

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



Iron ore trans-shipper

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:

Tuesday, 13 August 2013

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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Koroma helps warlord escape trial

The President's secret deportation of an ex-warlord and ally of Charles Taylor blatantly snubs the United States government and human rights campaigners

Sierra Leone, 8th Aug 2013: Ibrahim Bah, the warlord and arms dealer who was living in Freetown in breach of United Nations sanctions (AC Vol 54 No 10, Impunity in Freetown), has gone into hiding after the Sierra Leone government secretly deported him to Senegal on 27 July.

Bah, a close ally of convicted mass murderer Charles Taylor, faces charges of major human rights abuses in connection with the civil wars in Sierra Leone and Liberia. This latest subterfuge by President Ernest Bai Koroma's government raises the key question of why it has appeared so determined to protect Bah.

The saga has done serious damage to Sierra Leone's regional and international credibility. On 19 July, Bah was due to appear in court in Freetown to face trial for the kidnapping and assault of Tamba Emmanuel during the civil war in 2000 (AC Vol 54 No 15, Bah humbug). Freetown officials had

tried to keep the case out of court. After they failed, President Koroma signed a deportation order under a 1965 law allowing him to expel any foreigner deemed not 'conducive to the public good'. Yet news of the deportation emerged on 5 August only after a court in Freetown, unaware that Bah had left the country, issued a warrant for his arrest for non-appearance.

The secret deportation and Bah's latest escape will infuriate the United States, which was assured by Sierra Leone that the warlord would face justice. New York-based Human Rights Watch and US Congressman Frank Wolf had urged the US government to see that Bah would stand trial. The State Department wrote to Wolf on 2 July, promising to follow Bah's case closely. 'We have urged Sierra Leonean authorities to act in accordance with the principles of international law and justice,' the letter said. It added that the US Ambassador in Freetown, Michael Owen, had urged the Attorney General and Minister of Justice, Frank Kargbo, 'to investigate the circumstances around Ibrahim Bah's presence in Sierra Leone and to take appropriate legal action.'

The case is of particular interest

to Ambassador Stephen Rapp, US Ambassador-at-Large for War Crimes Issues. Kargbo claims bizarrely that he knew nothing about the private criminal case against Bah when he recommended his deportation.

Sierra Leone's snub to the US and the rights activists will raise fresh questions about the Koroma government's commitment to the rule of law. It already faces credible accusations that it has been protecting drug traffickers, together with corrupt foreign business people and politicians. It presents international organisations working closely with Koroma, such as the Tony Blair Foundation, with a dilemma.

We hear that the hunt for Bah is unlikely to let up and that ways and means of bringing him to justice are actively being sought. Once

sured law firms in Freetown not to take the Bah case. Some weeks passed before a firm, Holloway & Partners, said it was willing to take the brief on behalf of the private prosecution.

Obstructions continued. The lawyers instructed by Carl and Civitas Maxima had to serve a writ on Bah and a High Court bailiff duly did so on 15 July, summoning him to court on 18 July. Then, however, the case file mysteriously disappeared from the Magistrates Court, preventing the hearing from being held.

On 24 July, the lawyers wrote to the court asking why the case had not been listed and demanding to know where the case file had gone. That was the same day Koroma signed the deportation order.

Bah gave them the slip

As Koroma and the Ministry of Justice kept the deportation secret, the

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Africa Confidential first revealed Bah's location, lawyers and investigators familiar with the evidence before the Special Court on Sierra Leone - the tribunal which sentenced Charles Taylor to 50 years in prison - realised there was enough evidence against Bah in their archives to present to a court. Koroma's government was urged to mount the prosecution but it procrastinated and obfuscated.

When it became clear that the Freetown government did not want to prosecute Bah, the Freetown nongovernmental organisation the Centre for Accountability and Rule of Law (Carl) decided, in partnership with the Swiss-based organisation Civitas Maxima, to bring a private prosecution on behalf of Tamba Emmanuel, a senior legal source told us. The source added that the government pres-

lawyers and the magistrate had expected Bah to be in court at the next hearing listed for 29 July. However, on the evening of Saturday 27 July, Bah was deported on Senegal Airlines flight DN 2238 direct to Dakar. He had no escort. As Bah has a Senegalese passport, he could have passed through Dakar immigration without question or he could have boarded a plane to another destination. For now he has given his pursuers the slip.

