SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE

Flashback to November 2004: Panorama of the Special Court

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:
Friday, 1 November 2013

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
Outreach and Public Affairs

Local News

International News

Awoko
Thursday, 31 October 2013

Appeals Chamber Overturns Contempt Conviction

A three-judge panel of the Appeals Chamber, by a majority, yesterday overturned the contempt conviction of former Special Court defence investigator Prince Taylor.

The panel, consisting of Justice Emmanuel Ayoola (presiding), Justice Renate Winter, and Justice Jon Kamanda, delivered their judgment in The Hague. Prince Taylor and his counsel participated in Freetown by video link.

In their judgment, read out by Justice Ayoola, the majority of Judges (Justice Winter dissenting) overturned Prince Taylor's conviction on the grounds that it relied heavily on testimony by Eric Koi Senessie, who had admitted giving false testimony in his own contempt trial.

The Judges found that the evidence used to corroborate Senessie's testimony was either circumstantial and could be subject to another interpretation, or did not in fact corroborate Senessie's evidence.

The Court, by a majority, found that no reasonable trier of fact could have placed decisive weight on Senessie's evidence to convict Prince Taylor, and therefore acquitted Taylor on the five counts for which he had been convicted. Four of those related to "otherwise interfering" with Prosecution witnesses who had testified against former Liberian President Charles Taylor, and the other was for "otherwise interfering" with Senessie, at the time he was about to give evidence in contempt proceedings before a Chamber. Justice Winter read out a dissent which would have upheld Prince Taylor's conviction on all counts.

On 14 May 2013, the three-judge panel of the Appeals Chamber had dismissed Prince Taylor's appeal for being filed out of time, and for failing to either apply for additional time or to file with a deficient filing form, meaning that the appeal was not properly before the Chamber. On 4 June 2013 the Judges accepted a re-filed appeal which included an application for additional time.

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Nationalist
Thursday, 31 October 2013

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Torchlight
Thursday, 31 October 2013

Parliament Squeezes Prisons Department

By Sallieu Tejan Jalloh

The Parliamentary Oversight Committee on Human Rights yesterday ordered the Director of Prisons, Sampha Bilo Kamara to give unhindered access to the Human Rights Commission to go about their monitoring and inspection of all Prisons in the country .

The Committee Chairman, Hon. S.S. Thomas read a unanimous resolution put together by the committee after having close meeting with colleague parliamentarians on the way forward to address the dispute between the two government institutions.

It could be recalled that the office of the Human Rights Commission Sierra Leone

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Parliament Squeezes Prisons Department

From Front Page

recently had a misunderstanding with the Prisons Department for refusing the Commission access to monitor and inspect the welfare and conditions of inmates at Pademba Road Prison. The action of the Prisons Department to refuse the Commission access was considered very challenging by the Commission leaving them with no alternative but to report them to Parliament.

Director of Prisons, Sampha Billo Kamara told the Committee Members that his institution has on three occasions granted permission to officials of the Commission to carry out their inspection and monitoring of inmates at the Pademba Prisons, an allegation denied by the Commissioner of HRC, Reverend Moses Khanu.

"We have allowed them access on several occasions to inspect the Prisons," Mr. Chairman , Kamara told the Committee furthering that they have records of some of the officials from the Commission that went to the Prisons on inspection and monitoring exercises.

In his response to the Prisons Director, Commissioner Rev. Khanu said may be the officials the Prison Director made mention of were those working for Civil Society organisations and not the Commission.

"As far the HRC is concern whenever we send out our officials to go out on such an errand we do ensure a free flow of communication within the Commission and that of whatever institution. So those people that came to the Prisons who were allowed access to inspect and visit the Prisons are not our staff," the Commissioner added.

Hon. Foday Rado Yokie who happens to be a member of the Committee, said for the Prisons Department to deny access to the Commission simply means they were hiding something. He added that as a onetime prisoner himself who spent eleven days at Pademba Prison he was faced with a situation wherein his wife was denied access to see him. He made known to the Committee how Prisons Department is fond of behaving differently expressing that at the time he was incarcerated he observed a lot of shortfalls at the Prisons.

Building a defence on the side of the Commission, Hon. Umar Paran Tarawally described the action of the Prisons Department to deny the Commission access as an affront against Parliament on the grounds that HRC was created through an Act of Parliament.

Deepening the Sores of Impunity:

Ibrahim Tommy

Why Africa Must Rethink its Strategies

At the request of the leadership of Kenya, the African Union on October 11-12 convened an extraordinary summit in Addis Ababa. One would have hoped, in light of the recent, terrible events on the continent, that such a summit was meant to discuss strategies for preventing another Lampedusa disaster; or how to address the serious electrical power crisis on the continent; or how to address the serious threat of terrorism to the continent. Disappointingly, the summit was not about discussing a stronger partnership to address the serious economic and political challenges confronting Africa. No! The summit was fully funded by African governments to discuss how to further widen the impunity gap on the continent. It was purely meant to consecrate an unholy plan, conceived through an alliance between the Kenyan leadership and their East African counterparts, to shield the "big men" on the continent from facing justice. It was about legitimizing the "big man – no case" tradition that has so permeated the continent for decades.

