

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



Special Court staff outside the Court house, at today's Memorial Service for David Oluma and Police Constable 10748 Mohamed Kanneh

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, 10 July 2009

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
Martin Royston-Wright
Ext 7217

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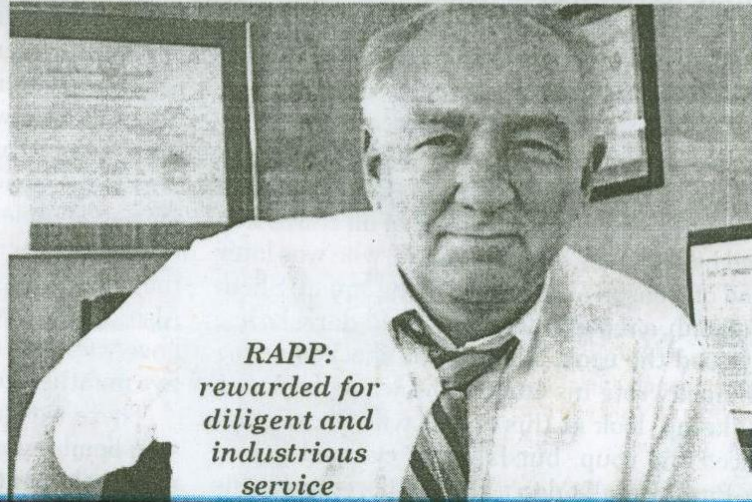
Concord Times
Friday, 10 July 2009

Rapp for State Department War Crimes post

US President Barack Obama has nominated Special Court Chief Prosecutor, Stephen J. Rapp as the next Ambassador at Large for War Crimes Issues for the U.S. Department of State.

Rapp was among eight people picked by Mr. Obama for various key administration posts. He has served as prosecutor for the Special Court for Sierra Leone since January 2007, leading the prosecutions of

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RAPP:
*rewarded for
diligent and
industrious
service*

Rapp gets State Department job

From page 1

former Liberian President Charles Taylor and other persons for atrocities during the civil war in Sierra Leone.

"I am confident that these skilled and dedicated individuals will diligently work to serve the American people, keeping our country safe at home and abroad," President Obama said in a statement. "I look forward to working with them in the future."

Rapp's new job is dependent on Senate approval. He said: "If confirmed,

I will leave the position of prosecutor after ensuring a smooth transition to my successor and the availability of personnel and resources to complete the trial of Charles Taylor."

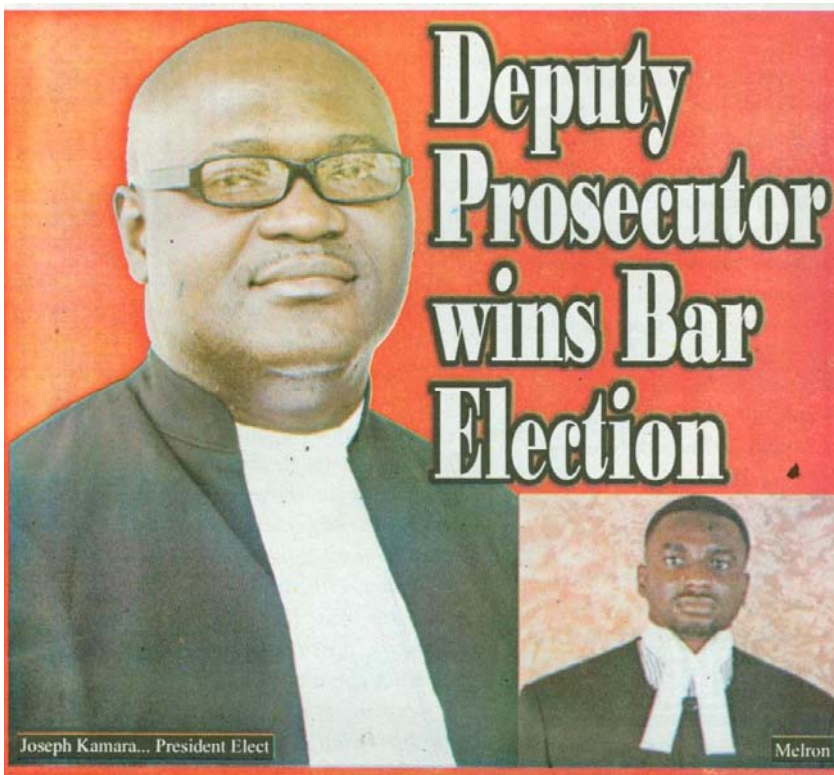
Iowa Republican Senator, Charles Grassley said he welcomes Obama's choice of Rapp for the job. "Steve Rapp has the respect of people around the world, and has been a leader in prosecuting war crimes committed against civilian populations. He is an ideal person for the job."

Prior to prosecuting war crimes and crimes against humanity, Rapp served as United States Attorney for the Northern District of Iowa from 1993 to 2001. He also was a former Iowa state legislator and Black Hawk County Democratic chairman who ran unsuccessfully for Congress in the 1970s.

He has also helped convict leaders of mass media in Rwanda for the crime of Incitement to Commit Genocide.

Credit: Matthew Wilde

Standard Times
Friday, 10 July 2009



DEPUTY SPECIAL COURT PROSECUTOR WINS BAR ELECTION

Yesterday Court sittings were disrupted as a result of the Bar Association Conference held at the British Council Hall. The conference attracted old and new, retired and active members of the legal profession. Supreme Court Judge, Hon. Jammeh, the key Speaker of the occasion moved his audience with his well prepared and thoroughly researched speech to the dismay of some members of the Association.

The conference ended with the election of a team of new executive to manage the affairs of the Association for the next twelve months. Lawyer Joseph Kamara, Deputy Special Court Prosecutor humbled Human Rights Lawyer, Mr. Melron Wilson and Lawyer Mustapha Turay for the position of President of the Si-

erra Leone Bar Association. The position of Vice President was won by Lawyer Reginald Finn, defeating Sahid Sesay. Lawyer Ngawki was allowed a second term to manage the Secretariat at Bathurst Street as Secretary General of the Association, which he contributed to establish last year and Lawyer Leon Jenkins Johnston who contested against him was asked to wait for next year's election when he too would be giving the opportunity to serve as Secretary General of the Bar Association.

After the conference, President elect, Lawyer Joseph Kamara thanked all those who contributed to make the historic conference a very successful story to tell and promised to work for the good of the Association and its members.

For di People
Friday, 10 July 2009

PRESIDENT AND PARLIAMENT RECEIVES HUMAN RIGHTS REPORT

BOTH PRESIDENT Ernest Bai Koroma and Speaker of Parliament, Justice Abel Stronge received the 2008 Human Rights Report on Sierra Leone from chairman of the Human Rights Commission, Mr Edward Sam, yesterday.

At State House, Commissioner Sam said it was the second annual

by **IBRAHIM
KALOKOH**

state of human rights report in the country which is mandatory and contains information on the way the country respects fundamental human rights and freedoms contained in the constitution and in the international and regional agreements to which Sierra Leone is a party, have been observed or violated.

Sam said that over the past years, improvements continue to be made in the promotion and projection of human rights in the country and that government is to be commended though there continues to be a number of human rights challenges which the government should endeavour to address.

He said the country's position in the human index continue to be last and that the coun-

try faces tremendous challenges in the fulfillment and promotion of economic and social rights and that in spite of interventions by government and its development partners, Sierra Leone continues to have the highest infant and maternal mortality rates in the world.

Sam said this is not only a violation of the rights to health of women and children, but indeed, a violation of the right to life itself and that it is a health emergency and concrete ways must be found to save lives.

However, Sam said the 2008 Report noted a number of laudable initiatives for the implementation of the three gender justice laws and other legislations aimed at promoting and protecting the rights of

women in Sierra Leone but that government and development partners should provide the necessary resources particularly to the ministry of Social Welfare, Gender and Children's Affairs to make the standards set by this legislation a reality.

Other points highlighted include the rights of disabled not yet ratified and urged for the establishment of a TRC follow-up committee as recommended by the TRC, also to stop violence in elections and improvement of the justice system.