CARL Executive Director Ibrahim Tommy told the British Broadcasting Corporation (BBC): 'We're quite disappointed. It's bad for promoting justice and accountability. He has a legitimate case to answer. Unfortunately, the [Sierra Leone] government has aided his escape.' Koroma's officials have tried to justify their actions. Assistant Inspector General of Police Morie

Lengor told a Freetown radio station that the government had written to the Senegalese authorities informing them of Bah's arrest and asking whether they had anything against him but received no response.

Senegal's government emphatically denies this. Justice Minister Abdou Latif Coulibaly fully investigated with all branches of the police and they had heard nothing, according to the Associated Press.

Lengor also told radio listeners that Bah was 'not a criminal' and that putting him on trial would have been too expensive for the government. Kargbo added that he had advised Koroma to expel Bah because putting him on trial would have been 'a distraction' from the government's development efforts.

The government seemed embarrassed by the presence of Bah and prevaricated over the case. Even though United Nations sanctions are clear, stating that persons under a travel ban must be deported, Freetown asked the UN what it

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should do with him. The UN Security Council reminded the government of its duties, also requesting Freetown to freeze Bah's assets because of evidence by the UN Panel of Experts on Liberia that he had been involved in attempts to recruit mercenaries in Sierra Leone to fight in Côte d'Ivoire and Libya. Several press reports state, however, that Sierra Leone claimed the UN did not respond to its enquiries about Bah.

Kargbo's attitude to the case is puzzling given that he was the Executive Secretary of Sierra Leone's Truth and Reconciliation Commission, which meticulously documented the atrocities of the eleven-year civil war and which called for judicial accountability in 2004. This case further damages the Koroma government, which claims a good development record and wants to improve its international standing.

Yet by appearing to protect a warlord and veteran of the region's horrific civil wars, the government has scored a spectacular own goal and raised suspicions about its intentions.

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Concord Times
 Tuesday, 13 August 2013

Liberia marks anniversary of Taylor's departure

The ex-wife of former Liberian President Charles Taylor said the convicted war criminal made "the ultimate sacrifice" by exiting the country 10 years ago Sunday, an event that effectively ended a brutal 14-year civil war that claimed 250,000 lives.

In an interview with The Associated Press marking the 10th anniversary of her ex-husband's departure, Jewel Taylor, now a powerful senator representing the former president's stronghold of Bong County, said the war may have been a "necessary" chapter in Liberia's history.

"Every country has gone through some crisis," she said. "I believe if you talk to historians as to where we were when the crisis began, there might be some who say the war was necessary." The senator's comments underscore Liberia's complicated relationship with Taylor 10 years on from war. The former president retains a vocal following despite well-documented abuses committed by his fighters — many of them children — and his plundering of the state's resources after he came to power in 1997.

On Aug. 11, 2003, Jewel and Charles Taylor fled to Nigeria amid intense international pressure and persistent rebel attempts to capture Monrovia. Three years later, not long after Liberia completed its first postwar

election, Taylor was arrested and transferred to The Hague, where he faced trial at a United Nations-backed tribunal over crimes committed during Sierra Leone's 11-year civil war.

Last year, Taylor was found guilty of war crimes and crimes against humanity and sentenced to 50 years in prison.

Ten years after the end of the civil war, Liberia's current government, headed by 2011 Nobel Peace Prize winner Ellen Johnson Sirleaf, still has several challenges to improve the lives of Liberia's 4 million people. Sirleaf's government will mark the 10-year anniversary of the Liberian war's conclusion on Aug. 18, the day a comprehensive peace deal was signed in Accra, Ghana.

At a press briefing last week discussing the plans, cabinet minister Conmany Wesseh encouraged Liberians to use the anniversary "to carry out creative actions to thank themselves and others and renew their dedication to building a peaceful, prosperous and happy Liberia."

Sirleaf's government has made "immeasurable gains" in consolidating peace and promoting reconciliation and development, Wesseh said.

International Center for Transitional Justice (New York)

Monday, 12 August 2013

Sierra Leoneans Reflect On SCSL in 'Seeds of Justice'

This year in Freetown, a unique court will close its doors.