The main agenda of the summit was to persuade the 34 AU member states that have signed the Rome Statute to withdraw en masse, and weaken the powers of the International Criminal Court (ICC) in fostering accountability and justice for serious crimes on the continent. Many African leaders believe the ICC has been "targeting" the continent and its leaders unfairly. They have accused the Court of delivering selective justice as all of the Court's current cases are in Africa. Some governments, including the Government of the Republic of Kenya, have dismissed the ICC as a neo-colonial outfit designed only to hound African leaders. In response, many have argued for the need to set up an African-based institution mandated to investigate and prosecute violations of international law.

The outcome of the Addis extraordinary Summit was a mixed bag in the sense that while Kenya and its allies couldn't succeed in obtaining a resolution for a mass withdrawal from the Rome Statute by the 34 AU member states, some of the resolutions reached at the summit were simply not reflective of Africa's commitment to international justice. The participants at the extraordinary summit resolved, among other things, that "to safeguard the constitutional order, stability, and integrity of member states, no charges shall be commenced or continued before any international court or tribunal against any serving AU Head of State or Government or anybody acting or entitled to act in such capacity during their term of office". They also resolved that "the trials of President Uhuru Kenyatta and Deputy President Samoei William Ruto, who are the current serving leaders of the Republic of Kenya, should be suspended until they complete their terms of office".

African Leaders at AU Summit

These resolutions, while extremely disappointing, were the least surprising. The primary objective of the summit, which was in some ways achieved, was to shield African leaders, present and future, from facing justice, regardless of the enormity of the alleged offences. The overall effect of the resolutions was to reverse the increasing gains in closing the impunity gap on the continent. Unfortunately, those who assembled in Addis Ababa seemed to have ignored the feelings of the victims of the Kenyan post-election violence, and the painful memory of the 1200 people who perished. To tell victims to wait for at least five years more before justice can be delivered is simply unreasonable. Is there any guarantee that they'll be alive for another day or year? I am not sure anyone of those who assembled in Addis needed lectures on the importance of delivering justice in a timely manner.

Even more disappointing is that the outcome of the Addis Ababa summit gave the wrong signal about Africa's increasing role in strengthening international justice, particularly in the last decade. Since the genocide in Rwanda, and the terrible events in Sierra Leone and across the continent, African leaders have shown remarkable commitment to promoting justice and accountability on the continent. Rwanda's support to the UN for the establishment of the International

Criminal Tribunal for Rwanda (ICTR), the Sierra Leone Government's cooperation with the UN to set up a special war crimes tribunal, and the fact that 34 of the 54 AU member states have signed the Rome Statute clearly underscore Africa's commitment to international justice.

There are growing concerns, particularly by African heads of state, about the seeming uneven application of international justice across the globe. Sadly, powerful states have succeeded in shielding their citizens or allies from facing justice. The UN Security Council has unfortunately let down many victims across the world, including those in central Europe and Syria. The Court has also reportedly declined to investigate crimes allegedly committed in Venezuela and in Iraq by British soldiers. These have led to claims, particularly among African leaders, that the ICC is targeting Africa inappropriately.

The fact that the ICC and the UN Security Council have not been able to expand the reach of international justice beyond Africa doesn't undermine its legitimacy or the relevance of its work. Instead, it creates an unhealthy public perception about fairness or the lack of it in fostering justice for all. It certainly creates an impression that the Court's reach is only limited to Africa. That is certainly good for victims in Africa, but it does undermine any hope for justice for the increasing number of victims in other parts of the world. The fact that many violations in other parts of the world are going unpunished is a tragedy that requires everyone's attention. Still, it is no justification for dismissing the relevance of the Court or planning to discontinue cooperating with it. In fact, it provides additional reason why Africans must work together to address these gaps. As I have often argued, the inaccessibility of justice only deepens victims' sense of grief and increasingly reduces their capacity to reconcile with the past. This could seriously undermine national and global efforts at promoting long term peace and stability.

No disrespect meant, but I share little or no sympathy for African leaders who complain that they are being unfairly targeted by the ICC. First, I have not seen a single instance of a vexatious indictment proffered against any leader by the ICC. In fact, the Court's Office of the Prosecutor, which is now headed by an African, must seek approval from the Court's Trial Chamber (based on evidence presented before it) before trial commences. Second, I am completely unimpressed by the high level of hypocrisy and selfishness displayed by some African leaders. Take a moment to think about this: apart from the fact that African leaders willingly signed the Rome Statute, which created the International Criminal Court, four of the seven cases before the ICC were referred to the Court by the African leaders themselves. Two others, Liberia and Sudan, were transferred to the Court by the 15-member UN Security Council, with the full backing of the African representatives on the Council. In the case of Kenya, and not unsurprisingly, it was the failure of the Kenyan government to investigate the crimes that occurred following the post-election violence in 2008 that prompted ICC's intervention. Both President Kenyatta and Deputy President Ruto had promised to fully cooperate with the Court, regardless of the outcome of the Kenyan election. What is happening now should make every right-thinking person ponder about their commitment to justice for Kenyan victims.

It is also worth pointing out that even as African leaders complain about the ICC's unwillingness to investigate crimes outside Africa, the United States Government has bilateral immunity agreements (BIAs) with many ICC member countries, including those in Africa, that essentially seek to protect US citizens from being handed over to the ICC. It seems to me, then, that many of these states are happy to shield US citizens from facing the ICC, but keep complaining that the Court does not go after other nationals. Simply hypocritical!

