

**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

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Press clips are produced Monday through Friday.
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Snoqualmie Valley Record

Monday, 6 August 2012

<http://www.valleyrecord.com/community/165192186.html>

Valley's Joshuah Lisk in law school, heads to the Hague

Joshuah Lisk, who just finished his first year at Case Western Reserve Law School, is studying International Law in Cleveland, Ohio, making the Deans List both semesters.

Lisk is a 2006 graduate of Cedarcrest High School and a 2010 graduate of the University of Colorado at Boulder. This summer he is in Den Haag, Netherlands interning for the prosecutor on the Charles Taylor appeals case. Charles Taylor was the president of Liberia and was just found guilty of war crimes. Joshuah was one of 5 interns picked to work on this International case.

Joshuah's parents are Kim & Stuart Lisk of Carnation.

Institute for War and Peace Reporting

Monday, 6 August 2012

Commentary

Mali Case Throws Spotlight On ICC Budget Constraints

The International Criminal Court, ICC, has promised to probe allegations of human rights abuses during a coup in Mali earlier this year.

However, the court's resources are severely stretched by the cases and trials already before it, and it is far from clear whether it has the capacity to launch a new in-depth investigation.

Mali was referred to the ICC on July 18, less than three months after the then prosecutor Luis Moreno-Ocampo announced that he was looking into possible war crimes in the west African state. Some observers believed his announcement was designed to deter perpetrators from committing further atrocities. (See [ICC Turns Attention to Mali](#).)

A referral does not mean the court will automatically take on the case in question.

Some think that budgetary constraints mean that this is one case that will just slip by, despite the insistence from some human rights groups that systematic abuses have been taking place.

William Schabas, professor of law at Middlesex University in London, says he has no evidence that availability of funds plays a part in the ICC's decision whether to open formal investigations, but he believes that "if it isn't the case, it should be the case".

"At some point, an institution like this has to start making strategic decisions because it can't do everything. Even in the DRC [Democratic Republic of Congo], they've just scratched the surface. [Thomas] Lubanga wasn't the only person recruiting child soldiers - why haven't they gone after the others?"

Schabas believes that, by necessity, the court is going to have to prioritise any new work that it takes on.

FUNDING SQUEEZE AFFECTS ONGOING AND FUTURE WORK

Even if it does not add any more cases, just working on current ones is a challenge to the ICC's resources. For the past two years, the signatory states that decide the budget have adopted a policy of zero growth for the court, insisting that it free up funds by making cuts in "non-core" areas.

When member states first decided to freeze the budget at the end of 2009, the ICC only had four "situations" - meaning cases that it might investigate and prosecute - before it, in the DRC, Uganda, Darfur and the Central African Republic.

Since then, the ICC has added Kenya, Libya and the Ivory Coast.

Moreover, from next year the court will have to start paying six million euro a year for its premises, after the expiry of a ten-year agreement under which The Netherlands waived rent.

The latest report from the budget committee of the Assembly of States Parties, the ICC's governing body, recognises that the court needs more money to meet these additional expenses.

Despite this, some member states are still reluctant to loosen the purse-strings.

Of the five largest contributors to the ICC - France , Britain, Germany, Italy and Japan - many cite domestic budget constraints, while also pointing to a need to rein in how the ICC spends its money.

"There is a natural tendency of the budgets of international organisations to expand if not checked properly," said Sadaharu Kodama, legal advisor at the Japanese embassy in The Hague. "At the same time, Japan is in a very difficult financial situation and it has been decreasing its expenditure even for its own government agencies."

Japan is the leading funder of the court, pledging about 25 million US dollars for 2012. Kodama said his country had been "more flexible than some other major donors" during negotiations on the ICC's budget.

Germany's foreign ministry also registered concern about the court's spending patterns, while underlining its full support for it.

"Germany is confident that effectiveness and efficiency of the court can be improved by an ambitious agenda of priority-setting and corresponding reallocation of resources," a ministry spokesman said.