The Special Court for Sierra Leone - a hybrid court established jointly by the United Nations and the government of Sierra Leone - is nearing the end of its mandate to prosecute the most responsible perpetrators of crimes during the country's civil war, in which tens of thousands of people were killed, raped, and mutilated, and hundreds of thousands were expelled from their homes.

On International Justice Day, July 17th, ICTJ looks at the legacy of the Special Court for Sierra Leone through the voices of those to whom its work was most important: the citizens of Sierra Leone.

Our new multimedia project, "Seeds of Justice: Sierra Leone," presents five portraits of Sierra Leoneans whose lives were impacted by the Special Court for Sierra Leone.

We wanted to know: What has the court done for their country? What will it leave behind once it closes its doors? How did the trials affect their lives?

This series of intimate, tender images from award-winning photographer Glenna Gordon helps to tell the stories of daily life in Sierra Leone after more than a decade since the end of the conflict.

In their own words, these individuals speak of the terrifying uncertainty in being forced to flee from home, the devastating heartache of personal loss, the pain of families torn apart by the chaos of war.

They are stories of personal triumph, and a testament to the slow and steady post-conflict recovery of communities of Sierra Leone - the opening of storefronts at dawn, weeding the gardens, or going to the polls - under all of which lies the confidence in the return of rule of law to their country.

These Sierra Leoneans have no illusions about the work still to be done, and each is actively working in their own way to improve the lives of their communities. But each is clear that the SCSL's contribution to accountability after the war has given them a sense of trust in the institutions, and has left them with a sense that in Sierra Leone, justice can be done.

The Voices of "Seeds of Justice"

Aminata Sesay is a businesswoman who owns Amsays Own Goods, a small provisions store located in one of the busiest squares of Freetown. "Without justice, no matter what developments might be going on now, there is no peace."

Mohamad Bah was a student when war broke out in Sierra Leone. He was captured by the rebels and forced to fight with other child soldiers. Now, he is an advocate for others with disabilities. "We want Charles Taylor to remain in jail," he says. "If justice is done, I believe everything will be okay for us."

Claire Carlton Hanciles is the chief of the defense office at the Special Court for Sierra Leone. During the war, she was forced to flee Sierra Leone. Today, she protects the due process rights of the accused. "I saw the rule of law turned upside down."

Princess AD Rogers works as a women's rights advocate in Kenema. "Women are still being violated, women are still being beaten, women are still being killed by their boyfriends or husbands, girls are still being raped, all because the doers of these crimes were left free."

Chief Kasanga II is a traditional chief in Makeni, the second biggest town in Sierra Leone. On a daily basis, he is asked for advice and guidance by his community. "Now we have the belief that no matter who you are, no matter the wealth you have, the court will be above you."

Looking at a Legacy of the Special Court for Sierra Leone

"Seeds of Justice: Sierra Leone" is part of an ICTJ project that has brought together Sierra Leoneans and the international community over the past year to reflect upon the work of the Special Court for Sierra Leone (SCSL).

The project "Exploring the Legacy of the Special Court for Sierra Leone" asked the hard questions about the SCSL: How should we understand the impact of its accomplishments, the lessons from its struggles and shortcomings, and its role in larger efforts to promote accountability for serious crimes?

To help preserve the history of the SCSL, we developed an interactive timeline charting the significant milestones in the eleven years of court's existence. In addition to hosting two major conferences, we produced a series of podcast interviews with experts on the Special Court, including Sierra Leone's Ambassador Allieu Ibrahim Kanu, United States Ambassador-at-Large for Global Criminal Justice Stephen J. Rapp, and international justice practitioner Alison Smith.

For the culmination of the project, we set out to consider the legacy of the court as seen through the eyes of survivors of the conflict in Sierra Leone: a women's rights activist, a lawyer, a traditional chief, a businesswoman, and an advocate for persons with disabilities who is himself an amputee.

Creating the Special Court for Sierra Leone

After ten years of a brutal civil war, in which tens of thousands of people were killed, raped, and mutilated, and hundreds of thousands were expelled from their homes, the government of Sierra Leone in 2002 joined with the United Nations to create the SCSL, to try those most responsible for war crimes and crimes against humanity.