POLICE STOP SLAJ MARCH

THE POLICE have refused permit for a peaceful protest march by the Sierra Leone Association of Journalists over the refusal of the Supreme Court to respect the national constitution, scheduled for Monday 13 July 2009.

Assistant Superintendent Ibrahim Samura, said this is as a result of past experiences and chaos that were connected with protests being done by other organisations and to maintain peace.

New African
July 2009

Cover Story

SIERRA LEONE

What legacy?

The Special Court

Peter Penfold, the former British high commissioner to Sierra Leone, casts a critical eye at the Special Court for Sierra Leone and what legacy the Court – that occupies 11.5 acres of prime land in Freetown – is likely to leave for the people of Sierra Leone. This piece is taken from his contribution to a new book, *Rescuing a Fragile State: Sierra Leone 2002-2008*, edited by our correspondent Lansana Gberie.

IN OCTOBER 1997, SIERRA LEONE'S PRESIDENT TEJAN KABBAH arrived in the UK at the special invitation of Prime Minister Tony Blair to attend the Commonwealth Heads of Government Meeting (CHOGM) taking place in Edinburgh. This was an extraordinary invitation. Kabbah and his government had been removed in May of that year in a very bloody coup led by junior members of the Sierra Leone Army and were in exile in neighbouring Guinea. Britain orchestrated the international policy whose aim was the removal of the illegal Armed Forces Ruling Council (AFRC) junta in Freetown, and the restoration of the Kabbah government. Kabbah's presence at the CHOGM meeting was an unmistakable signal to the rampaging Freetown junta that in the eyes of the international community, Kabbah remained the legitimate head of the Sierra Leone government.

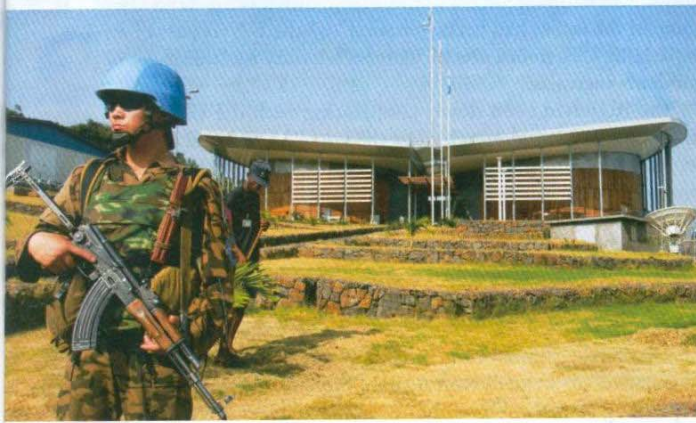
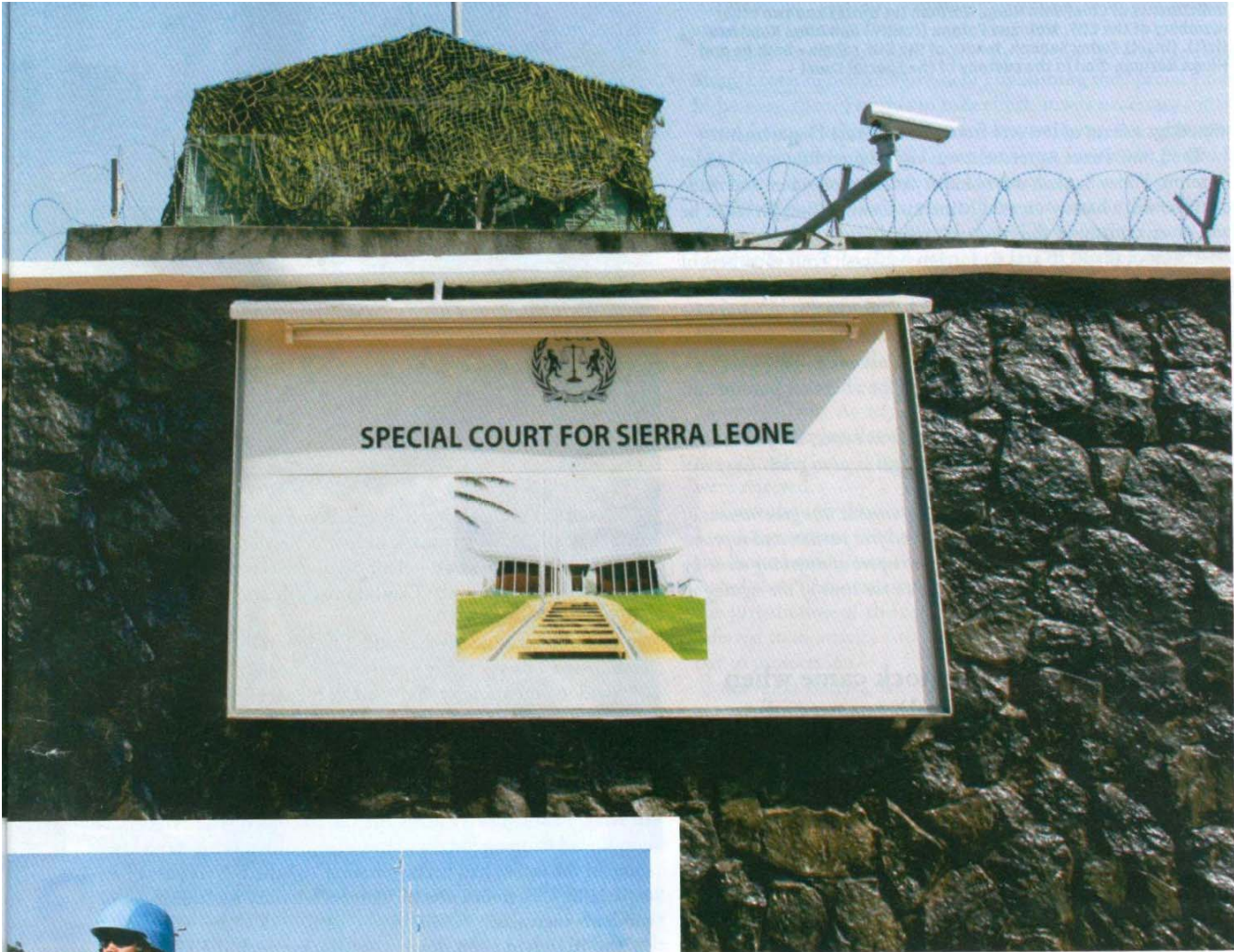
Prior to the Edinburgh meeting, Kabbah had attended a conference in London organised by the British government on the theme "Restoring Sierra Leone to Democracy". In his address,



Kabbah dismissed suggestions that the junta, comprising both AFRC and RUF (Revolutionary United Front) rebels, should be treated as "war criminals". He went on to say:

"I have instead been giving some thought to the establishment of a Truth and Reconciliation Commission following the example of South Africa. The merit of adopting this latter course can be easily discerned. The people of Sierra Leone need to know and hear from the perpetrators of the atrocities. This is an idea I intend to pursue so that genuine and lasting reconciliation can take place on the return of my government."

Thanks to the sustained pressure from the international community and, more especially, to the troops of the West African military force, Ecomog, led by Nigeria, Kabbah's government was returned to power in March 1998. However, efforts to re-establish the democratic rule of law were further rudely interrupted in January 1999 when the rebels reinvaded Freetown, wreaking havoc and mayhem, and killing thousands of people. Again the Ecomog forces, assisted by indigenous local militias loyal to



A forbidding place: The Special Court compound occupies 11.5 acres of land, surrounded by a 12-foot high floodlit wall topped with razor wire and guarded permanently by UN troops (inset)

President Kabbah, the Civil Defence Forces (CDF), pushed the rebels back and an uneasy truce was established.

Notwithstanding the clearly expressed wishes of his people and the promises he made to his cabinet and parliament, Kabbah came under intense pressure from the international community, especially the United States, to seek a power-sharing agreement with the RUF rebels led by Foday Sankoh.

Several prominent Americans jumped on to this bandwagon, including Senator Jesse Jackson, President Clinton's erstwhile "Ambassador for Democracy in Africa". Jackson referred to Sankoh as the Nelson Mandela of West Africa! In his capacity as chairman of Ecowas, the late President Gnassingbé Eyadéma of Togo offered to host peace talks in his capital, Lomé.

