

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



A Fisherman displays his sea shell puppies. Credit: Simona Arnold

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:

Wednesday, 14 October 2009

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

Local News

Special Court Holds Appeal Hearing in the RUF Trial / *The Monitor* Pages 3-7

International News

UNMIL Public Information Office Media Summary / *UNMIL* Pages 8-11

Guinea: A Wave of Horror But No UN Action / *Toward Freedom* Pages 12-13

Khmer Rouge Lawyers Turn up Pressure on Judge at Cambodian Court / *Agence Frances Presses* Pages 14-15

Cambodia Tribunal Must Not use Torture "Confessions" ... / *Amnesty International* Page 16

Special Tribunal for Lebanon on the Back Burner / *Radio Netherlands Worldwide* Pages 17-19

Changing Attitudes at Special Tribunal for Lebanon / *Radio Netherlands Worldwide* Pages 20-21

Nizeyimana to Plead; Gatete on Trial / *Radio Netherlands Worldwide* Page 22

Radovan Karadzic "Not Ready for Trial" / *Radio Netherlands Worldwide* Pages 23-24

The Monitor

August-September 2009

Special Court Holds Appeals Hearing in the RUF Accused Trial in Sierra Leone

By Joseph A K Sesay

On 2nd to 4th September 2009, parties in the trial of convicted leaders of the former Revolutionary United Front (RUF), Issa Hassan Sesay, Morris Kallon; aka Bilai Karim and Augustine Gbao; aka Augustine Bao, first, second and third accused respectively, made oral arguments to the Appeals Chamber of the Special Court for Sierra Leone (SCSL) before Justice Renate Winter presiding, and George Gelaga King, Emmanuel Ayoola, Jon Kamanda and Shireen Avis Fisher being the other Justices.



RUF Convicts: Issa Sesay, Morris Kallon and Augustine Gbao
Photo Courtesy of BBC World Service

The Parties made their oral arguments in addition to written briefs submitted in July this year as part of the Chamber's determination pursuant to Article 20 and Rule 106 of the Court's Rules of Evidence and Procedure, to either affirm, reverse or revise the judgment of February 2009. Trial Chamber I convicted Sesay and Kallon on 16 of their 18 counts indictment and Gbao on 14 of the 18 counts and subsequently sentenced them to a separate term of imprisonment that should run and be served concurrently. Sesay was sentenced to a maximum of 52 years imprisonment, Kallon 40 years and Gbao 25 years for crimes including acts of terrorism, collective punishment, extermination, murder, violence to life, rape, outrageous upon personal dignity, conscripting children under the age of 15 years into an armed group and intentionally directing attacks against personnel involved in humanitarian assistance or peace keeping mission. The defence submitted 95 grounds of appeal, while the prosecution appealed on 3 grounds, suggesting that they seemingly agrees with the Trial Chamber's decision. The grounds of appeal were based on errors on the question of law and facts which the appellants thought invalidated the decision of the Trial Chamber, thereby, leading to a miscarriage of justice. The oral arguments were intended to respond to the opposing side's arguments and submissions and also supplement those in the written briefs and not to reiterate the briefs themselves. Defence for all three convicted persons requested the Appeals Chamber to revise the decision of the Trial Chamber and consequently reverse the sentences of April 2009.

Wayne Jordash, led counsel for Sesay (first appellant), in his submissions questions the Trial Chamber's decisions and noted that errors of fact and law undermine the fairness of the proceedings right from the inception of the trials. Further they questioned Sesay's involvement in a Joint Criminal Enterprise (JCE) and his subsequent conviction for the recruitment of child soldiers and argue as to why they believed that the sentences should be overturned. Starting with the proceedings, Counsel noted that right from the inception, the indictment was flawed as most of the rules developed from the International

Criminal Tribunal for Rwanda and Yugoslavia (ICTR/Y) pay little respect to the rights of the appellant as provided for in Article 17 (4) (a) and (b) of the Court's rules which provide that an accused should be informed of the nature of his charges and should be given adequate time to prepare his case. Further, he noted that the prosecution failed to include in Sesay's indictment "material facts underpinning his charges" and that nothing was stated as to what constitutes Sesay's acts as a superior, nor the acts of his alleged subordinates.