On June 12th, 2000, Sierra Leone President Alhaji Ahmad Tejan Kabbah sent a letter to the UN Secretary General Kofi Annan to ask for assistance to establish a credible court to prosecute perpetrators of crimes committed during the civil war.

The Special Court was designed to investigate and prosecute those who bore the greatest responsibility for "serious violations of international humanitarian law and Sierra Leonean law" committed in the territory of Sierra Leone after November 30, 1996.

Over the course of ten years, the SCSL - the first "hybrid" court to combine international and national staff - indicted 13 individuals, including former Liberian President Charles Taylor, the first sitting African

head of state to be indicted for war crimes and crimes against humanity. In April 2012, its Trial Chamber found Taylor guilty on 11 charges of planning, aiding and abetting crimes committed by rebel forces in Sierra Leone - and sentenced him to 50 years in prison. His case is now under appeal.

The Special Court has brought a measure of justice for victims, and most Sierra Leoneans have a positive view of the court, according to surveys. Its trials have been an opportunity for citizens to learn the truth about what happened during the conflict, and its courtrooms have provided a legal forum for hundreds of victims to come forward and tell their stories.

Still, the court has been criticized for prosecuting a relatively small number of perpetrators and for failing to provide reparations to victims and their families, many of whom continue to suffer the terrible effects of the conflict.

"Many of us we are pleased when the verdict was passed at The Hague [against Charles Taylor]. But still much needs to be done to address the needs of persons who were amputated during the war," says Mohammed Bah.

On International Justice Day, ICTJ recognizes the contributions of the SCSL to Sierra Leone's own transition from conflict, and to the larger project of international justice as a whole.

The Daily Star

Tuesday, 13 August 2013

Hurdles in the way of STL's Hariri trial

Nine years after a massive car bomb killed former Prime Minister Rafik Hariri and plunged Lebanon into its worst political turmoil since the Civil War, the trial of the men accused of orchestrating the attack appears within reach. In July, the pretrial judge at the Special Tribunal for Lebanon, Daniel Fransen, set Jan. 13, 2014, as the tentative date for the start of trial.

"I think it's a huge milestone for Lebanon, for international justice and for justice in the Arab world," Marten Youssef, the court's spokesman, told The Daily Star at the time.

The Hariri case will be the first international trial for a crime of terrorism. The STL is the first tribunal to try a case in absentia since the Nuremberg tribunals that dealt with Nazi war crimes.

This is the second temporary date set by the STL, which already missed its first deadline of March 2013.



Many steps remain to be taken before the trial starts, and the date may yet change again if new developments in the case occur, such the arrest of one of the men wanted by the court.

File - Daniel Fransen.

The nine-year delay also poses questions over whether the tribunal, established to fight the impunity surrounding political assassinations, can have an impact on Lebanon. Wissam al-Hasan, the director of the Internal Security Forces' Information Branch, was assassinated last year in a car bomb reminiscent of the political violence in the middle of the last decade.

The nine-year delay also poses questions over whether the tribunal, established to fight

The STL was created in 2009 to bring to trial those responsible for the Feb. 14, 2005 attack on Hariri. Four members of Hezbollah were indicted by the STL in connection with the Beirut bombing, which claimed the lives of 23 people including the former premier.

Judge Fransen now has to transfer the entire case file – a dossier containing all the evidence and material that will be showcased in trial and all the work that has been done so far to prepare the case, to the STL's trial chamber.

The trial chamber will then choose a final trial date, though it will likely remain in the same ballpark as the pre-trial judge's proposed date. The case file itself is likely to be part public and part confidential.

A portion of the case file will be the defense's updated "pretrial brief," a document that has to be submitted by the lawyers of the four men and that lays out a summary of their case.

Defense counsel have yet to offer a substantive outline of their theory of what happened. Their submissions, expected later this month, will be informed by months of investigations and analysis of the evidence that will be brought to trial.

Previous public filings offer hints. One request to the Lebanese authorities by counsel for Assad Sabra, one of the four accused, asked for information on terrorist groups operating in Lebanese territory.

Judge Fransen is required to deliver the case to the chamber's five judges, two of whom are Lebanese, at least six weeks before trial, but he intends to do so by early October.