> The outcome of the Addis Ababa summit gave the wrong signal about Africa's increasing role in strengthening international justice, particularly in the last decade.

The ICC's work is guided by the principle of complimentarity, which means that it is a court of last resort. Once African states demonstrate that they are able and willing to independently try allegations of serious violations of international law, the ICC would be less active on the continent. The recent decision by the ICC's Trial Chamber in the Libyan case was victory for the principle of complimentarity. So, a major project for African states is to strengthen national accountability mechanisms, including the police and the judiciary, to be able to deliver justice in a fair and transparent manner. Even so, many African states that are signatories to the Rome Statute have not domesticated the law. In order to deliver credible justice for serious violations of international law by

themselves, African states that have signed the Rome Statute should domesticate the law, strengthen accountability mechanisms, and demonstrate a lot more commitment to promoting human rights. Only then shall we begin to genuinely provide a credible alternative. Otherwise, any attempt at withdrawing from the ICC or shielding leaders from facing justice by such hasty resolutions, would only serve as a deliberate effort to deepen the pain and grief suffered by victims of serious offences on the continent.

Promoting Justice for Sexual Offences: Some Persisting Challenges in Sierra Leone.

By Yandama Kabia and Mamie Sulleh

There have been increasing reports of incidents of sexual and gender-based violence across the country. Fortunately, many of the cases reported to the police nowadays wind up in court. Unfortunately, there have been recurring snags that characterize either the preliminary investigation or the trial of such cases. One of the most recent and high profile cases relate to former Deputy Education Minister (II) Mahmoud Tarawallie. The alleged rape incident involving the former deputy minister generated intense debate among members of the public. While some gave credit to the young girl for being so brave to have contacted the police for help, others think it was a made-up story as part of a political witch hunt against the accused. Some of the arguments in the public spehere have been sometimes based on errant ignorance about the elements of the offence (rape).

It is important to note that rape is a statutory crime punishable by the Sexual Offences Act 2012, and hence would be dealt with accordingly.

First of all, the Centre for Accountability and Rule of Law (CARL) would like to commend the effort of the Family Support Unit (FSU) in professionally handling the investigation of the allegations against the minister. In spite of the political status of the accused, the police still pursued him. The action of the FSU shows that as far as they are concerned, no man is above the law and offenders are to be punished. We will also like to commend other human rights organizations , including LAWYERS and DON BOSCO, for their tremendous efforts in helping to protect the rights of the alleged victim.

During the course of CARL's court monitoring exercise, however, Monitors observed that Section (40) of the Sexual Offences Act 2012 which states, inter alia, that special measures should be provided for vulnerable victims and witnesses, was completely ignored when the alleged victim was testifying. The Court clearly failed to provide a witness protection mechanism either by shielding the identity of the witness or asking members of the public to leave the room, among the various modes of witness protection provided by law. Was it deliberate or a genuine mistake? If it was a mistake, it was one that had potentially life-threatening consequences because CARL further observed that while giving her testimony in the full view of the public, unprintable invectives were not only hurled at her mother, but there were clear statements of threat against her person. In fact, CARL was reliably informed that had she not been whisked away to the Family Support Unit

headquarters after she had finished testifying, she might have been lynched by the angry supporters of the accused. This, in our view, amounted to a clear violation of the law and of the right of the alleged victim. Following concerns expressed by some human rights organisations, including CARL, which was later picked up by the prosecuting team, the court introduced a witness protection mechanism for the other witnesses. There were also instances of flagrant violation of the law by media institutions which published the name and photographs of the alleged victim, contrary to Section 41 of the Sexual Offences Act. It states that "No person shall make information that has the effect of identifying a person who is a victim of the offence and there would be a punishment for such persons". It is the primary responsibility of the Law Officers' Department to bring an action against anyone who is deemed to have breached the law. Of course, private organisations or citizens can also undertake private criminal prosecutions. So far, no legal/judicial consequences have followed those alleged violations. Well, how would you address the fact that the court itself was in breach of the

law? When such violations go unpunished, they do not embolden victims of sexual offences to come forward and cooperate with law enforcement and justice institutions. In fact, in the Mahmoud Tarawallie case, for example, some people spoke as though the alleged victim was the perpetrator. That does not help at all.

Another unfortunate lesson that emerged from this particular matter is the apparent negative public attitude against alleged victims of rape. It is also a fact that there is massive knowledge gap in terms of the statutory definition of rape with respect to the giving and withdrawal of consent. Section 6 of the Sexual Offences Act defines rape as an act of sexual penetration with another person without the consent of the other person. It is also important to add that consent can even be withdrawn right before or even during intercourse. Many people seem to think that consent is irreversible. Section (2) of the Act defines the circumstances in which a person does not consent to an act. Such circumstances include where the accused induces the person to engage in the activity by abusing a position of trust, power or authority, or where the person having consented to engage in the sexual activity expresses by words or conduct a lack of agreement to continue to engage in the activity, or where the person is asleep, unconscious or so affected by alcohol or another drug as to be incapable of freely consenting, etc. There are also circumstances determining whether or not a person consented. Basically, there are clear ways by which a person can say or indicate consent to a sexual act and that a person is not to be regarded as having consented just because the person did not physically resist, did not sustain physical injury, or that on an earlier occasion the person freely agreed to engage in another sexual act with that person or some other person.

