone

The trial of former RUF member Eric Koi Senessie on contempt charges for witness tampering will open on Monday, 11 June 2012 at 9:30 a.m. at the Special Court in Freetown. The trial is open and the press is invited to attend.

Mr. Senessie is charged with nine counts of trying to convince five prosecution witnesses who testified against Charles Taylor to recant their testimony. Interfering with witnesses constitutes interference with the administration of justice, a crime of contempt, and is punishable by a maximum sentence of 7 years in prison, a fine of two million Leones, or both.

Mr. Senessie has pleaded not guilty to the charges.

A second trial, of four persons accused of interfering with witnesses who testified in the AFRC trial, will begin on June 18.

The Post and Courier

Monday, 11 June 2012

Editorial

Partial justice in West Africa

A United Nations court recently sentenced former Liberian President Charles Taylor, 64, to 50 years in prison for war crimes. Taylor led a reign of terror in his own country, but the conviction is for the support he gave to similar crimes in Sierra Leone, for which he was rewarded with payments in diamonds from mines seized by murderous rebels.

The conviction is welcome, but incomplete. Taylor was tried at the request of Sierra Leone, but his own nation has not charged him with the even more serious crimes committed under his direction in Liberia. His successor, Ellen Johnson Sirleaf, won the Nobel Peace Prize in 2011 for her efforts to improve women's lives and bring peace to Liberia, but she has been ambivalent about bringing charges against Taylor for his roles as a civil war faction leader and president. That's a shame.

Related Content

Not so a U.S. federal court that in 2008 sentenced Taylor's son, known as Chuckie, to 97 years — almost twice the sentence meted out to his father — for torture committed in Liberia when he was the head of the nation's Anti-Terrorist Unit during his father's presidency, including abductions, rape, executions and recruitment of child soldiers. The younger Taylor, an American citizen, is currently serving his sentence in a federal prison.

Newsweek reports that Liberia's Truth and Reconciliation Commission has found that 250,000 people died in the country's two civil wars from 1989 to 2003, and has detailed sickening atrocities that left the survivors physically and emotionally mutilated.

President Sirleaf's failure to address crimes committed during the civil war during Taylor's presidency means that Liberia is failing to heal the wounds caused by those wars and atrocities, leaving a potential for future outbreaks of violence. Press interviews in Liberia have found many citizens who think Charles Taylor was unfairly treated by the special UN court in The Hague.

Taylor richly merits his punishment and more. His crimes were rightly described by the sentencing judge as "of the utmost gravity in ... scale and brutality." They included aiding and abetting murder, rape, sexual slavery, pillage, the recruitment of child soldiers and disemboweling and amputation as forms of punishment.

Because Taylor did not directly participate in the crimes, Judge Richard Lussick turned down prosecutors' request for an 80-year sentence. But the former warlord who brought such grief to West Africa is nevertheless likely to die in a British prison.

The Inquirer

Monday, 11 June 2012

Taylor sentence draws attention to rape

Charles Taylor

The sentencing of former Liberian President Charles Taylor to 50 years in prison for war crimes that included the mass rapes of up to 64,000 women in Sierra Leone is a great step forward in the effort to see that this particularly heinous form of torture becomes less common in countries ravaged by civil and ethnic strife.

Taylor was accused of providing arms and other support to a rebel group called the Revolutionary United Front in exchange for blood diamonds. The rebels' atrocities included not only rape, but amputations with machetes, some carried out by child soldiers, as well as the indiscriminate killing of thousands.

Though rape has been a weapon of war throughout history, the international community has only recently started comprehending its purposeful use during armed conflicts to torture, terrify, and destabilize opponents.

Only in 2008 did the United Nations classify rape as a tactic of war and a threat to international security. In the 1990s, Medecins Sans Frontieres documented the systematic rape of up to 50,000 women as a strategy toward ethnic cleansing during the Bosnian conflict between 1992 and 1995.

But even that atrocious number is lower than what is alleged to have occurred during Sierra Leone's civil war.

Because women are traditionally viewed as guardians of morals and values, impregnating women is seen as "a way of destroying the opposing community," Gita Sahgal, a spokeswoman for Amnesty International told the BBC in an interview.

In Syria now, troops supporting despotic President Bashar al-Assad are said to be raping little girls as well as young men to terrify rebels. The United Kingdom has offered to investigate the rape allegations in Syria. That's appropriate. Assad, too, should pay for what is done in his name.