Anna Kotzeva, director of the Hague-based Peace and Justice Initiative, says cutting the ICC's budget in the name of austerity does not make sense.

"If you look at the cost of buying a submarine or a stealth fighter, the amount that member states are being expected to pay to finance the ICC is negligible," she said. "The ICC's budget may be an easy thing to cut, but in the grand scheme of things, funding international justice makes very little difference to state coffers."

The ICC did not respond to repeated requests for comment on these matters, made over the course of a month.

IMPACT ON ESSENTIAL AND "NON-CORE" WORK

There is now a risk that the financial considerations could colour decisions by the ICC prosecutor on whether and how to conduct new investigations.

"Budgetary constraints mean that when the ICC opens a new investigation, it has to rely on investigators that are already working on another situation, following a 'sequential approach' to investigations," Patrick Baudouin, honorary president of the International Federation for Human Rights, FIDH, said.

Even now, investigative teams are often required to work across more than one situation, according to FIDH.

"This situation is far from ideal, as it makes it difficult to maintain in-depth investigations, raising the risks in terms of preservation of evidence, and poses serious challenges to perceptions of impartiality," said Baudouin. "We would like members of an investigation team to be dedicated to one situation and not two or three. But a lack of adequate funding makes this difficult."

Budget pressures are also affecting other areas of the court's work such as assistance for victims.

In her swearing-in speech on June 15, the new ICC prosecutor Fatou Bensouda said the victims of crimes under investigation would be a central priority.

"We should focus on and listen to the millions of victims who continue to suffer from massive crimes," she said.

Yet victim participation in the cases before the court is already a casualty of cost-cutting.

Earlier this year, Sureta Chana, who represents victims in the case against Kenya's former higher education minister William Ruto and radio broadcaster, Joshua Arap Sang, travelled to Nairobi with her case manager Mariana Pena.

They planned to meet 280 of the 327 individuals whom they represent, and had asked the ICC for a budget of 13,000 euro to complete this work. But once they arrived in Kenya, they were told that they would receive just 2,000 euro, and as a result they were only able to meet 30 people.

"Most of the funds requested were meant to pay for transportation and lunch for the victims to attend meetings with their lawyer," said Pena. "If they cannot meet with their lawyer, they cannot participate in a genuine manner... and are deprived of the possibility to exercise their right."

Pena said the consequences of the funding cut went far beyond inadequate representation for victims, especially in a climate where the ICC's opponents are keen to damage its reputation.

"Our field team had been mobilising victims for weeks before we arrived in Kenya, as it takes significant time and effort to prepare the meetings with victims," she said. "Victims were naturally disappointed that we couldn't meet them and they couldn't understand how the court, which they view as a rich western institution, couldn't [pay]. Because of the [political] situation in Kenya... some thought that we were lying and there might be another reason that we couldn't meet them."

Another area where problems have emerged is outreach - the process by which the ICC explains its purpose and activities to people in the countries where it has cases. Alison Smith, legal counsel at No Peace Without Justice, an NGO, says that, although the court is taking on more and more cases, budgetary pressure from the ASP means that outreach cannot keep up.

"Up until a few years ago, outreach was protected from budget cuts," Smith said. "[But] in the last few years, there has been a concerted push from the ASP to reclassify outreach as a non-core function of the court... What we're seeing now is the outreach budget being spread ever more thinly over the increasing number of cases that the court is looking at."

With the growing need in Kenya, resources have been reallocated from the ICC's outreach work in Uganda. Whilst Smith welcomes the strengthening of the court's outreach operations in Kenya, she regrets that it comes at the expense of activities in other countries. (See [Has ICC Lost Touch With Darfur Refugees?](#) for more on this topic.)

Meanwhile, outreach operations have not even begun in Libya, where the authorities are still refusing requests to hand over Saif al-Islam, son of the late leader Muammar Gaddafi. In June, four ICC staff were arrested in Libya on suspicion of spying and held for nearly a month.