Yet even three months may seem inadequate for a case that contains thousands of documents and a massive amount of specialized communications evidence as well as witness testimony.

Youssef said the chamber had already dealt with a number of issues related to the case and would therefore not be starting from scratch.

The trial chamber has already ruled on the legality of the STL itself, on challenges to the indictment, and on holding trials in absentia.

But the chamber has yet to deal with a number of other issues, including whether the prosecution can bring evidence related to the so-called "connected cases" in the Hariri trial.

The STL has jurisdiction over a number of other attacks on Lebanese political figures that may be linked to Hariri's assassination.

The prosecution indicated in its pretrial brief that Mustafa Badreddine, a leading figure in Hezbollah and in the cell that allegedly orchestrated Hariri's killing, was involved in other attacks in Kuwait and the related cases, showing a "consistent pattern of conduct" that supports the accusations against him.

The defense wants the claims stricken, since Badreddine has not been charged in the other attacks.

Other factors may also delay the start of trial. These include the arrest of one of the accused, the prosecutor submitting new indictments by adding new suspects, or indictments being submitted in the connected cases.

The prosecutor could then ask for an "enjoinder," combining the trial of new suspects or cases with the Hariri assassination case.

The start of a trial in early 2014 also raises the prospect of a renewed debate on the tribunal's mandate, which is set to expire in February 2015.

The STL is unlikely to finish trial and deal with appeals to its verdicts in just one year, and it faces pressure from donors to show progress.

But the tribunal insists that it pays no consideration to political pressure.

“Naturally we are sensitive to their desire for the trial to start,” Youssef said. “That being said, the pretrial judge does not take into account any considerations other than those of the parties involved in setting a tentative trial date.”

He said the tribunal’s priority was to guarantee a fair trial.

“We’re not going to rush through the case just for the sake of completing trial,” he said. “The utmost attention has to be given to the accused receiving a fair trial.”

Youssef said that taking nine years to begin trial “is of course not something that we’re proud of.”

But, he said, the tribunal’s work should not be dismissed.

“It’s unfortunate that it has been nine years, but the alternative is to simply throw our hands up in the air,” Youssef said. “Absolutely not. We have to carry on with our mandate.”

The approach of a trial also highlights Lebanon’s failure to pay its share of the STL’s budget, since the tribunal is likely to incur logistical costs because of trial activity. Lebanon’s caretaker government is unable to pay dues for 2013 of roughly \$39 million.

The STL maintains that it is confident Lebanon will pay, despite the political deadlock.

“In the past, Lebanon has always honored such obligation and the Tribunal has received no indication that intends to act otherwise in 2013,” Youssef said.

Standard News (Kenya)

Tuesday, 13 August 2013

International Criminal Court releases work plan for William Ruto's trial

By Francis Ngige

Nairobi, Kenya: The judges trying Deputy President William Ruto and journalist Joshua arap Sang at the International Criminal Court (ICC) have released an intensive work plan for the case scheduled to begin on September 10.

With just over three weeks to the trial, the ICC Trial Chamber V released the timelines and procedures to be followed.

In a schedule released yesterday, Judges Chile Eboe-Osuji, Olga Herrera Carbuccion and Robert Fremr directed the prosecution to update the list of witnesses, deleting the names of those who have withdrawn their testimony.

The judges also told ICC Chief Prosecutor Fatou Bensouda to reduce the time she intended to present her case against Mr Ruto and Mr Sang.

They noted that the 413 hours that the prosecution needed to conduct examination-in-chief of the its 46 witnesses "are excessive and needed to be reviewed".

The bench was giving directions yesterday after parties in the suit made submissions on the conduct of the proceedings.

And with the rules of engagement now in place, it remains to be seen how long Mr Ruto and his co-accused will be in Netherlands attending to the trial.

Ruto has already won a reprieve to skip some of the sittings of the trial as directed by the court. But Bensouda has already shown her intent to appeal against a ruling excusing Ruto from being physically present at The Hague for all the sessions.

The chamber had earlier ruled, by majority, that the DP would only be required at the court during key sessions.

President Uhuru Kenyatta is also expected to face trial at the court beginning November 12.

While giving the directions yesterday, the chamber said the issue of reduction of time would be discussed during the next status conference to be held before the trial commences.