International Crisis Group

Tuesday, 12 June 2012

Liberia: Time for Much-Delayed Reconciliation and Reform

Africa Briefing N°88 12 Jun 2012

OVERVIEW

Despite marked improvements, numerous grievances that plunged Liberia into bloody wars from 1989 until President Charles Taylor left in August 2003 (originally for exile in Nigeria) remain evident: a polarised society and political system; corruption, nepotism and impunity; a dishevelled security sector; youth unemployment; and gaps and inconsistencies in the electoral law. The November 2011 election was the country's second successful post-war voting exercise but exposed its deep fault lines. The re-elected president, Ellen Johnson Sirleaf, needs to use her relatively weak mandate to focus on reconciling a divided nation.

Inflammatory comments by politicians and sporadic violence in the months leading up to that election showed that democracy remains fragile; after the vote, the main opposition party, the Congress for Democratic Change (CDC), threatened the peace, insisting it had been cheated. Historical enmities also persist, such as those between the residents of Nimba (north central) and of Grand Gedeh (east), home of former President Samuel Doe, over the reprisals Doe took against the former after his 1980 coup. Young people, some of whom fought in the successive conflicts, evidence growing resentment at the enrichment of former leaders in those conflicts and their own lack of economic opportunities.

Taylor's conviction on 26 April 2012 and sentencing on 30 May for war crimes and crimes against humanity in Sierra Leone's civil war raise questions about the fate of others like him in Liberia who have not been prosecuted, nationally or internationally. Some Liberians told Crisis Group they feel uneasy, even unsafe, knowing that those responsible for extreme violence during the civil war remain free. There is little prospect for implementation of the recommendations the Truth and Reconciliation Commission (TRC) made in its 2009 report, including to hold perpetrators to account. The government needs to clarify the relationship between the TRC and Johnson Sirleaf's national peace and reconciliation initiative, led by the women's rights activist, Leymah Gbowee, who shared the 2011 Nobel Peace Prize with the president.

Before the country votes again (in 2017), the electoral law must be revised so as to give the National Elections Commission (NEC) more power to regulate party financing and set stronger criteria for political party registration. The NEC's failure to penalise the use of state resources by the ruling Unity Party (UP) in the recent campaign reinforced opposition perceptions of bias.

The inability of the Liberian National Police (LNP) – built from scratch in 2004 – to control violent protests at CDC headquarters on 7 November did nothing to dispel increasingly negative feelings about their performance. They were heavily criticised

by the Special Independent Commission of Inquiry set up by the president that month to look into the violence. The brutal response to what began as a peaceful protest calls into question the quality of the security sector reform. These concerns led the UN Secretary-General to recommend that while the military component of the UN Mission in Liberia (UNMIL) should be drawn down gradually between 2012 and 2015, the police component should be kept at strength and even reinforced in the same period. Stronger state security presence on both sides of Liberia's border with Côte d'Ivoire is imperative after a cross-border attack on 8 June in which seven UN peacekeepers died.

The president's 150-day action plan, announced on 28 February 2012, prioritises youth unemployment and reconciliation, both critical to sustainable recovery. But Crisis Group's wide-ranging 2011 recommendations aimed at peacebuilding and conflict-prevention challenges remain relevant. The government and NEC, as well as civil society and international partners, should focus on short- and medium-term priorities to address deep divisions in the country. In particular:

To bring about an effective process of national reconciliation, including appropriate accountability measures

- the government should clarify the relationship between the TRC report, especially its recommendations, and the national peace and reconciliation initiative, so as to ensure full national participation and dialogue on the way forward;
- it should also publish the second report of the Special Independent Commission of Inquiry and adopt its recommendation to pass a law enabling prosecution of private and public persons and organisations that commit or incite hate crimes;
- civil society should encourage the national peace and reconciliation initiative to urge the government to lead a national dialogue on the TRC report and its recommendations, as well as to act on the important recommendations made by the Special Independent Commission of Inquiry; and
- civil society and donors should invest in building media capacity and professionalism, including by working with the Liberia Media Centre and the mass communications department of the University of Liberia to establish a training centre and by encouraging exchanges with countries that have more established media.

To strengthen national development equitably throughout the country

- the government should fulfil the promise in the president's inaugural speech and reflected in the 150-day action plan to create sustainable economic opportunities for young people as a disincentive to violence and thuggery; and
- focus development efforts in neglected areas such as Westpoint (in the capital, Monrovia) and volatile areas such as Grand Gedeh near the border with Côte d'Ivoire.

To improve democratic processes and electoral oversight in accordance with best practice

- the new legislature should debate and amend the elections law, aiming at extending and strengthening the NEC's powers to regulate political parties, including, inter alia, possible incorporation of criteria for parties such as internal democracy, financial transparency and significant representation in all regions; and introducing incentives to gradually strengthen parties'

legitimacy and capacity through the collection and distribution of monies from a special fund for party reform;

- the NEC should work with civil society organisations to address the shortcomings reported by local and international observers during the 2011 elections, especially inadequate voter education and polling staff unfamiliarity with counting and tallying procedures; and
- the government should consider creating an independent body like Ghana's National Commission for Civic Education, including civil society contributors.