The negotiations were facilitated by the UN, led by its special representative to Sierra Leone, Ambassador Francis Okelo. The attorney general, Solomon Berewa (later vice president), led the Sierra Leone government's delegation. Many others took part, including Joe Melrose, the US ambassador to Sierra Leone. [Peter Penfold, the British high commissioner, remained in Freetown but Britain sent a special representative from London.] Melrose was

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The biggest shock came when the chief prosecutor announced the indictments of Chief Sam Hinga Norman (in white) and two other members of the CDF, Moinana Fofana (centre) and Alieu Kondewa (left). (Inset) Foday Sankoh, leader of the RUF rebels – both he and Hinga Norman died in the custody of the Special Court

joined by a team of lawyers from the US State Department.

The Lomé Peace Agreement was signed on 7 July 1999. Under its terms, Foday Sankoh was made *de facto* vice president and made chairman of a hastily-created Minerals Commission (in effect he was given control of the country's rich diamond deposits, a key obsession of his RUF and its foreign backers). Four members of the RUF were also appointed government ministers.

As an after-thought, Johnny Paul Koroma, the army major who had led the AFRC coup, was appointed chairman of the Commission for the Consolidation of Peace (CCP).

The Agreement included provisions for a blanket pardon and amnesty, stating as follows:

“1. In order to bring lasting peace to Sierra Leone, the government of Sierra Leone shall take appropriate legal steps to grant Corporal Foday Sankoh absolute and free pardon.

2. After the signing of the present Agreement, the government of Sierra Leone shall also grant absolute and free pardon and reprieve to all combatants and collaborators in respect of anything done by them in pursuit of their objectives, up to the time of the signing of the present Agreement.

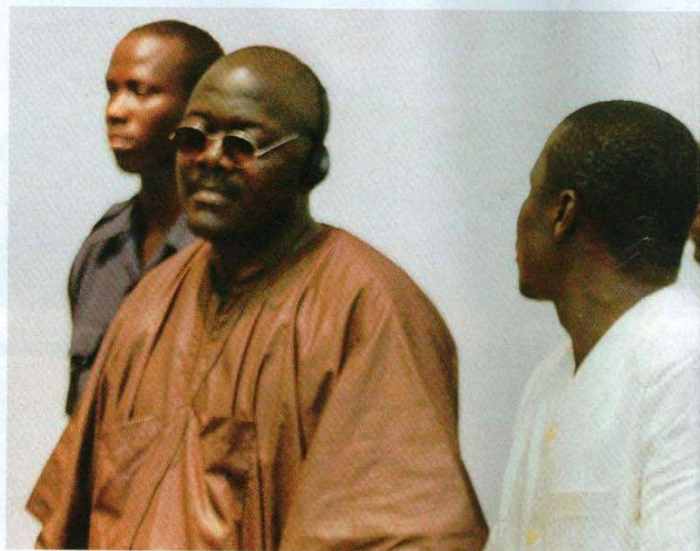
“Clearly the biggest shock came when Crane announced the indictments of Chief Sam Hinga Norman and two other members of the CDF.”

3. To consolidate the peace and promote the cause of national reconciliation, the government of Sierra Leone shall ensure that no official or judicial action is taken against any member of the RUF/SL, ex-AFRC, ex-SLA or CDF in respect of anything done by them in pursuit of their objectives as members of these organisations since March 1991 up to the time of the signing of the present Agreement.

4. In addition, legislative and other measures necessary to guarantee immunity to former combatants, exiles and other persons, currently outside the country for reasons related to the armed conflict shall be adopted ensuring the full exercise of their civil and political rights, with a view to their reintegration within a framework of full legality.”

The Agreement also dealt with human rights violations and set out the terms for setting up a Truth and Reconciliation Commission. It stated that a Truth and Reconciliation Commission “shall be established to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation.”

The Agreement added that in the “spirit of national reconciliation, the Commission shall deal with the question of human rights violations since the beginning of the Sierra Leonean conflict in 1991. This Commission shall, among other things, recommend measures to be taken for the rehabilitation of victims of human rights violations.”



President Kabbah himself flew to Lomé to sign the Agreement on behalf of the government of Sierra Leone; the RUF leader Foday Sankoh signed on behalf of all the rebels. The Togolese government, Ecowas, the Commonwealth and the UN signed as “moral guarantors”.

At the last minute, Ambassador Okelo was instructed by New York to add a caveat to his signature disassociating the UN from the pardon and amnesty and thereby preparing the grounds for the establishment of an already envisaged war crimes court, the Special Court for Sierra Leone.

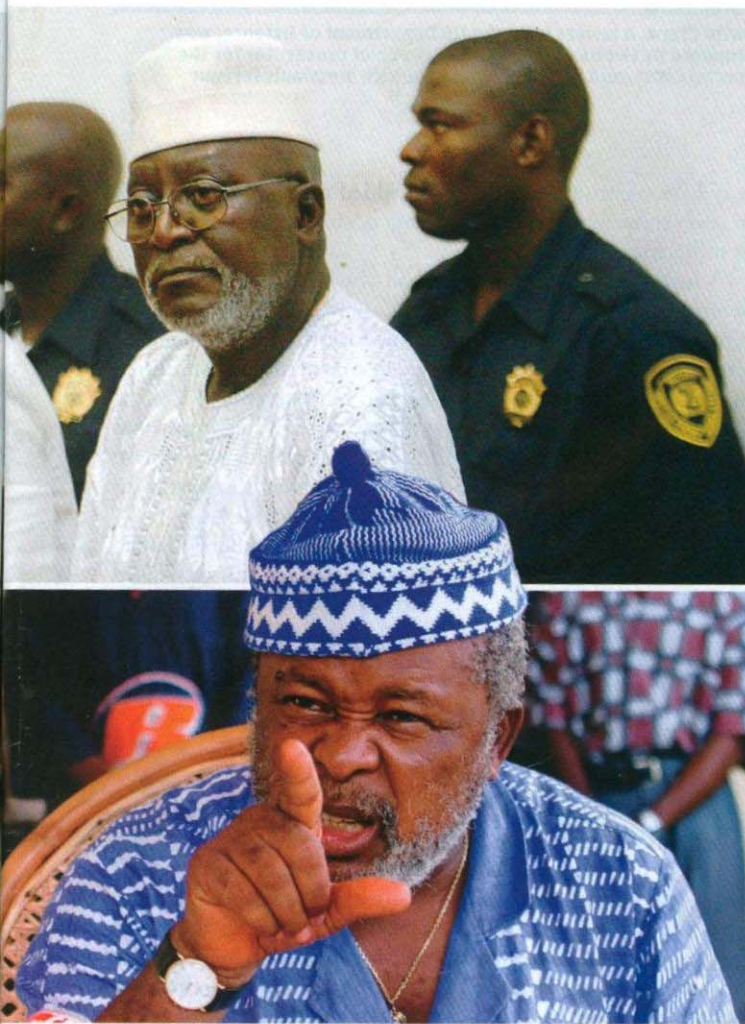
The May 2000 crisis

In May 2000, shortly after the last troops of the Nigerian-dominated Ecomog force withdrew from Sierra Leone (and after some of the forces had been “rehabbed” by the UN as part of an expanding UN troops presence), rebel hostility towards the UN suddenly increased.

The RUF had been slowly cooperating with the UN in the disarmament process, as agreed by the Lomé Accord. But now the rebel forces launched major assaults on the UN force, including the kidnapping of 500 freshly-arrived Zambian soldiers. A robust deployment by British forces foiled an incipient coup by the RUF, and saved the UN mission from imminent collapse.

Sankoh was arrested in Freetown for violating the terms of the Lomé Peace Agreement, and a week after, the Kabbah government announced its intention to ratify the Statute of the International Criminal Court (ICC). A month later Kabbah was “persuaded” to write to Kofi Annan, the UN secretary general, requesting that the UN either establish a special war crimes court or extend the mandate of the International Criminal Tribunal for Rwanda to cover Sierra Leone. The US ambassador to the UN, Richard Holbrooke, rejected the latter proposal but his government pressed strongly for the establishment of the Special Court.