The appellant further questions conviction and subsequent sentence for the recruitment of children under the age of 15 years. Counsel submitted that Sesay's culpability should have been determined in relation to preparation of the said offence. He noted that Sesay was not engaged in any activity that amounted to planning or using children as combatant as the only evidence involving any activity with children relates to children above 15 years.

Submitting on the issues of sentence, Counsel noted that 52 years imprisonment does not further the Court's purpose of deterrence and retribution as the trial chamber erred in assessing the gravity of the offences for which Sesay was convicted. He further noted that reconciliation and rehabilitation should be have given greater weight in terms of sentencing objective as those were pertinent to Sesay's role during the conflict. In relation to gravity, Sesay was not directly involved in the commission of crimes that he stands convicted for. He submitted that if the JCE should remain, Sesay's involvements would still be at low ebb; hence his participation might still be indirect. He made an instructive comparism to the case of leaders of the Armed Forces Revolutionary Counsel (AFRC), noting that First accused Brima was convicted for an array of crimes that he directly committed and there was no mitigating factor, and he receives 50 years imprisonment, while Sesay might have committed alleged offences indirectly and yet gets 52 years. He further assesses Kallon's liabilities and submitted that a difference of 13 years is unjust. Noting Sesay's individual circumstances which he thought should have been taken into

consideration during sentencing, Jordash noted that evidence relating to Sesay's character and his effort to bring the war to an end were not considered by the Trial Chamber and no reason was given for such omission. He noted that there is no case at an International Court that an accused has succeeded in calling so many civilians to testify in his/he favour, or an accused before an International Criminal Court who has succeeded in disarming a whole rebel faction and contributed to a peace process. He submitted that these were present in the case of Sesay and the Trial Chamber should have considered them as mitigating factors.

Charles Taku made the oral submission for Kallon, second appellant. He noted that the Kallon team relied on the written brief earlier submitted to the Appeals Chamber and asked the Chamber to adopt that brief. He recalled that both prosecution and defence witnesses tendered evidence that should have exculpated the appellant and those evidence were disregarded for evidence that inculpated Kallon. He acknowledged the fact that the Trial Chamber has the discretion to select evidence and determines the amount of weight to be given thereof. He submitted that whilst the Trial Chamber has this discretion, reasons should be provided for such discretions in order for the process to be deemed as fair and just. He also noted that the Trial Chamber has erred in their judgment when they ruled that Kallon fabricated his testimony to suit his case. Reading portions of the transcript of a prosecution witness that the Trial Chamber relied on in repudiating the testimony of Kallon, he submitted that the testimony corroborates instead of refuting Kallon's assertions. He submitted that the defence for Kallon was repudiated instead of rejected as no mention was made in the whole judgment as to Kallon's response in relation to alleged charges. Taku further recalled conviction on attacks on UNAMSIL and how the Trial Chamber accords the personnel with civilian status. He submitted that whilst the personnel should be considered as *hors de combat* at some point they should not be given the status of civilians.

Mr. Kennedy Ogetto made the rest of the oral submission for Kallon. He adopted the submissions made by Jordash in relation to particulars in the indictment and convictions for JCE. He further submitted that the indictment for Kallon is very broad and this allows the prosecution to "mould" their case as evidence enfolded during the course of the proceedings. He noted that the prosecution transformed their case to suit the evidence that were adduced during the course of the proceedings and this deprived the appellant to defend himself as he was not adequately informed of the charges he was to defend. Turning to sentences, Ogetto noted that the Trial Chamber has no discretion to ignore mitigating factors once they have been established. He however agreed with the Appeals Chamber that the Trial Chamber determines mitigating factors. He concluded by submitting that the appellant rights have been violated and this has resulted in most of his convictions. He called on the Appeals Chamber to invalidate the convictions against Kallon and overturn the sentences.