To make progress toward an accountable, professional law enforcement service

- the government should urgently seek funding for further police training and material support for essential equipment, including from friendly governments and through budgetary allocations.

Dakar/Brussels, 12 June 2012

The Wall Street Journal

Monday, 11 June 2012

The Absurd International Criminal Court

After 10 years and hundreds of millions of dollars, it has completed precisely one trial.

By ERIC POSNER

Ten years ago, on July 1, 2002, the International Criminal Court (ICC) opened its doors. The treaty that created this new body gave it jurisdiction over genocide, crimes against humanity, and other international offenses committed anywhere in the world, by anyone against anyone. Supporters argued that it would put an end to impunity for dictators and their henchmen, and usher in a new era of international justice.

The court has been a failure. Although it has a staff of more than 700 and an annual budget in excess of \$100 million, the ICC has so far completed precisely one trial—that of Thomas Lubanga, a commander in the civil war in Congo. It took three years and ended with a conviction on March 14, 2012. The appeals have not begun. A few other trials are ongoing or set to begin.

Even by the low standards of international tribunals, this performance should raise an eyebrow. What went wrong?

As with any international organization, the court's ability to operate rests on the consent of states. One hundred and twenty-one nations have agreed to the treaty, a number that sounds impressive. But the 121 include few authoritarian countries that employ repression or conduct military operations. Mostly democracies with some semblance of the rule of law have joined. Since the ICC gains jurisdiction over a defendant only if domestic legal institutions fail to investigate international crimes in good faith, most member countries are those least likely to be subject to its jurisdiction.

Yet where the ICC has exercised its authority, its actions have been controversial. Uganda, the Democratic Republic of Congo and the Central African Republic have asked the court to investigate crimes committed by various rebel groups. In all these cases, the court has been careful not to offend governments willing to cooperate with it—but the upshot has been that it has pursued rebels only and not government officials who might be responsible for atrocities committed by the military.

Even when the court has acted with more independence, it has caused more harm than good. The court's involvement in Uganda's civil war in 2004 may well have helped persuade rebels to temporarily lay down their arms. But the refusal to withdraw its indictments has so far interfered with attempts to make peace with the rebels, who demand amnesty.

The ICC has also intervened in Kenya, on its own initiative, in the wake of violence that accompanied elections in 2007. Criminal investigations of top-level Kenyan politicians, conducted at a snail's pace, have inflamed tensions in that country but without producing a resolution.

The ICC indictment of Sudanese President Omar al-Bashir in 2009 did nothing to bring peace to that country. Other African countries continue to welcome him to their capitals in violation of their treaty obligations.

The court also indicted Moammar Gadhafi, whom Libyan forces murdered, and his son Saif Gadhafi, who is being held by one of the many rebel factions in that unhappy country. An impasse has arisen because

Libyans have no desire to yield Saif Gadhafi to the comforts of a Dutch jail and would much prefer to execute him. (The ICC cannot impose the death penalty.)

Meanwhile, African countries accuse the ICC of bias against Africans, as it has never indicted people from any other continent. And few countries have shown much inclination to capture indicted suspects and hand them over to the court.

Why does the International Criminal Court have such difficulty? Unlike a national court, the ICC must constantly convince governments to support it while at the same time avoiding the impression that it is a tool of governments. For all the talk of the "global rule of law," this is an intensely political process and essentially contradictory.

The court focuses on Africa because African countries are weak. It operates with incredible slowness because it needs to give the impression to suspicious audiences that it is fair. But because it moves so slowly, it cannot react in a timely manner to fast-changing international events—and it does little to deter dictators, whose life expectancies tend to be short in any event. The upshot is that the court is both distrusted and ineffectual.

The United States was heavily criticized in 2002, when President Bush "unsigned" the treaty that President Clinton had signed near the end of his term. There were concrete reasons based on national interest to withdraw, however: For example, the U.S. could not prevent the court from targeting its citizens, including soldiers and officials.

Now, with the benefit of hindsight, it is clear that the ICC will serve no country's interests, let alone international justice, whatever that might mean. It is too weak to deter atrocities, end impunity or keep the peace, but it is strong enough to serve as an irritant to international relations.

Mr. Posner, a professor at the University of Chicago Law School, is the author of "The Perils of Global Legalism" (University of Chicago Press, 2009).