Going forward, CARL would like law enforcement officers and the judiciary to put mechanisms in place to protect victims and witnesses in cases relating to sexual violence in order to avert the incident that took place during the preliminary investigation involving the former deputy Minister.

At the moment, CARL is not sure whether any professional counselling is provided to victims of rape. There is need for intense counselling before they are allowed to testify because CARL has observed that many victims of rape appear to be psychologically disturbed during their testimony, and tend to give testimonies that conflict with their statements to the police. Even during cross examination, they do not seem to recollect some vital aspects of their statement or testimony. Such apparent inconsistency plays into the hands of the defence, and in a matter where the prosecution is led by untrained police officers, as is often the case, it only helps the defence's case.

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CARL would also like to draw the attention of government to the issue of Safe Homes for victims of sexual and gender-based violence. The Domestic Violence Act 2007 provides for the establishment of Safe Homes for the protection of victims of sexual and gender-based violence across the country. Nearly six years after the law was passed, only one Safe Home has been established in Makeni. Even so, it is not functional. This is grossly unfortunate because it doesn't help our collective efforts at combating impunity for sexual offences as victims might be reluctant to come forward and complain if they are not sure that they can be protected, especially during the investigation and prosecution of SGBV-related cases. There should be operating Safe Homes across the country that victims can reside in. In the absence or scarcity of Safe Homes, victims who need protection are left with no other option but to go back to the society and face the possibility of being repeatedly abused. During the preliminary investigation of the matter relating to the former deputy minister, the alleged victim was kept in the facility of Don Bosco, a Freetown-based charity. It would have been extremely difficult, if not impossible, for her to have gone back home in light of the gravity of the matter. Once victims are allowed to return home, it could create the possibility for them to bulge under pressure from family and change their story or agree to an out-of-court settlement, thus undermining justice and accountability for such crimes. The need to establish a Safe Home is long overdue, but it is still the proper thing to do. It is absolutely needed across the country. The Ministry of Gender Affairs must back up their words with action. It is time to act!

Ghana News
Thursday, 24 October 2013
http://www.spyghana.com/ibn-chambas-talks-governance-leadership-africa/

Ibn Chambas Talks On Governance And Leadership In Africa

By Ghana News -SpyGhana.com

-SNIP-

Students and Fellow Alumni of Legon, forgive me if I feel some pride in revealing that ECOWAS under my watch took bold steps to overturn several military coups d'état, suspended several members for failing to conform to constitutive norms and continues to deploy election monitors while continuing to intervene in political disputes. In 2005 in Togo, ECOWAS in partnership with the African Union overturned the attempted unconstitutional transition in that country following the death of President Gnassingbe Eyadema. We also enforced an arms embargo on Liberia and subsequently forced Charles Taylor out of power in 2003. Guinea and Niger were suspended from the regional community until those nations were able to effect a return to constitutional government. But I must admit that ECOWAS seemed to have lowered the bar in its treatment of the coups in Mali and Guinea Bissau in 2012 resulting in a regrettable divergence of positions between ECOWAS and the AU.

-SNIP

Le Griot
Wednesday, 30 October 2013

Libéria : Plainte de la famille de Charles Taylor

Écrit par Mimouna Hafidh Regions

Selon les plaintes de sa famille, l'ancien président du Libéria, Charles Taylor, actuellement emprisonné au Royaume-Uni, serait maltraité dans sa geôle. Peu après l'annonce de sa peine, l'ex-dirigeant avait souhaité ne pas la purger dans ce pays européen pour des questions de sécurité.

According to complaints by his family, the former president of Liberia, Charles Taylor, currently imprisoned in the United Kingdom, would be mistreated in his jail. Shortly after the pronouncement of his sentence, the former leader had wished not to be served in this European country for security issues.

« M. Taylor est maltraité en prison au Royaume-Uni. Les informations que nous avons révèlent qu'on ne lui donne pas à manger, et on ne lui donne pas à boire ». Des propos tenus mardi à Monrovia par le porte-parole de la famille du détenu. C'était prévisible, tant M. Taylor, craignant pour sa sécurité et sollicitant d'être proche de sa famille, ne voulait pas purger sa peine au Royaume Uni.

> "Mr. Taylor is being mistreated in prison in the United Kingdom. The information we have indicates that they do not feed him, and the do not give him anything to drink." These remarks were made Tuesday in Monrovia by the spokesman for the prisoner's family . It was predictable, as Mr. Taylor, fearing for his safety and seeking to be close to his family, did not want to serve his sentence in the UK.

Aussi, avait-il proposé le Rwanda comme alternative. Pire, la même source, alarmiste, a affirmé que l'ancien homme fort libérien serait en danger de mort : « Nous avons décidé d'en informer la presse parce que, si cela continue dans les deux prochains jours, M. Taylor peut mourir en prison ».

> Also, he had proposed Rwanda as an alternative. Worse, the same alarmist source said, the former Liberian strong man would be in danger: "We decided to inform the press, because if it continues in the next two days, Mr. Taylor could die in prison."

En dehors de ces informations, le porte-parole a aussi évoqué le manque de contact entre l'ex-chef d'Etat et sa famille. Ainsi, cette dernière a été renseignée sur les conditions de détention par le biais d' « amis » et de « contacts ».