Opening a possibility of the trial court visiting the 2007/2008 post-election violence scenes, the court directed that parties seeking to have them visit any site should file an application before the conclusion of the defence case.

"If a party considers that a site visit should take place prior to the defence case, it shall file its application no later than two working days after the end of the prosecution case," the judges ruled.

Each of the parties will be given two hours to make opening statements with the prosecution expected to go first before the representative of the victims.

Ruto's defence team will then make its opening statement before Sang concludes.

After the close of the prosecution case, the judges said they would allow the defence to submit on whether the accused have a case to answer.

"The Chamber will in due course give reasons for permitting this manner of procedure and also give further guidance," the judges ruled.

The judges directed parties involved in the trial to make applications for protective measures in collaboration with Victims and Witness Unit.

Capital FM (Nairobi)

Monday, 12 August 2013

Kenya: ICC Prosecutor Seeks 400 Hours to Present Ruto Case

The International Criminal Court (ICC) Prosecution will require a minimum of two months to present its evidence against Deputy President William Ruto and his co-accused, former radio presenter Joshua arap Sang.

This emerged on Monday as Trial Chamber V (a) which will hear the trial against the two issued ground rules and procedures, in which it mentioned the prosecution's request to be given 413 hours to present its evidence and use 42 witnesses during the trial expected to kick off on September 10.

"The prosecution has submitted estimates of the length of time it requires to question each of its witnesses. It also indicated that it would call 46 witnesses and would require 413 hours in total for the examination-in-chief of those witnesses. As a result of subsequent changes, there are currently 42 witnesses whom the prosecution intends to call," the judges explained.

However, the time requested by the prosecution will be contested at a status conference to be arranged before the start of the trial against the two.

"Having compared practice and experience in the other cases before the court, the chamber is of the view that the prosecution's estimates appear excessive. At the next status conference to be held, the chamber will seek the parties' and participants' views on this issue, with a view to reducing the prosecution's estimates," the judges said.

In the set of rules, the trial chamber directed the prosecution to remove names of witnesses who had withdrawn.

Having compared practice and experience in the other cases before the court, the chamber is of the view that the prosecution's estimates appear excessive.

"The prosecution is further directed to provide, prior to the commencement of trial, an updated list of witnesses listing all witnesses in the expected order of call. The updated witness list should also delete any withdrawn witnesses and include revised estimates of examination time should the chamber order reductions during or after the forthcoming status conference," the judges decided.

The chamber further asked the prosecution to inform the court of the facts that each witness will give and show the "relevance of the testimony relative to the charges."

The prosecution was also required to furnish the court with an updated witness schedule on a monthly basis starting September.

The judges noted that so far, the prosecution had provided a list of 10 witnesses that it expected to use in the trial against Ruto and his co-accused Sang.

In regards to the opening statements of which Ruto and Sang will have to be present in person, the judges ruled that the prosecution will be the first to give its opening statement, followed by victims' legal representative.

Ruto's and Sang's defence opening statements will then follow respectively. The opening statement of each party will take up to a maximum of two hours. The defence teams in the Ruto-Sang case were also asked to disclose to the court and other parties in the case copies of material they will use by 5 September if it was not in the possession of the prosecution's evidence.

The judges also agreed that only the charges section of the Document Containing Charges will be read out during the opening session of which Ruto and Sang defence teams will be required to submit certified declarations on that issue by August 29.

The judges said that any objection notices by either of the parties should be filed by August 26. The chamber will, in principle, permit the defence to enter submissions, at the close of the case for the prosecution, asserting that there is no case for it to answer at the end of the prosecution's presentation of evidence.

The judges also allowed the defence teams to file motions of 'no case to answer' after the prosecution present its evidence. "The chamber will, in principle, permit the defence to enter submissions, at the close of the case for the prosecution, asserting that there is no case for it to answer at the end of the prosecution's presentation of evidence. The chamber will in due course give both its reasons for permitting this manner of procedure and further guidance as to procedure and applicable legal test," the judges asserted.

Whereas Sang will be present throughout the trial sessions, the trial chamber allowed Ruto to attend some sessions which include the opening and closing statements of all parties.