Smith contends that a proper outreach programme can help smooth the way for the ICC's work.

"Outreach is an essential part of the work of the court's mandate to deliver justice around the world," said Smith. "People who do not understand why the ICC is there or what its role is are less likely to cooperate with investigations than those who do."

Smith says that, in the long run, spending money on outreach actually represents a saving in costs.

"Outreach improves the efficiency and effectiveness of investigations, and reduces the danger of misinformation circulating. Once misinformation has taken hold, it can be very hard to set things on a different course," she said.

TACKLING SYRIA?

With every day bringing news of fresh bloodshed in Syria, there are mounting calls for the country to be referred to the ICC. Since Syria has not signed up to the court, this can only happen with the approval of the United Nations Security Council.

Russia, which wields a veto on the Security Council, has so far resisted calls to bring its ally before the court.

If efforts to refer Syria do succeed, some experts believe the Security Council should provide additional funding, since the ICC's current financial position probably rules out launching a thorough investigation.

According to Paul Seger, the Swiss ambassador to the United Nations in New York, "From a purely logical point of view, it makes sense that if the Security Council is going to mandate the ICC to look into a particular situation, then the Security Council or the UN in general should meet the cost of this. After all, you don't generally retain a lawyer without expecting to pay for this service."

So far, the UN has referred two cases to the ICC - Sudan/Darfur and Libya. In these cases, however, it is ICC member states that have to absorb the extra costs, as the relevant UN resolutions make clear.

Unlike investigations requested by member states, the ICC cannot refuse to take on any case that is referred by the UN.

Seger says that even if the UN refuses to come up with funding, arguments about funding must not undermine the valuable role the ICC plays.

"The ICC is very important not only for international justice, but also from a peace and conflict-mitigation standpoint," he said. "I strongly believe that there can be no lasting peace without justice. If the crimes of the past remain unresolved for a prolonged period of time, this might very well create the new germination for future conflict at a later stage."

Switzerland is part of the "Small Five" group of countries, which also include Costa Rica, Jordan, Lichtenstein and Singapore, which have been pushing for reform of the Security Council. In May, the group submitted a draft resolution recommending that members of the council refrain from using their veto to block action "aimed at preventing or ending genocide, war crimes and crimes against humanity".

The ensuing furore from the Security Council's five permanent members astonished Seger, and forced the draft resolution off the table.

"Our resolution represented a moderate and down-to-earth set of recommendations to improve the working methods of the Security Council, thereby increasing both transparency and accountability," he said. "The backlash this provoked shows that if the Council cannot even be reformed on very technical issues, what hope does an attempt at wider reform have?"

FINDING A THIRD WAY TO FUND THE ICC

The way the ICC is funded at the moment - using annually-assessed contributions from member states - is not the only way things could work. One alternative method, already used in ad hoc tribunals like the

Special Court for Sierra Leone and the Special Tribunal for Lebanon, is to seek voluntary donations from countries.

Cesare Romano, an associate professor at Loyola Law School in Los Angeles, has followed the constant wrangling over budgets ever since the ICC's founding treaty, the Rome Statute, was first drafted. He believes a little-known court in the Caribbean offers a better way of doing things.

The Caribbean Court of Justice was set up in 2001 to settle regional disputes. Rather than negotiate its budget periodically, as happens with the ICC, it was decided that each participating state would contribute a certain amount of money to the court, for a total budget of 100 million dollars. This sum is then administered by the Caribbean Development Bank, which generates a steady income for the court by investing the money.

Romano says there is no reason why such a solution could not be applied to the ICC. In the process, the method would put some distance between member states' contributions and their particular view of the court, the cases it pursues, and their political ramifications.

"This would significantly enhance the independence of the court," he said. "It would insulate the court from the political cycles, and mean that the budget wouldn't become a focal point for the frustration of member states who disagree with particular decisions."

Blake Evans-Pritchard is an IWPR reporter and trainer in The Hague.