> Apart from this information, the spokesman also referred to the lack of contact between the former head of state and his family. Thus, they have been informed about the conditions of detention through "friends" and "contacts."

Une déclaration aussi dépourvue de preuves n'est fort probablement pas de nature à influencer la décision du Tribunal Spécial pour la Sierra Léone (TSSL). D'autant plus que cette instance a pris des mesures spéciales pour assurer la sécurité de M.Taylor, évitant notamment de divulguer son lieu de détention.

> The statement also lacks evidence is likely not likely to influence the decision of the Special Court for Sierra Leone (SCSL). Especially since this body has taken special measures to ensure the safety of Mr. Taylor, including avoiding disclosing his whereabouts.

Pour rappel, le TSSL a condamné l'ancien président libérien à 50 ans de prison pour crimes contre l'humanité. Il lui a été reproché d'avoir gouverné le Libéria dans la terreur avec des rebelles sierra léonais du Front Révolutionnaire Uni (RUF).En échange des diamants, il leur fournissait du matériel militaire et logistique.

> As a reminder, the SCSL has sentenced former Liberian president to 50 years in prison for crimes against humanity. He was accused of having ruled Liberia in terror with Sierra Leonean rebels of the Revolutionary United Front (RUF). He provided them military and logistical equipment in exchange for diamonds,

Associated Press
Thursday, 31 October 2013

International Criminal Court postpones trial of Kenya's president

The International Criminal Court has postponed the trail of Kenya's president on crimes against humanity charges until next year, saying it deeply regrets the latest delay in the case.

Judges said Thursday the case against Uhuru Kenyatta that had been scheduled to start Nov. 12 will now get underway Feb. 5.

Earlier, prosecutors said they would not oppose a delay, saying they needed time to investigate undisclosed issues raised by Kenyatta's defense attorneys.

Kenyatta is charged as an "indirect co-perpetrator" with murder, deportation, rape, persecution and inhumane acts allegedly committed by his supporters in postelection violence that left more than 1,000 people dead in late 2007 and early 2008.

Kenyatta, who was elected president earlier this year even though he had been indicted by the ICC, insists he is innocent.

CNN
Thursday, 31 October 2013
Opinion

Why Kenya's president must face ICC

By Netsanet Belay, Special to CNN

Editor's note: Netsanet Belay is Africa director at Amnesty International. The views expressed are the writer's own.

Like so many thousands of Kenyans, Pamela, David and Kanu are all still struggling to piece their lives together nearly six years after the violence that rocked parts of Kenya following the elections in December 2007.

Finding work, feeding their children and recovering from physical and psychological trauma are just some of their everyday battles.

"I suffered a lot because I have only one hand, but I have been completely forgotten," Kanu recently told Amnesty International. His arm was hacked off with a machete after he tried to save a woman from being raped by 17 men amid the post-election violence.

Life for Pamela, a 24-year-old mother of four, is still incredibly difficult. She has a bullet lodged in her chest after police fired through the wall of her mud hut. After the incident, she tried to follow up the case with the police. The individual she believes shot her still works in a nearby suburb.

David, a former taxi driver, has struggled to support his family since a bullet to the knee cut short his career. He told Amnesty International that when he tried to report what happened to him to the police, they did nothing.

"Instead of helping me, they tried to arrest me for reporting on the government. I haven't spoken to them since," he said. "There is no justice in Kenya, because since I was injured, we reported and nothing was done."

These are only three of the thousands of victims of unthinkable atrocities during Kenya's 2007/2008 post-election violence, when more than 1,000 people died and 600,000 were forced out of their homes. The clashes erupted in December 2007 between groups supporting the winner of the presidential elections and his main rival.

In late 2009 the Prosecutor of the International Criminal Court (ICC) stepped in, when it became clear that Kenya was unable to provide the much-needed justice and reparations to victims of the post-election violence. The Court charged Kenyan President Uhuru Kenyatta and Deputy President William Ruto, both senior political figures at the time on opposing sides, with crimes against humanity including murder, forcible population transfer, and persecution. Joshua arap Sang, a radio journalist, was also charged with similar crimes.

Kenyatta was also accused of responsibility for rape and other inhumane acts – including forced circumcision and penile amputation – carried out by the Mungiki, a criminal gang allegedly under his

control. Ruto and Sang's trial began on September 10. Kenyatta's trial was originally scheduled to begin on November 12 but has now been postponed until February.

The Kenyan government has been campaigning against the trials since the charges were laid. In recent months, they have secured the support of the African Union, which has tried to discredit the Court in the hope the cases would be dropped. AU representatives have argued that no sitting head of state or government should appear before the ICC, and they have threatened mass withdrawal of African countries from the Rome Statute which governs the ICC.

On Thursday, at an informal meeting, they will try to persuade the U.N. Security Council to back a deferral of the case against Kenyatta and Ruto, citing the recent tragic attack on a shopping mall in Nairobi, Kenya's capital. Regardless, the ICC has announced today that it will postpone Kenyatta's trial until February. But while the Rome Statute that established the International Criminal Court provides for cases to be deferred in exceptional circumstances, the deferral of these cases is a serious blow to justice for the thousands of Kenyans who look to the Court as their only hope.