The decision was however challenged by the prosecution and the Appeal's Chamber is yet to give its verdict if Ruto should attend all the sessions or will skip some sessions. The trial against President Uhuru Kenyatta is set to begin on November 12.

JUDIE KABERIA

Judie is a Special Projects Reporter. She has eight years experience in Journalism in Kenya and Germany. She has scooped awards in Reproductive Health, Population and Development and Gender and Development. She has participated in international conferences in Germany. She has a soft spot for human rights and justice stories.

Nigerian Tribune
Monday, 12 August 2013

International Court indicts Boko Haram •For crimes against humanity

MEMBERS of the Islamist sect, Boko Haram, may soon be dragged to The Hague to face war crimes, as the International Criminal Court (ICC), on Monday, indicted the sect for crime against humanity in its widespread and systematic murder and persecution of civilians.

The report, entitled “Situation in Nigeria,” said there was reasonably basis that since July 2009, the group, which aimed to spread radical Islam in northern Nigeria, had committed crime against humanity.

After the indictment, ICC said the next step was to assess whether Nigerian government was working on “conducting genuine proceedings in relation to those who appear to bear the greatest responsibility for such crimes and the gravity of such crimes.”

The ICC investigation may, as a result, run into trouble with the Nigerian government, as the Federal Government had constituted a committee negotiating peace and amnesty with the sect.

The ICC, however, has the power to prosecute cases that national courts of signatory nations were unwilling or unable to investigate or prosecute.

Nigeria ratified the ICC statute on September 27, 2001, giving the court jurisdiction to over crimes committed within Nigeria from July 1, 2002.

The report highlighted various attacks on civilian population by the sect, while it described them as systematic and widespread, spanning over the entire North Eastern region, as well as Plateau, Kogi, Kano, Bauchi and Kaduna states.

According to the report, churches were singled out for constant attacks, concluding that the planning of the attacks showed they were products of organisational policy, a reason that qualified them as crimes against humanity.

On the violence in the Niger Delta and confrontation between Movement for the Emancipation of the Niger Delta (MEND) and security forces, the report said “it does not appear to be a reasonable basis to believe that the alleged crimes committed in the Delta region could constitute war crimes.”

It, however, said the situation might be revisited in the light of fresh facts and evidence.

On alleged crimes committed by soldiers fighting the Boko Haram, the report, which acknowledged that serious human rights violations may have been committed, however, concluded that they did not constitute crime against humanity.

“Information available as of December 2012 does not provide a reasonable basis to believe that the alleged crimes were committed pursuant to or in furtherance of a state or organisational policy to attack the civilian population,” it said.

Christian group lauds indictment

The Christian Association of Nigerian-Americans (CANAN) has welcomed the outcome of the ICC

preliminary reports determining clearly that Boko Haram should be tried for committing crimes against humanity and persecution against Nigerian Christians and others.

The office of the prosecutor of ICC, on Monday, reported that there was reason to believe that crimes against humanity had been committed in Nigeria by the militant group known as Boko Haram.

A report issued by the office found that the group had, since July 2009, “launched a widespread and systematic attack that has resulted in the killing of more than 1,200 Christian and Muslims civilians in different locations throughout Nigeria.”

A statement from CANAN secretariat in New York, on Tuesday, said it was glad that there was a legitimate international legal entity which would ensure that justice was done in the matter.

“We are encouraged that at a time when a minister of the Nigerian government has been making unsubstantiated claims about Boko Haram’s cease-fire, aimed at forcing an amnesty deal for perpetrators of grave crimes against humanity, the ICC has risen to the occasion in the interest of justice,” it said. CANAN noted that it would continue to advocate against terrorism in Nigeria, in alliance with other global agencies and in collaboration with the ICC.

“We shall continue to follow and support the ICC process all the way to its logical conclusion,” the statement added.

It said the prosecutor was still assessing three other phases of the situation in Nigeria, adding that once completed, would decide if a situation met the legal criteria established by the Rome Statute – the Court’s founding treaty – to warrant an investigation by ICC.

Searching for reparation – has the ICTY brought real justice for the victims in Bosnia and Herzegovina?

Although the establishment of the International Criminal Tribunal for former Yugoslavia (ICTY) has allowed bringing before the courts those responsible of war crimes, the tribunal has failed to address the most important issue for the future of the country: truth, justice and reparation for all victims.