The critical American involvement in this matter was somewhat ironic since the US had been so forcefully pressing President Kabbah to share power with the rebel leader, Foday Sankoh. How



this same government, less than a year later, would be pressing the Sierra Leone government to charge Sankoh and his cohorts with war crimes and to establish a war crimes court was bewildering to many. On 14 August 2000, the UN Security Council passed a resolution requesting the secretary general “to negotiate an agreement with the government of Sierra Leone to create an independent special court”.

The Council dismissed the amnesty provision in the Lomé Agreement, noting that “the special representative of the secretary general appended his signature (as a moral guarantor to the Agreement) a statement that the United Nations holds the understanding that the amnesty provisions of the agreement shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law.”

A UN delegation, led by Ralph Zacklin, assistant secretary general for legal affairs, was dispatched to Freetown to negotiate the terms for the establishment of the Court, the purpose of which would be to prosecute persons “who bear the greatest responsibility” for the atrocities and human rights violations.

Taking on board criticisms over how the Special Courts for Rwanda and the former Yugoslavia had been established, it was

agreed that the Court should be based in Freetown, the actual “crime scene”, and that it would be subject to both international and Sierra Leonean law.

It took over a year before finally the UN and the government of Sierra Leone signed an agreement establishing the Special Court in January 2002. For this to take effect, it was necessary for the Sierra Leone Parliament to pass a law ratifying the agreement. The Statute of the Special Court for Sierra Leone was passed by the Sierra Leone Parliament in March 2002.

Although the Court was to have concurrent jurisdiction, Article 8 of the Statute noted that: “The Special Court shall have primacy over the national courts of Sierra Leone”. This extraordinary provision would have far-reaching consequences, and would subsequently lead to claims by defence counsels appearing before the Court that the establishment of the Court was unconstitutional. The Sierra Leone constitution states that *there shall be no higher judicial authority than the Sierra Leone Supreme Court*. As an “entrenched clause”, a referendum is required before legislation can be passed amending this part of the constitution. This did not happen but the defence claims were rejected.

Even though the Sierra Leone Parliament had endorsed the Lomé Agreement (and the Abidjan Peace Accord before that), the Statute repudiated the amnesties contained in the accord. It stated that: “An amnesty granted to any person falling within the jurisdiction of the Special Court in respect of the crimes referred to in articles 2 to 4 of the present Statute shall not be a bar to prosecution.”

Solomon Berewa, who so skillfully and delicately negotiated the terms of the Lomé Peace Agreement, including the amnesty clause, accepted this provision. His explanation was that “the RUF would have refused to sign the [Lomé] agreement if the government of Sierra Leone had insisted on including in it a provision for judicial action against the RUF and had excluded the amnesty provision from the Agreement.”

The Special Court Statute departs from Sierra Leone law in another important way. Capital punishment still prevails in Sierra Leone. Indeed, in 1998 President Kabbah had signed the execution warrants of a number of those involved in the May 1997 coup; the alleged coupists, including a woman (Major Jula Samba), were executed by firing squad.

However, the maximum sentence that the Special Court can award on those convicted is life imprisonment. The irony can hardly be lost on the Sierra Leonean public: a murderer convicted of killing just one person by the Sierra Leone High Court could be executed, while alleged “mass murderers” convicted by the Special Court would see out their days in the relative comfort of a prison cell.

Article 22 of the Statute also allowed for imprisonment to be served in countries outside Sierra Leone – a point of relevance when it came later to dealing with the Liberian president, Charles Taylor. The Special Court also departed from the norms of the International Criminal Court with regard to children. The ICC has no jurisdiction over children under 18 years of age. But the Special Court for Sierra Leone’s jurisdiction starts at 15 years of age.

To date, however, although it is generally known that many children were involved in the conflict – as perpetrators as well

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as victims of atrocities – the Court has not indicted anyone who can be classified as a child.

Court staff

A very experienced and efficient British court administrator, Robin Vincent, was brought in from the UK to act as the registrar of the Court. The appointment of the chief prosecutor was not so straightforward. The UN Office of Legal Affairs had initially sought to find someone from a Commonwealth country, preferably an African.

When no suitable candidate could be identified, the US government proposed David Crane, a lawyer from the US Department of Defence without a strong human rights background. Crane had served most recently as senior inspector-general at the US Defence Department. Prior to this, he had been an assistant general counsel in the Defence Intelligence Agency and a professor of International Law at the US Army Judge Advocate General's School.

Crane brought in a number of American ex-military personnel to serve as investigators, giving the Office of the Prosecutor a distinct American military aura. Crane himself pursued his role with messianic fervour. He is, for example, quoted as saying: "The point needs to be made that the age of impunity is over. I take this job seriously and I want my constituency, which is the people of this country, to take it just as seriously."

Under the terms of Article 15 of the Court's Statute, it was deemed that "the prosecutor shall be assisted by a Sierra Leonean deputy prosecutor". However, an amendment to the Statute was rushed through the Sierra Leonean Parliament to allow the appointment of a British QC, Desmond de Silva, who had worked with President Kabbah in his younger days when the president was practising law. De Silva had been admitted to the bar in Sierra Leone in 1968 to act as the defence in the country's first treason trial.

In his book *Conflict and Collusion in Sierra Leone*, David Keen notes that all "senior staff at the Special Court were expatriates. This was taken as an incredible lack of respect towards the indigenous population and a lack of recognition in terms of qualified Sierra Leoneans." One of Keen's contacts commented: "The Special Court does not trust Sierra Leone to administer justice. If they are not trusted to administer justice, how can they be expected to accept it?"

The indictments

Having settled into a luxury villa in Freetown, Crane's first and important decision was selecting who to indict. This was a potential minefield; Crane was about to embark upon "a very slippery slope." The Statute called for those "who bear the greatest responsibility" for the atrocities and human rights violations to be prosecuted.

However, Zacklin, the UN assistant secretary general, had already begun to see problems with this definition. At a press briefing in New York in September 2000, he proposed instead that the phrase "those most responsible" be adopted. He explained that "the reason for this is that we feel that the formula 'greatest responsibility' probably pitches the personal jurisdiction very narrowly and probably too high to capture all of those who bear some degree of command or leadership responsibility who

David Crane, a lawyer from the US Department of Defence, was proposed by the US government as the chief prosecutor for the Special Court, and he pursued his role with messianic fervour

may have committed crimes." He added that "this is intended to cover those who were in leadership positions, either politically or militarily."

A further important decision had also already been taken in determining whom to prosecute, namely that concerning the geographical area and the time-frame for the crimes. Under the terms of the Statute, the Court would cover crimes "committed in the territory of Sierra Leone since 30 November 1996".

This ruled out the possibility of the Court addressing crimes committed in neighbouring Liberia or Guinea; this would have an impact later when Liberia's President Charles Taylor was indicted. But more important was the time-frame.

The RUF rebel war had started in 1991 when a bunch of armed fighters crossed over from the Liberian border and terrorised the villages of Bomaru and Sienga in Kailahun District. This was during the dying days of the All Peoples' Congress (APC) one-party state.

The RUF had gained in strength with the assistance of Charles Taylor's NPFL and using Liberian and Burkinabe mercenaries. They continued to rape and pillage villages in the south and east of the country after the APC was overthrown in 1992 by the military, who established the National Provisional Ruling Council (NPRC) junta.