"Since they were given the opportunity to do the cases [in Kenya], and they failed, then the cases should continue," Pamela said.

Time and time again, Kenya has shown itself to be unable and unwilling to deliver justice at home. Over the past few years, Kenya's authorities have promised to investigate the abuses of 2007/2008 and bring those responsible to justice. But little action has been taken and prosecutions have been minimal, with the majority of victims now feeling that their case has been forgotten.

In 2008, a government-appointed Commission of Inquiry into the post-election violence declared that a special tribunal should be established. The Kenyan parliament voted against proposed legislation to set up the tribunal, paving the way for the International Criminal Court to begin investigations.

Members of the Security Council have a huge responsibility in their hands. A refusal to accept the AU's request to defer the trials of Kenyatta and Ruto at the International Criminal Court will send a strong and powerful message to the thousands of victims and survivors that impunity will not prevail.

For people like Pamela, David and Kanu, the alternative is, simply, unthinkable.

Catholic News Agency
Thursday, 31 October 2013

Congressional hearing considers Syrian war crimes tribunal

Washington D.C.(CNA/EWTN News).- In a hearing before a congressional committee, policy officials called for the establishment of a Syrian war crimes tribunal to bring to justice those guilty of human rights violations in the 30-month long conflict.

“Those who have perpetrated human rights violations among the Syrian government, the rebels and the foreign fighters on both sides of this conflict must be shown that their actions will have serious consequences,” said Congressman Chris Smith (R-N.J.), chairman of the House's subcommittee on global human rights, at the Oct. 30 hearing.

“This is not an academic exercise. We must understand the difficulties of making accountability for war crimes in Syria a reality.”

Smith added that “therefore, we must understand the challenges involved so that we can meet and overcome them and give hope to the terrorized people of Syria. Their suffering must end, and the beginning of that end could come through the results of today’s proceeding.”

The call for a war crimes tribunal is a response to the gross human rights violations allegedly perpetrated by both government and rebel forces during a violent civil war that has racked Syria for more than two years.

In late August, reports indicated that chemical weapons had been used against civilians in the country, killing more than 1,400 people.

The Obama administration said it had conclusive evidence that the regime of President Bashar al-Assad was responsible for these attacks, though the Syrian government denied this charge and blamed the rebels for the use of chemical weapons.

The possibility of a U.S. military strike against Syria sparked strong opposition from Russia, whose leaders said they have compiled an extensive report with evidence that rebels used chemical weapons back in March.

After several days of talks, an agreement was reached for Syria’s chemical weapons to be eliminated. The process is being overseen by the United Nations and the Organization for the Prohibition of Chemical Weapons.

On Oct. 31, weapons inspectors in Syria announced that the country's declared equipment for producing chemical weapons has been destroyed. The regime is to destroy its existing stock of chemical weapons by July 2014.

Smith introduced a resolution asking for a war crimes tribunal on Sept. 9, as a way to enforce international human rights standards prohibiting the use of chemical weapons, while at the same time avoiding the escalation of violence in the war-torn country that would likely result from a U.S. strike.

The Oct. 30 joint hearing focused on “the pros and cons of creating and sustaining a Syrian war crimes tribunal,” Smith said.

David Crane, former chief prosecutor for a U.N. special court for Sierra Leone, noted that “we can prosecute heads of state for international crimes,” and that this prosecution has been done before, such as in the case of former Liberian president Charles Taylor.

Crane outlined five “possibilities for a justice mechanism” that could be used in Syria: the International Criminal Court; an ad hoc court created by the United Nations; a regional court authorized by a treaty with a regional body; an internationalized domestic court; or a domestic court comprised of Syrian nationals within a Syrian justice system.

He added that he believes the International Criminal Court is “just not up to the task” of handling a Syrian war crimes tribunal, and that a local, domestic system would be preferable as it would help Syria “transition to a sustainable peace.”

Richard Dicker, director of the International Justice Program for Human Rights Watch, agreed that trials should be held to assure justice for the human rights offenses committed, but argued that a trial should take place within the already-existing International Criminal Court rather than through an ad hoc court that must be created and regulated.

Alan White, an investigator for the U.N.'s Sierra Leone court, asserted that “an immediate alternative needs to be aggressively pursued,” but warned that conducting a war crimes tribunal “is one of the most challenging, if not the most difficult and demanding type of investigation within the international justice system.”

For the tribunal's success, he said, witnesses must be protected, and the court should be focused on assuring justice for the victims, not on political accountability to the international community.

Stephen Rademaker of the Bipartisan Policy Center noted that he is typically a critic of war crimes tribunals, but acknowledged that “there are several unique features to the Syrian conflict” that may merit the creation of a tribunal, namely the “humanitarian catastrophe in Syria” and the international community's “moral obligation to try to address it.”

He stressed that a tribunal would help bring to justice human rights offenders on both sides of the civil war, and the public accountability of a trial would help to dissuade future humanitarian offenses. In addition, the tribunal would delegitimize the Assad regime, and “reinforce diplomatic efforts to remove Assad from power.”

The Syrian conflict has now dragged on for 30 months, since demonstrations sprang up nationwide in March 2011 protesting the rule of al-Assad.