John Cammegh made the oral submission for the third appellant, Augustin Gbao. His submissions touched on issues relating to JCE, conviction for the attacks on UNAMSIL and sentences. He reiterated the point that an accused has to know the case against him and noted that Gbao was deprived of this fair trial right. He stated that Gbao was convicted as part of a JCE through his participation as an "idealist" and the prosecution never gave adequate notice with regards this mode of liability. He submitted that for an accused to be found liable pursuant to his participation in a JCE, he must have been a part of a plurality of persons acting together. He noted that there is no evidence that Gbao participated in a meeting, or neither was he a member of the AFRC Supreme Council or any finding that he held a responsible position in the junta government. He submitted that he only would have acted in concert with other senior members of the RUF and AFRC if he was a part of such plurality of persons. He further stated that there should also be a common purpose and a common plan through which the JCE existed. With regards conviction for acts of terrorism as

charged in count 1, he submitted that the Trial Chamber contradicted its findings as on one hand they found that the prosecution failed to prove acts of terrorism in Kailahun and on the other hand they found Gbao liable for acts of terrorism in the same district. Further Cammegh stated that the Trial Chamber's finding that Gbao trained all RUF fighters was false as it appears to have contradicted itself by saying that RUF fighters only received "scant ideological training" and were unaware of the objectives of the RUF movement. He submitted that the prosecution did not meet their burden of proof as no witness testifies that Gbao trained RUF fighters. Supporting his submission, he noted the dissenting opinion of Justice Pierre Boutet, noting that there was no evidence to support that Gbao trained RUF recruits. He further submitted that Gbao's conviction under JCE relating to his participation as an "ideological instructor", should be reversed.

Turning to the issue of enslavement, Counsel noted that senior members of the RUF had farms in Kailahun town and submitted that if this is to be taken as correct, the Appeals Chamber should note that civilians working on these farms were paid in kind or cash, thus refuting the notion of forced labour. He further submitted that Gbao played no personal role in illegal farming in Kailahun town and that nothing is contained in the indictment with regards illegal farming or people being forced to farm, hence that charge is in fact defective.

He concluded by looking at aggravating and mitigating factors, gravity of the offences for which Gbao was convicted and the objectives of sentencing. He submitted that the individual circumstances of Gbao should be taken into account. Gbao had no control over the RUF movement and being a member of the movement should not be seen as an aggravating factor. He noted that Gbao has been acquitted for many crimes outside Kailahun, in Bo, Kenema and Kono, but appears to have been sentenced for them. He recalled that the Trial Chamber accepted Gbao's age and lack of prior convictions as mitigating factors. He noted that Gbao was sentenced pursuant to JCE, and submitted that

the sentence be reversed as Gbao was found never to have fired a single shot or ordered a single shot to be fired.

The prosecution's oral submission questions the decision of the Trial Chamber on 3 grounds and responded to all 95 grounds of appeal submitted by the defence. Chris Staker, Reginald Fynn, Nina Jorgensen and Vincent Wagona, responded to the defence. The respondent noted that it is not the responsibility of the Appeals Chamber to make findings of fact arising from the evidence or to substitute its view for the findings of the Trial Chamber. He submitted that the Appeals Chamber will only intervene where a finding of fact by the Trial Chamber was one that was simply not open to any reasonable "trier of fact". He called on the Appeals Chamber to note that the burden is on the defence to prove that the Trial Chamber erred on point of law or fact, as they are the appellant in this case. He submitted that the appellant cannot make allegations about defect in the indictment or the Trial Chamber's judgment and expect the prosecution to establish that there was no defect or justify the sufficiency of the evidence already tendered. The appellant should identify the alleged error and proffer the applicable standard to be met thereby showing that the Trial Chamber erred in fact or law and that no reasonable trier of fact could have reached such decision. He submitted that the defence request for a reassessment of the evidence and findings do not make out a ground of appeal as they appear to be challenging the Trial Chamber's decision and asking for an alternative assessment of the evidence.

Responding to the defence claim of procedural irregularities, Staker submitted that this issue should have been raised before the Trial Chamber and not the Appeals Chamber as one of the responsibilities of the Trial Chamber is to address and cure any defect or impropriety that would forestall the continuation of the proceeding. He noted that the Trial Chamber may have dealt with such matters if the defence had raised the issue, otherwise such complaint is deemed to have been waived. The Appeals Chamber is not expected to look at issues *ex*

The RUF trial began on 5th July 2004 after the SCSL joined the cases and consolidated the indictments in early 2004. The Prosecution concludes its case on 2nd August 2006, calling 85 witnesses including 3 experts. The Defence opens its case in March 2007 with the First accused concluding on 13th March 2008, calling 59 witnesses including Sesay and former President Kabba. The Second accused concluded on the 28th March, 2008 calling 22 witnesses. Third accused closed the case for the defence in June 2008, calling 8 witnesses. 3 witnesses were common to Sesay and Kallon and 1 common to Gbao and Sesay. Closing arguments were heard

on 5th August 2008 and the Trial Chamber issued its judgment on 25th February 2009, convicting Sesay and Kallon on 16 of the 18 counts charged and Gbao on 14 of his 18 counts indictment. In determining an appropriate sentence, the Chamber listened to oral submissions from all parties on the 23rd March 2009 and delivers the Chamber's final set of judgment on 8th April this year. The judgment sentenced Sesay to a maximum of 52 years imprisonment, Kallon 40 years and Gbao 25 years with credit for the time they were detained pending trials.