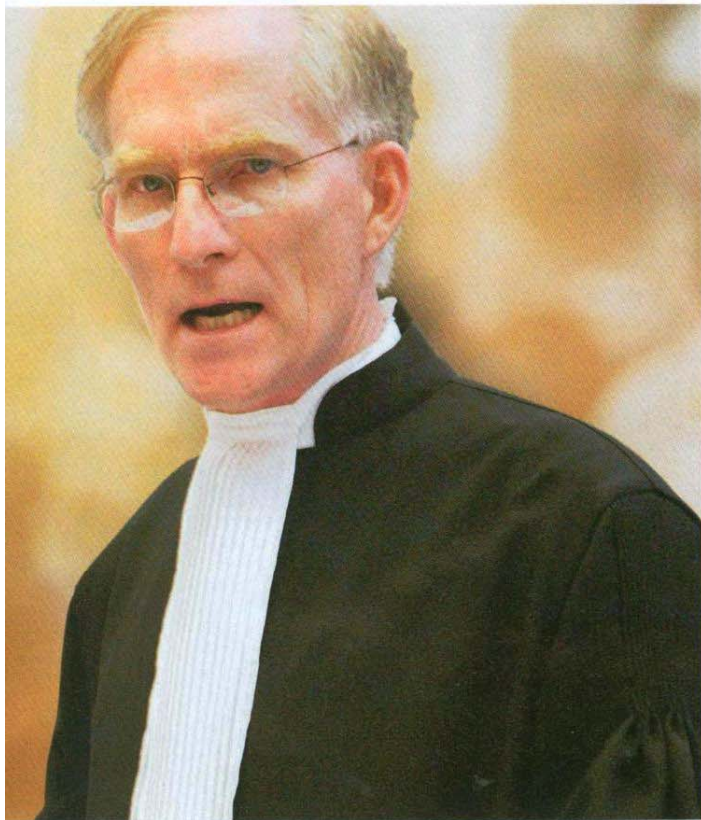
One of the reasons claimed by the RUF for continuing the war was to remove the illegal military regime sitting in Freetown. But when the NPRC government was persuaded by the international community to stand down and allow a civilian government to be formed with democratic elections in February 1996, the RUF under Sankoh refused to participate and instead stepped up its terror campaign.

So why select 30 November 1996 as the starting point for the Court's jurisdiction? This was the date of the Abidjan Peace Accord, the first peace agreement between the Sierra Leone government and the RUF. Soon after Kabbah had come to power in the February 1996 elections, he had begun talks with Sankoh to seek an end to the fighting.

By that time the fortunes of the RUF had taken a turn for the worse. With assistance from the South African-based private security firm, Executive Outcomes, government forces, including the local civil militia (the *kamajors*), had pushed the RUF back. Sankoh was feeling the pressure. He readily agreed to a ceasefire and on 30 November he signed a peace agreement with Kabbah in Abidjan, the Ivorian capital.

It was later revealed that Sankoh had sent messages to his commanders in the field telling them not to take the agreement seriously as he was only playing for time to re-arm and re-group. One of the conditions upon which he insisted was that the government should terminate its contract with Executive Outcomes, which Kabbah did, a decision he was later to regret.

The Abidjan Accord did not allow for a power-sharing arrangement (as with the Lomé Agreement) but it provided for the RUF being given senior positions in government and did



importantly provide a blanket amnesty for Sankoh and the RUF.

By setting a starting date of 30 November 1996, the Court was perceived by many Sierra Leoneans to demonstrate a lack of knowledge and understanding about the rebel war. David Crane explained that the reason the Court chose to do this was for administrative and financial reasons.

More importantly it fuelled the perception in the minds of Sierra Leoneans living away from Freetown that the government was only concerned about what happened to people living in Freetown and the Western area.

The biggest divide in Sierra Leone is not north/south, nor Muslim/Christian, nor Temne/Mende (the two largest ethnic groups); it is between Freetown (the coastal capital) and the rest of the country, dating back to colonial times when Britain established Freetown and the peninsula as a colony and the “hinterland” as a protectorate.

It was not until May 1997, the time of the AFRC coup and then January 1999, the RUF/AFRC invasion of Freetown, that the residents of Freetown really felt the impact of the horrors of the rebel war.

With these parameters set, David Crane unveiled his first set of indictments on 7 March 2003. Not surprisingly Foday Sankoh, the leader of the RUF was indicted, together with Sam Bockarie, his notorious young henchman who went by the nickname “Mosquito”. Other RUF members indicted on the same day were Issa Sesay and Morris Kallon, to be joined a month later by Augustine Gbao, all of whom were senior RUF commanders.

There was a degree of sympathy for the young Issa Sesay. When, during the troubled disarmament process, it had finally become clear that Sankoh could not be trusted and that peace would not be achieved all the time that he led the RUF, Sesay was pressurised by Kabbah and the UN special representative at the time, Ambassador Adeniji, to assume the position of “interim leader of the RUF” in order to push through the disarmament phase of the peace process.

Sesay was fearful at the time of being seen by the RUF rank and file of standing against Sankoh, who was regarded more like a leader of a cult than a freedom fighter. But he relented in the anticipation that his stand would be recognised and rewarded. His indictment clearly came as a shock.

Crane also, and not surprisingly, indicted members of the AFRC. Indictments were issued against Johnny Paul Koroma, its chairman, and Alex Tamba Brima, followed later by Brima Bazzy Kamara and Santigie Borbor Kanu.

At the time Koroma was a member of parliament, having been elected in the 2003 elections as leader of a party representing the interests of the army. But he had fled Freetown in anticipation of the indictment. He, like Sesay, had played a key and positive role in pushing through the disarmament process.

“The Special Court does not trust Sierra Leoneans to administer justice. If they are not trusted to administer justice, how can they be expected to accept it?”

Clearly the biggest shock came when Crane announced the indictments of Chief Sam Hinga Norman and two other members of the CDF, Moinana Fofana and Alieu Kondewa. Norman had been Kabbah’s deputy minister of defence at the time of the coup in 1997 and was the only minister who had tried to prevent the coup at great physical risk to himself.

He remained in the country, and was charged by Kabbah to organise resistance to the junta through the CDF. He was widely regarded throughout the country as one of those most responsible for restoring peace and democracy to Sierra Leone. At the time of his indictment, he was serving as Kabbah’s minister of internal security.

On 7 March 2003, Norman was unceremoniously dragged out of his ministerial office in handcuffs by the police acting on behalf of the Special Court, bundled into the back of a truck and driven away. His arrest sent shockwaves around the country, especially in the south where he enjoyed much support. The UN feared that there would be reprisals, but Norman sent word to his supporters to stay calm and let the judicial process play out its course.

President Kabbah claimed that he was totally unaware that Norman was going to be arrested although later it was revealed in evidence that he had telephoned Norman just an hour before his arrest “just to check that he was in his office”.

Kabbah’s refusal to speak out against the arrest of one of his senior ministers was to have dramatic results on the fortunes of the Sierra Leone People’s Party (SLPP) government: in the elections of 2007, it was one of the reasons cited by many people for

“Clearly the biggest shock came when Crane announced the indictments of Chief Sam Hinga Norman and two other members of the CDF.”

abandoning the SLPP, leading to the party’s loss of power to the rival APC.

At the time of the arrest of the indictees, Crane had nowhere in Freetown to keep them in safe custody. Work had only just begun on building a customs-made courthouse and detention facility. So they were flown by UN helicopter to Bonthe, 100 miles south of Freetown, and incarcerated in a building which was used in earlier times as a holding facility for slaves prior to transshipment to America and Europe.

When Crane was asked why he had felt it necessary to indict members of the CDF even though they were regarded as having helped save Sierra Leone from chaos and anarchy, he replied that he felt that he had to be seen as being “even-handed” in the issue of the indictments.

With his customary zeal, Crane, somewhat injudiciously, remarked that those indicted “would never see a free day again” – so much for the maxim of being innocent until proven guilty.

Crane was no doubt responding to pressure from various human rights organisations. Human Rights Watch (HRW), the active human rights organisation based in New York, had been monitoring the situation in Sierra Leone for some time. Its executive director for Africa, Peter Takisambudde, had been one of the first to condemn the blanket amnesty in the Lomé Peace Agreement.

In its 2000 report, HRW called for “those responsible for orchestrating the killings, rapes, mutilations, and abductions, that have characterised the war must be brought to justice.” Amnesty International argued that not only RUF fighters but many allied with the Kabbah government had been responsible for human rights abuses and should be brought to justice too. The UN High Commissioner for Human Rights, Mary Robinson, added her voice to these calls.

David Crane had proudly announced to a Forum on Sierra Leone in Washington in May 2003 that “no one is above the law” when it came to indicting those responsible. However, this claim ignored the fact that in setting up the Special Court it had been decided to exclude “any transgressions by peacekeepers and related personnel” (eg, Ecomog).

It also failed to take account of the fact that no US citizen could be brought before the Court (or the ICC) under the terms of a bilateral agreement which the US government had concluded with the government of Sierra Leone in March of that year. As the Sierra Leone attorney general at the time, Eke Halloway, wryly noted in defending this inequality: “The United States is a very important partner for Sierra Leone.” ■ **NA**

To be continued.