In April of that year, the Syrian army began to deploy to put down the uprisings, firing on protesters. Since then, the violence has morphed into a civil war which has claimed the lives of more than 115,000 people.

There are at least 2.1 million Syrian refugees in nearby countries, most of them in Lebanon, Jordan, and Turkey.
An additional 4.5 million Syrian people are believed to have been internally displaced by the war.

Fox News
Wednesday, 30 October 2013

How to prosecute Syrian war criminals

By Jonathan Hunt

The Syrian civil war will end. Eventually. No war lasts forever. And when the guns finally fall silent in what has been, and remains, a particularly brutal fight, someone will have to pay for the war crimes committed. And those crimes have been committed by both sides.

The United Nations says chemical weapons were used, to horrific effect, on Aug. 21. U.S. officials say there is no doubt those weapons were used by President Bashar al-Assad's army. That is a war crime.

Human Rights Watch has accused extremist rebels of slaughtering nearly 200 civilians in an offensive against pro-regime villages on Aug. 4, going house to house and executing entire families. That is a war crime.

President Obama, Secretary of State John Kerry and leaders from many other western countries have repeatedly said those responsible for carrying out war crimes must, and will, be held responsible.

But who can do that? And how does any kind of court look at the evidence and separate the plain truth from the fog of war?

Professor David Crane might be the man to do it. Crane, currently at the Syracuse University College of Law, certainly has the experience – he was the first Chief Prosecutor of the Special Court for Sierra

Leone, a court that successfully prosecuted former President Charles Taylor of the neighboring African nation of Liberia. Taylor is currently serving a 50-year sentence.

And now Crane, along with a blue ribbon panel of international law experts, as well as some law students at Syracuse, has set his sights on Syria. It is vital, he says, that the crimes committed there are prosecuted, that the international community's promises of accountability are followed up with action. "Mankind has evolved to where they have decided to hold individuals accountable who commit war crimes against humanity and genocide," the professor told me before testifying to Congress this week, "and if we step back from that or show the appearance that we're stepping away from that kind of standard, then it's going to be a pretty dark world over time, so the rule of law has to happen. The rule of law is more powerful than the rule of the gun, and we have to send that signal."

So Crane and his team have set up the Syria Accountability Project to track and try to verify, or debunk, every accusation of war crimes in Syria, and provide potential prosecutors with what the professor calls a "cornerstone document" on which trials could be based.

It's an ambitious project with the United Nations and US State Department among its interested clients. The project uses open source reporting and other sources from all sides in the Syrian conflict to establish a "conflict narrative" that tracks the situation on the ground in Syria and key geopolitical developments relative to the major players in the conflict.

Using all this information, as well as his own expertise and that of his colleagues, Crane then develops the "crime base matrix," a kind of road map for those who might one day prosecute these crimes. "It's important to understand that we developed this crime-based matrix, but from there, we analyze that data," the professor told me, "and then we take those incidents that are truly verifiable, that actually took place, and develop an indictment matrix and from that is where they actually begin to draft the outline of an indictment against whomever we are looking at to include Assad and his henchmen."

So where would these trials take place? It's important to note that Syria is not a party to the International Criminal Court, based in the Netherlands, so the ICC doesn't have jurisdiction over war crimes committed in Syria unless the United Nations Security Council grants it. Crane believes that won't happen because of the politics of the Security Council. But he does believe a Syrian court or something similar to the Special Court for Sierra Leone could be venues in which to bring justice for the Syrian people.

And it must happen, he says. " We have to use the rule of law as a basis by which we govern ourselves both domestically and internationally, and as soon as that crack happens, where it looks like we are not following the rule of law, the 21st century is in grave danger. We're better than that."

Talk Radio News Service
Wednesday, 30 October 2013

Lawmaker Calls For War Crimes Tribunal For Syria

Rep. Chris Smith emphasized that a tribunal will not only hold the Assad regime accountable, but rebels as well.

Rep. Chris Smith (R-N.J.), the Chairman of the House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, on Wednesday continued to call on the UN Security Council to establish a war crimes tribunal for Syria.

Speaking during a joint hearing with his subcommittee and the Subcommittee on Middle East North Africa, Smith argued immediate action must take place not only because of the severity of the situation, but because more and more key witnesses will become lost as the violence continues.

“The two-year-old Syrian civil war has produced increasingly horrific human rights violations, including summary executions, torture and rape,” said Smith, who has written a bill to support the creation of a tribunal. “Since the Syrian civil war began, more than 100,000 people have been killed and nearly seven million people have been forced to leave their homes.”

Smith emphasized that a tribunal will not only hold the Assad regime accountable, but rebels as well.

“Those who have perpetrated human rights violations among the Syrian government, the rebels and the foreign fighters on both sides of this conflict must be shown that their actions will have serious consequences,” he said.

Holding both parties responsible for atrocities will gather international support, perhaps even Russia, for the tribunal, Smith noted.

Former Chief Investigator of the United Nations Special Court for Sierra Leone Alan White, who testified before the two subcommittees, noted that relying on the International Criminal Court as an alternative would not be an ideal move.

“The ICC is plagued by being a political instrument,” White said.