By Dr. Goran Šimić

The direct victims of a crime are not the only victims in a conflict. In the former Yugoslavia, particularly in Bosnia and Herzegovina, we are all victims. The war ended two decades ago, but the past hinders our future and shackles us.

In 1993 the UN established the International Criminal Tribunal for the former Yugoslavia (ICTY), a court of law dealing with war crimes committed during the Balkans war in the 1990s. But to what extent has the ICTY helped Bosnia and Herzegovina come to terms with its history?

I do not think the ICTY is a perfect tribunal and that everything they have done has been positive. That is not to say that I think the world would be a better place without it either. If the tribunal had not been established, it would be very difficult for us to face our past and to see all the political, military, and civilian leaders brought before the court to face responsibility for their actions.

It is important to bear in mind that the ICTY started from scratch. As Carla del Ponte, the former chief prosecutor for the ICTY, says it is a tribunal which many wanted never to come into existence. Also, it must be acknowledged that it has laid the foundations for the establishment of other courts and tribunals by setting a precedent in international humanitarian law.

Trials alone are not enough

Bosnia and Herzegovina, just like any other country in the world where people are suffering similar or worse situations, needs courts. Yet, the work of the ICTY over the past 20 years shows that courts alone are not sufficient because they do not provide victims with redress and reparation. Trials will not build memorial monuments and courts will not identify every victim. The ICTY deal with every case brought to it, but not with all potential cases. According to the Criminal Procedure Code of Bosnia and Herzegovina, the courts are not set to establish the truth but rather just to determine the criminal liability of an individual.

In Bosnia and Herzegovina there are some serious flaws that need to be addressed in order to have fair trials for everyone, justice for victims and truth for society. First of all, there is not a sound statutory framework for the courts' work. It is a chaotic situation as the Court of Bosnia and Herzegovina operates under one code and the entity-level system under another. This undermines the social effort to establish the accountability of everyone involved. Secondly, everyone brought before the court must have the right to fair trial regardless of what they are suspected of having done.

Another important issue is that regarding the efficacy of the punitive policies. A prison sentence alone is an inadequate sanction for someone who has killed whole families, raped women and taken part in

atrocities. Increasing jail terms, though, would not achieve much. Regardless of the length of the jail sentence, it will feel inadequate if the victim is left unrecognised.

Victims' rights are yet to be recognised

One of the main shortcomings of the ICTY and the national courts is that victims are marginalised. War crimes are recognised as such because of the victims, who discuss what happened and who is to be held responsible. Yet, 90 per cent of the 400 articles of the Criminal Procedure Code of Bosnia and Herzegovina refer to the perpetrator and their rights instead of those of the victim. The perpetrator has the right to the presumption of innocence, to a fair trial, to defence, to communication, etc.

Victims though are mentioned only in terms of property claims. But how many property claims have been brought to a conclusion and led to an actual redress? The focus should be on the victims, because the victims and their suffering are the reason why we have war crimes trials.

Establishing truth and justice

Without truth and justice for all victims, we will see no progress. But how can truth be established? Over the past ten to fifteen years, it has become quite clear that trials are insufficient. Although they help determine part of the truth and identify perpetrators and victims, trials do not lead to things such as reparation, institutional reforms, vetting of officials, school lessons, history books, and rehabilitation of the victims.

I hope that Bosnia and Herzegovina as a nation will in future recognise the importance of other mechanisms and activities that deal with the past, often referred to as transitional justice. All Bosnian citizens, regardless of their ethnicity and religion, need to find satisfaction, redress, and reparation for what they have suffered. Without that, their future is uncertain.

I do not think that it is possible to guarantee real justice in this world. A grieving mother or people who suffered in detention camps cannot be adequately compensated for their loss and suffering. Yet, the ICTY has done its share of work. If we did not have this imperfect mechanism, then all those who commit the crimes would gloat over their victims.

But now we need to move forward. In the future the UN and all those who establish courts elsewhere should critically look at ICTY's work, taking what is best but addressing its faults.

Dr. Goran Šimić is an expert in the field of criminal law and transitional justice, professor, lecturer, writer, fighter for human rights and the rights of victims.