(Rescuing a Fragile State: Sierra Leone 2002-2008, edited by Lansana Gberie, is published by LCMSDS Press of Wilfrid Laurier University, Canada, 2009)

Cover Story

THE GREAT DEBATE

The case against the ICC

By Martin Kargbo

AS A LONG-TIME READER OF NEW AFRICAN, I HAVE BEEN amazed at the perspicacity demonstrated by the magazine for all these years. The debate you have called for on the work of the ICC and the stance of human rights NGOs on African issues is only part of the magazine's broader view of the real issues affecting the continent and its people.

Nobody in his right mind will argue against the fact that human rights should be protected in Africa and in the world generally, and that perpetrators of human rights abuses, war crimes or crimes against humanity should be made to answer for their crimes either in national or international courts, such as the ICC. It is a given.

But what worries me and a great number of people in Africa and beyond, and recently AU leaders are showing increasing touchiness about it, is what appears to be the selective nature of the dispensation of international justice. Why do some perpetrators of war crimes and crimes against humanity go scot-free while others are hauled before the ICC? Why does it appear that Western leaders like George W. Bush and Tony Blair can wage an "illegal war" (the words of Kofi Annan, and he was the secretary general of the United Nations when he uttered those memorable words!), which has killed or led to the deaths of hundreds of thousands of people in Iraq, and still get away with all that murder!

Why is it that none of the multitude of human rights NGOs across the world, especially the giants like Amnesty International, Human Rights Watch and the International Federation for Human Rights (aka Fédération Internationale des Droits de L'Homme, FIDH), is campaigning for the arrest and trial of Bush and Blair? Is it because they were Western leaders and that makes them untouchable? Was Robin Cook, the former British foreign secretary, right when he said the ICC "is not a court set up to bring



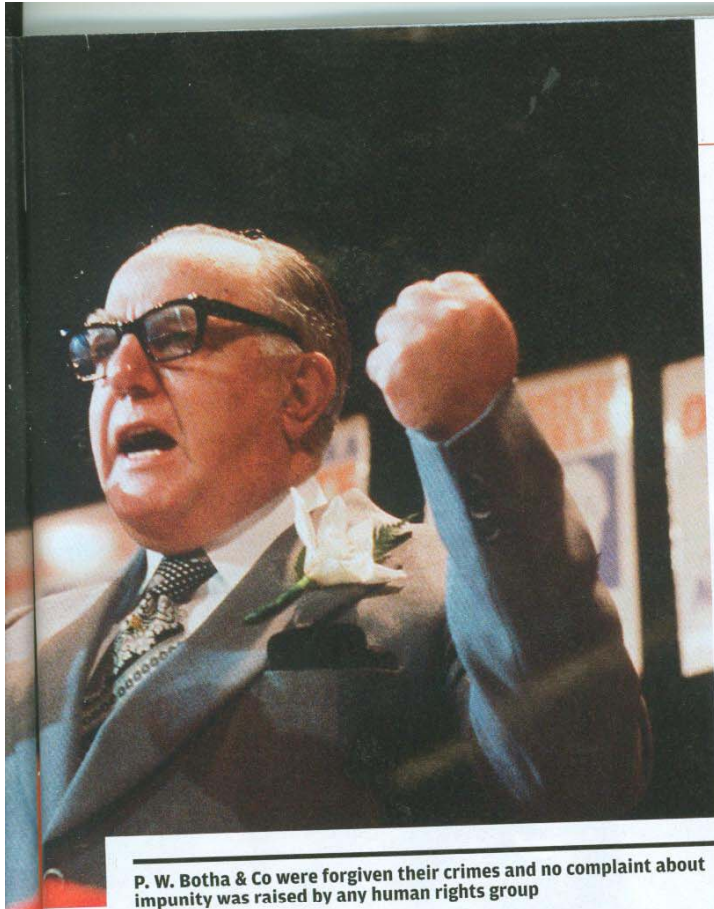
to book prime ministers of the United Kingdom or presidents of the United States?" So what impunity are we talking about then – I challenge Amnesty International, Human Rights Watch and FIDH to give me an answer.

Was Dr John Laughland right when he wrote in August 2000, "Forget the rhetoric, [the ICC] is just another excuse for superpower bullying. The Court will be another example in the over-globalised world of an institution that lends legitimacy to the Great Power bullying of weaker nations"? Is this not the impression you get when you look at all the photographs of Charles Taylor's ordeal in the hands of the Special Court for Sierra Leone? Look at the photos closely: in every one of them, from the time Taylor was arrested in Freetown to when he arrived in The Hague in chains, he is being led or surrounded by white people. What message does this send to Africans? Is it some kind of political trial mounted by superior human beings just to make a point?

Millius Palayiwa put it so well in his article for *New African* (May 2009): "When it comes to international justice, it is important to know who is doing the indicting, who is being indicted, at whose behest, what the charges are, and the system of law in use... And motive is very important." Going further, Palayiwa said: "One has to ask the bigger question we are facing today – why are the indictments mainly against African leaders and/or rebels? Africa does not have a monopoly on atrocities."

It is a huge point being lost by those who say because we haven't arrested Bush and Blair, it doesn't mean we can't arrest Taylor or Bashir. After all, they say, in three of the four African cases before the ICC, the African countries themselves referred the cases to the ICC.

Well, I beg to differ. As Palayiwa pointed out in his above cited article: "By October 2007, the ICC prosecutor, Luis Moreno-



P. W. Botha & Co were forgiven their crimes and no complaint about impunity was raised by any human rights group

Ocampo, had received 2,889 communications [you can call them referrals or alerts] about alleged war crimes and crimes against humanity in at least 139 countries, and yet by March 2009, the prosecutor had opened investigations into just four cases: Uganda, DR Congo, the Central African Republic and Sudan/Darfur – all in Africa. Thirteen public warrants of arrest had been issued, all against Africans.”

How does one explain this? I want an answer from those human rights activists and NGOs who say this point doesn't matter. How do they justify the picking and choosing of four cases out of 2,889 communications from 139 countries and all those four cases happen to be in Africa? Don't they say that justice should not only be done but seen to be done?

Impunity

My other question to the human rights NGOs is – and here again I challenge Amnesty International, Human Rights Watch and FIDH to give me an answer – why does impunity become an issue *only* when a black African disliked by the West is the perpetrator of the alleged human rights abuses? Impunity has not been an issue in DR Congo where the wars waged by Rwanda and Uganda between 1996 and 2003 on behalf of America and Western interests have led to an estimated five million deaths in Congo – a country that has suffered so much and is still suffering. The leaders of Rwanda and Uganda who sent their soldiers into Congo to do all that damage are free today. No human rights group has campaigned for their arrest and trial at the ICC.

Impunity, again, was not an issue when South Africa decided, in 1994, in the interest of national peace and stability, to forgive the perpetrators of war crimes and crimes against humanity –

Let there be a sense of justice

By Valentine Oduenyi, Zurich, Switzerland

“**Targeting Africa: The Case For and Against the ICC**” (NA May), made pleasurable reading. It was both down-to-earth and thought-provoking. Thanks a lot! I am not at all against somebody like Omar al-Bashir, president of Sudan, taking the stand and answering the charges against him. However, the problem is that the ICC has consistently shown that it has no sense of justice. It applies double standards in its judicial dispositions. Fairness demands that justice be served to all and sundry without any fear or favour, but the ICC has failed in that respect. I frankly see no reason why the ICC is dying to apprehend President Bashir whereas worse culprits like George W. Bush and Tony Blair are walking the streets unperturbed. These are the two men who concocted grievous lies and deceptions on their way to destroying Iraq. Their soldiers have killed, maimed, and destroyed far more lives and properties than Bashir and Taylor's soldiers ever did. And yet, the ICC has turned a blind eye. Just imagine what would have happened if the murder and chaos in Iraq were created by Africans? Similarly, Amnesty International's call for Bashir's head should not deceive anybody. I have lived in Switzerland for many years, and have observed Amnesty International (and other human rights NGOs) from very close range. History shows that all these human rights organisations are constantly infiltrated or used by various Western intelligence agencies to do the bidding of the Great Powers. So, don't be deceived when the human rights NGOs speak. They should not call for Bashir alone. They know where Bush and Blair live. They should call on them to answer for their heinous misdeeds in Iraq.

people who had terrorised and killed black Africans for 50 long years during the apartheid era. And no human rights group said it was wrong to forgive P. W. Botha & Co.