Saudi Gazette
Tuesday, 22 October 2013
Opinion

Internationalizing the War Crimes Tribunal of Bangladesh

Dr. Ali Al-Ghamdi

I have borrowed the title of this article from a working paper prepared by Sir Desmond de Silva, former Chief Prosecutor of the Special Court for Sierra Leone. In it, De Silva speaks about Bangladesh, saying that the country was born in violence, as those who wanted the country to remain as East Pakistan fought against those who sought independence. According to many estimates, the Liberation War, as it is now known, left nearly three million dead, a death toll higher than the Rwandan Genocide, the Yugoslav wars of the 1990s and the Sierra Leonean and Liberian civil wars all put together.

As it is beyond doubt, De Silva says, that crimes were committed on a massive scale in Bangladesh and as many of the victims as well as perpetrators of serious crimes are still alive, it is still possible to bring to justice those from both sides accused of committing atrocities during the conflict. He continued: “As for the trial of Charles Taylor, former President of Liberia, by the Special Court for Sierra Leone for which I was Chief Prosecutor, it underlines the need to ensure that the hammer of international justice is brought down on those who commit the most egregious crimes by means of trials by impartial and independent judges.”

The well-known prosecutor indicated that in 2010, he was approached by Stephen Rapp, the US government’s Ambassador for War Crimes and the colleague who succeeded him as Chief Prosecutor in Sierra Leone, to enquire if he would assist the efforts to learn whether a new, locally formed “International Crimes Tribunal” in Bangladesh met international standards or not. “After reviewing the laws and regulations of this new court, I declined,” he said.

According to De Silva, what was clear then, and is even clearer now, is that Bangladesh does not have the independent judicial and investigative capacity to conduct trials of international crimes. The rules and procedures of the court are simply not consistent with international standards as followed by the Special Court for Sierra Leone and similar bodies. Far from this being a personal view, many others, including international legal and human rights organizations have reached the same conclusion. Human Rights Watch, to take but one example, has described the tribunal as “riddled with questions about the independence and impartiality of the judges and fairness of the process.” This is a deeply disturbing assessment, de Silva pointed out.

He noted that the current government of Bangladesh led by Prime Minister Sheikh Hasina and her Awami League party are the heirs of those who fought for the independence of Bangladesh while those on trial opposed independence. Therefore, it is evident from these trials that the victors of the Liberation War are attempting to crush those who lost the conflict. For such a process to be considered just, it must be aimed at independently and impartially bringing to justice all those who are individually responsible for the crime, irrespective of their nationality, ethnicity or affiliation. Nothing less will suffice. Justice can only be served for victims and survivors of the atrocities of 1971 if perpetrators from all sides are brought to trial.

De Silva also emphasized that it is clear to many people inside and outside the country that the government of Bangladesh is not attempting to use the tribunal to deliver justice for victims, as was their election pledge, but to target its political rivals that it repeatedly labels as anti-liberation.

To emphasize this point, he also quoted the report published by the British magazine The Economist last December. The magazine published articles based on intercepted Skype calls which revealed collusion between Bangladeshi judges, ministers and their legal advisers over sentencing suspects even before the trials had finished. Despite the international criticism these reports triggered, the tribunal has now handed out death sentences to three suspects and life imprisonment for several others.

De Silva stressed the need for removing passion and politics from this issue so that fair justice can be delivered. For this reason, world powers such as the US and UK– the biggest aid donors to Bangladesh – as well as the UN, should seek to pressure Bangladesh's leaders to commit to internationalizing the trials. The Bangladesh International Crimes Tribunal should be reformed and those cases already heard should be reviewed. If necessary, retrials should be ordered in an international arena. Given the severity of the atrocities committed and the importance of the closure of this chapter for the people of Bangladesh, a stand-alone international tribunal similar to those set up for the former Yugoslavia, Sierra Leone and Rwanda might be the most appropriate, he suggested.

Whichever route is taken, De Silva stressed, it is only through internationalization of this tribunal - with international legal standards assured, reliable investigations conducted, and credible evidence presented - that both sides of the political divide will see justice delivered. If this is not done, the current politicized International Crimes Tribunal will only have the effect of creating further violence and division without the reconciliation the people of Bangladesh deserve. If the nation of Bangladesh is to heal, both sides need to see justice done and move on from their painful history to a brighter future where impartial justice will prove to be the cornerstone of a real peace, De Silva cautioned.

I have deliberately quoted these observations of the international legal expert De Silva to draw attention to the serious anomalies in the war crimes trials being conducted in Bangladesh. The same observations and criticisms have been articulated by international human rights organizations, as well as criminal law experts and specialist international lawyers. I have pointed out all these factors in previous articles published in this newspaper, and these articles included an appeal addressed to Bangladesh Prime Minister Sheikh Hasina, by virtue of my knowledge of her and her father Sheikh Mujibur Rahman, father of the nation. In the appeal, I asked her to reconsider the issue of the trials as no one sees credibility in them, and as it is clear that they will not help achieve justice.

I also mentioned that her father had rolled up the page of the past and looked to the future by issuing a general amnesty as he was fully aware of the difficulty of achieving justice under the conditions that prevailed at that time and that still prevail.

I hope that Sheikh Hasina will listen to those whose only concern is the best interests of herself and the people and judiciary of Bangladesh because history will neither forget such things nor show mercy for those doing them.

— Dr. Ali Al-Ghamdi is a former Saudi diplomat who specializes in Southeast Asian affairs. He can be reached at algham@hotmail.com