Impunity was also not an issue when Zimbabwe decided in 1980 in the interest of national peace and stability to forgive the perpetrators of war crimes and crimes against humanity – people who had terrorised and killed black Africans for decades before independence. And no human rights group said it was wrong to forgive Ian Smith and Co. Impunity was again not an issue when Namibia did the same thing in 1990 – to forgive the atrocities committed against the black people there during the pre-independence era. And no human rights group spoke against Namibia's act of forgiveness.

Was all this because in all the above-cited cases, the perpetrators were white and the victims black? Yet of late, there has been talk in the West and among the circles of its African followers that President Robert Mugabe should be arrested and tried by the ICC for alleged human rights abuses in Zimbabwe in recent years? Well, it says it all, doesn't it?

Listen to David Crane, the American former prosecutor of the Special Court for Sierra Leone (as he told the US Congress, and reported by *New African* in May 2009): “*My intent was to humble and humiliate Charles Taylor before his peers, the leaders of Africa, and to serve notice to Taylor and others that the days of impunity in Africa were over.*”

Really? Then, let's see the African “darlings of the West” in chains before the ICC. Don't choose and pick the prey. And let Amnesty International, Human Rights Watch, FIDH and the rest be up to speed. ■ NA

(Martin Kargbo is a concerned African based in Freetown, Sierra Leone)

United Nations  **Nations Unies**

United Nations Mission in Liberia (UNMIL)

UNMIL Public Information Office Media Summary 09 July 2009

[The media summaries and press clips do not necessarily represent the views of UNMIL.]

International Clips on Liberia

07/09/2009 07:46:49

Liberia welcomes Chinese investors: Vice President

BEIJING, Jul 09, 2009 (Xinhua via COMTEX) -- Liberian Vice President Joseph Nyuma Boakai on Friday invited Chinese investors to focus on the West African country's agricultural, mining, forestry and other sectors. Boakai, who is here for his first Beijing tour as guest of his Chinese counterpart Xi Jinping, hailed the booming bilateral ties since the two states resumed diplomatic ties in 2003. Appreciating China's contribution to the war-hit country's reconstruction at a business forum in Beijing, Boakai pledged to further economic and trade ties with China so as to stimulate Liberia's economic growth and improve the quality of life of local people. Zhang Wei, vice president of the China Council for the Promotion of International Trade, said Chinese businessmen were interested in investing in Liberia and other West African states. "We are not only interested in the mining sector, but also other industries such as agriculture, fishery and tourism, which could provide more jobs to the local community," said Yang Yutao, a manager of the private China-Union Investment Co. Ltd that has pumped two billion U.S. dollars into the country's mining sector.

International Clips on West Africa

Local Media – Newspaper

Senate Concurs with House on 2009/2010 Budget Passage

(The Monitor, The Inquirer, The Analyst)

- The Senate has concurred with the House of Representatives in the passage of the 2009/2010 budget.
- The Senate took the vote Wednesday in a special session to finalize the approval of the budget by the Legislature.
- The Lower House approved the US\$347 million budget Tuesday with a revenue increment of over US\$24 million. This means the budget is now in the tune of over US\$371 million.
- The concurrence by the Senate means the budget would now be sent to President Ellen Johnson Sirleaf for approval or rejection.

Government, USAID Sign US\$50M Contract for Health sector

(The News, Daily Observer)

- Government and the United States Agency for International Development (USAID) have signed over US\$50 million contracts to cater to the country's healthcare delivery system.
- The contracts are under USAID's Rebuilding Basic Health Services programme.
- USAID Mission Director, Pamela White, who signed for her agency said the contract would initially cover a five-year period and would seek to improve operations and ensure delivery of the ministry's basic package for health.
- It would be implemented in 114 clinics in Bomi, Bong, Grand Cape Mount, Lofa, Montserrado, Nimba, and River Gee counties.
- The USAID Boss said the initiative represents a critical new step in the reconstruction of the health system of Liberia that would benefit over one million people.

U.S. Government Spends Nearly US\$200M on AFL

(The Informer, National Chronicle, Heritage, Inquirer)

- The U.S. Government says it has spent close to US\$200 million in rebuilding the Armed Forces of Liberia.
- Speaking Wednesday following an inspection of facilities at the Camp Kesselley Military barracks in Margibi County, Ambassador Linda Thomas–Greenfield said U.S was quite impressed with progress made thus far in building a new Liberian Army.
- She said the building of the new AFL since 2004 has been a collaborative effort of both the U.S and Liberian governments.
- For his part, Defense Minister Brownie Samukai said Government was satisfied with the U.S. Government's support to the AFL.

Government Raises Concern over Weapons Import

(The News)

- [SIC]Reports say Government has registered concern over the importation of weapons into the country by a contingent of the United Nations Mission in Liberia(UNMIL)
- According to the report the contingent imported several rounds of mortar bombs, machine guns, automatic rifles and rounds of ammunition.
- Senior Government officials say authorities have been seeking clarification from UNMIL on the issues.
- In a clarification, UNMIL said it had already communicated the legal provision to Government saying the mission is exempted from the UN Embargo on weapons imported by troops contributing countries and their contingents to support the Mission.
- Meanwhile, the mission clarified that in order to carry out their mandate, all peace-keeping contingents require all their equipment to be in a state of permanent readiness.

Association of Intellectuals Want Senate Reconsider Decision of Labor Minister-Designate

(The Heritage, Daily Observer, The Inquirer)

- The Association of Liberian Intellectuals (ALI) wants the Senate to reconsider its decision to reject Labor Minister-Designate Counselor Tiawon Gongloe.
- According to the group, the rejection of Counselor Gongloe without a justifiable reason could evoke speculations of bias and prejudice on the part of the Senate.
- He was rejected on Tuesday by the Senate Plenary on grounds that his junior brother currently serves in the same Labor Ministry as an Assistant Minister.
- Before his recent nomination to the post of Labor Minister, Cllr. Gongloe served Solicitor General of Liberia.

National Elections Commission Dismisses Liberty Party's Meddling Claim

(The Inquirer)

- The National Elections Commission has termed as baseless allegations by the opposition Liberty Party that the commission was meddling in the internal affairs political parties.
- Addressing students of the African Methodist Episcopal University recently, the political leader of the Liberty Party, Counselor Charles Brumskine accused the commission of meddling in the affairs of political parties.

Big Demolition for Waterside Market, over 50 Stores to be Affected

(The Informer)

- The Ministry Public Work has marked several building in the commercial district of Waterside for possible demolition.

- According to the Ministry, the demolition is to make way the government to commence the reconstruction of the damaged “old bridge”.
- Traders in the area have expressed their dissatisfaction over the government’s planned action, describing it as untimely.
- They on the Public Work Ministry to reconsider its decision while giving them ample time relocate their businesses.

Local Media – Star Radio (*culled from website today at 09:00 am*)

US-Based Group Reports Threats on Lives of TRC Commissioners

- A US-based Human Rights group, Liberia Human Rights Campaign (LHRC) has reported threats on the lives of Commissioners of the Truth and Reconciliation Commission since the release of the TRC final report.
- The group said as a result of the threat many of them have gone into hiding and refuse calls for fear of being traced.
- In a dispatch, the Liberia Human Rights Campaign called on government and the United Nations Mission in Liberia (UNMIL) to provide full protection for the Commissioners.
- The TRC has confirmed the reports of threats on some Commissioners and staff saying they were in the form of letters, text messages, and public statements.

(Also reported on Sky F.M., Truth F.M. and ELBC)

U.S. Government Says Nearly US\$200M Spent on AFL

Government, USAID Sign US\$50M Contract for Health sector

Senate Concurs with House on 2009/2010 Budget Passage

(Also reported on Sky F.M., Truth F.M. and ELBC)

Education Ministry Signs Contract to Build 20 Primary Schools

- The Education Ministry and eleven local companies on Tuesday signed an agreement for the construction of 20 primary schools across the country.
- Education Minister, Dr. Joseph Korto signed for his ministry while representatives of the respective companies signed for their entities.
- The 11 Liberian-owned companies were hired by an implementing partner of the Education Ministry and the United Nations Office for Project Services.
- The construction cost of the 20 schools is estimated at over US\$98,000.00 and is expected to be completed in September this year.

Ex-ULIMO-K Leader Criticizes Timing of the Release of TRC Report

- Ex-ULIMO-K Leader and University Professor, Alhaji Kromah says the release of the TRC report during the absence of President Ellen Johnson Sirleaf had the potential to undermine the presidency.
- The report was released at a time the President was attending the just-ended African Union Summit in Libya.
- The University Professor is among eight former warring faction leaders recommended for prosecution by the TRC. The report also barred President Sirleaf from holding public office for 30 years.

Financial Scandal at Judiciary, Two Suspended

- The Judicial Administration has suspended two of its senior financial officers, Otagba-Nah Klah, Comptroller, and Bishop Witherspoon, Special Assistant to the Chief Justice and Pay team head for time indefinite.
- The men were suspended for their alleged link to a financial scandal worth over US\$30,000.

Truth F.M. (*News monitored today at 10:00 am*)

National Elections Commission Dismisses Liberty Party’s Meddling Claim

United Nations OHCHR

Friday, 10 July 2009

UN human rights chief says reports suggest possible war crimes in Somalia

Press Release

GENEVA – The UN High Commissioner for Human Rights, Navi Pillay, said Friday it is clear that grave violations of international human rights and humanitarian law – possibly amounting to war crimes – are being committed in Somalia, as fighting continues to ravage the capital Mogadishu, and the situation in South Central Somalia remains extremely precarious.

Pillay said that attacks against civilians have been one of the main features of the conflicts that have engulfed Somalia since 1991. “In this new wave of attacks, it is clear that civilians – especially women and children – are bearing the brunt of the violence,” she said. “There needs to be a much greater effort to protect civilians. Displaced people and human rights defenders, aid workers and journalists are among those most exposed, and in some cases are being directly targeted.”

Pillay said UN human rights officers have been interviewing refugees and internally displaced people (IDPs) who fled after the recent upsurge in violence in Mogadishu and south and central areas of the country which began in early May.

Witnesses have told UN investigators that the so-called Al Shabaab groups fighting to topple the Transitional Government have carried out extrajudicial executions, planted mines, bombs and other explosive devices in civilian areas, and used civilians as human shields. Fighters from both sides are reported to have used torture, and fired mortars indiscriminately into areas populated or frequented by civilians. There has also been increasing evidence in recent months concerning the scale and nature of child recruitment by various forces fighting inside Somalia, which is also a serious violation of international human rights and humanitarian law. The majority of these children are aged 14 to 18.

“Some of these acts might amount to war crimes,” Pillay said.

The work of human rights defenders and journalists in Mogadishu has become extremely precarious. Since the beginning of the year, six journalists have been killed in Mogadishu, four of them apparently victims of targeted assassinations, while the others were killed in cross fire.

The High Commissioner urged all parties to the conflict to abide by the provisions of international human rights and humanitarian law. “It is vital that the fighting and violence stop as soon as possible,” she said. “It is difficult to influence the combatants in an anarchic situation like that affecting much of Somalia, but essential that efforts continue at both the domestic and international levels.”

“Once order has been restored – and one day order will be restored – those responsible for human rights violations and abuses should, and I hope will, be brought to justice,” she said. “The gathering of evidence, by all who are in a position to do so, has to continue so that those committing these terrible crimes in Somalia will one day receive their due punishment before a court of law, and their victims will finally see justice being done.”

For the time being, however, in Mogadishu and southern and central regions, regular judicial institutions have ceased to function. UN human rights staff have received credible reports that in areas controlled by

insurgent groups, ad hoc tribunals are judging and sentencing civilians without due process and in violation of Somali as well as international law.

The punishment handed down by these tribunals include death sentences by stoning or decapitation, as well as amputation of limbs and other forms of corporal punishment. Places of religious significance and cemeteries are also reported to have been destroyed by the so-called Al Shabaab groups.

More than 200,000 people have been displaced in the past two months alone, and hundreds of civilians are believed to have been killed and wounded. The total number of people displaced inside Somalia from this and earlier conflicts is now believed to be around 1.2 million. Aid agencies' efforts to provide assistance to the displaced are being seriously constrained by security conditions.

The situation in Somalia is also affecting neighboring countries, especially Kenya, which is housing a total of 280,000 refugees, mostly Somalis, in Dadaab – which is one of the biggest, oldest and most congested refugee camps in the world. Since the beginning of the year, some 36,000 new refugees from Somalia have arrived at Dadaab, with a noticeable increase in arrivals in June.

ENDS

For more information on the situation of human rights in Somalia, please visit:

<http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/SOIndex.aspx>

Office of the High Commissioner for Human Rights - Media Unit

Rupert Colville, Spokesperson: + 41 22 917 9767

Xabier Celaya, Information Officer: + 41 22 917 9383

For inquiries and media requests: press-info@ohchr.org

Radio Netherlands Worldwide

Friday, 10 July 2009

Bosnia marks Srebrenica with no reconciliation in sight

By International Justice Desk



*Sarajevo, Bosnia and Herzegovina
Sarajevo, Bosnia*

Bosnia's Muslims will mark the anniversary of the Srebrenica massacre on Saturday with their relations with Serbs at their worst in the 14 years since the slaughter.

The massacre of some 8,000 Muslim men and boys by Serb forces on July 11, 1995 – Europe's worst atrocity since World War II - is to be commemorated across Europe for the first time. Bosnia, which remains sharply divided along ethnic lines.

The European Parliament in January proclaimed the date a day of commemoration of the Srebrenica genocide, calling on countries across the continent to support the move.

While they admitted in 2004 that their forces killed 8,000 Srebrenica Muslims, Bosnian Serb authorities condemned the resolution, in what's seen as a reflection of the revival of nationalist rhetoric that triggered the country's 1992-1999 war.

In another act of defiance on Wednesday, Serb deputies in the Bosnian parliament blocked an initiative to declare July 11 the Srebrenica genocide remembrance day in the former Yugoslav republic.

"Bosnia is facing the worst political crisis since the war," political analyst Srecko Latal told AFP.

"One of the rare encouraging things is that political tensions have not reflected on the relationships between ordinary people," he added, warning that this "might be changing."

Bosnia's inter-ethnic war cost 100,000 lives and left the country split into two highly autonomous entities -- the Muslim-Croat Federation and the Serbs' Republika Srpska.

The eastern town of Srebrenica remains in the Serb-run half - a factor which has added to tensions highlighted this month by the arrest of a massacre survivor while entering Republika Srpska from Croatia.

The detention of Midhat Salihovic was condemned by groups representing survivors, which warned they would cancel Saturday's ceremony in protest.

Salihovic, who was to attend the burial of his father and brother both killed in Srebrenica, was released after questioning.

His arrest was "clearly politically motivated," said Mirsad Tokaca of the non-governmental Centre for the Investigation of War Crimes, adding that local leaders "politicise every issue and manipulate victims."

"We are fortunate to have not had some real incidents" because such abuse of Srebrenica survivors could cause them to react like a "bull to a red rag," said Tokaca.

Experts and analysts warn that events surrounding the massacre anniversary indicate deeper problems in post-war Bosnia.

Political tensions had been rising in the country since its 2006 elections, with Serbs threatening to secede and some Muslim leaders calling for the abolition of Republika Srpska.

Tens of thousands of Muslims are expected gather in Srebrenica on Saturday to attend the memorial and burial ceremony for more than 500 newly identified victims.

Most of these remains were found in secondary graves, where they had been moved from initial burial sites in an attempt by Serbs to cover up war crimes.

So far some 3,200 victims have been buried at a memorial just outside the ill-fated town. Thousands are yet to be exhumed and identified in the area where some 70 mass graves have been uncovered.

The massacre has been termed genocide by both the International Court of Justice, which handles disputes between nations, and the International Criminal tribunal for the former Yugoslavia (ICTY).

Bosnian Serb wartime leader Radovan Karadzic, suspected of being behind the massacre, was detained last year and is awaiting trial before the ICTY. His army chief and co-accused Ratko Mladic is still on the run.