UNMIL Public Information Office Media Summary 13 October 2009

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

International Clips on Liberia

President Sirleaf Shocked Over Weekend's Tragic Loss of Lives

Oct 13, 2009 (Liberia Government/All Africa Global Media via COMTEX) -- President Ellen Johnson Sirleaf has visited the scene of a tragic motor accident in Monrovia, which reportedly left several persons dead, with six in critical condition. The injured are being treated at the John F. Kennedy Hospital. The President, who was visibly disturbed over the deaths, expressed shock over the incident, directing personnel of the Ministry of State to visit JFK to check on the condition of the injured. The Liberian leader, in an interaction on Sunday at the accident scene with some members of the bereaved families, as well as friends and associates of the victims, expressed heartfelt sympathy for the tragic loss of lives. According to an Executive Mansion release, the President has, meanwhile, directed the Ministry of State to ensure that a bus stop is constructed in the area to protect pedestrians, some of whom are students of the Stella Maris Polytechnic and the University of Liberia, from a similar tragedy. The cause of Sunday's tragic motor accident is still being investigated by the Liberia National Police (LNP).

International Clips on West Africa

Guinea

Guinean military junta leader gets ultimatum to give up presidential ambition

LAGOS, Oct 13, 2009 (Xinhua via COMTEX) -- Guinean military junta leader gets ultimatum to give up presidential ambition The International Contact Group on Guinea (ICG-G) on Monday gave Moussa Camara, the Guinean military junta leader, Oct. 17 as deadline to declare in writing that he would not take part in the presidential elections, the News Agency of Nigeria reported on Tuesday. The group made the announcement in a communiqué issued in Abuja at the end of the 8th session of the ICG-G, the news agency said. The communiqué urged Camara to formalize, no later than Oct. 17, his commitment that neither himself, members of the National Council for Democracy and Development (CNDD) nor the prime minister would take part in the election. Camara formed the CNDD shortly after taking power.

Ousted Leader Arrives in Nigeria

Oct 13, 2009 (Daily Trust/All Africa Global Media via COMTEX) -- Ousted Guinea Prime Minister Ahmed Souare yesterday arrived in the country to meet President Umaru Yar'adua in connection with the crisis rocking his country. Souare, whose head was wrapped in bandage, narrated to journalists the torture he and others went through in the hands of the military junta. "We are in Nigeria to discuss with the leaders from other West African countries on how to stop the political killings and restore democracy in the West African country. "We are going to Abuja to meet with the ECOWAS

leaders and discuss on the current issues in our country. "The wound on my head is a mark from them. Absolutely, they beat us directly and they killed some. More than 200 were killed by the junta," he said. He said they resolved to come to Nigeria after several attempts at making the military relinquish power to a democratically elected government failed.

Local Media – Newspaper

President Sirleaf Backs Debate on TRC Final Report

(The Informer, New Vision)

- President Ellen Johnson Sirleaf has welcomed the debate among Liberians at home and abroad regarding the final report of the Truth and Reconciliation Commission (TRC).
- An Executive Mansion release issued in Monrovia said President Sirleaf termed the exercise as healthy as Liberians were freely discussing the report with the view of finding a common ground.
- Controversies have overshadowed the recommendation of the TRC since it was release several months ago.
- The report was sent to the National Legislature but the lawmaker halted every action on the report until 2010.

2009/2010 Fiscal Budget Experiences Shortfall

(New Democrat, Heritage, The Parrot)

- The Liberian Government has reported that the cash-based 2009/2010 fiscal budget which was projected at US\$378 million has experienced a shortfall in revenue collection.
- Finance Ministry officials say Government has not been able to generate US\$70 million of the total revenue projection for the first quarter of the budget year.
- The cash base budget system is where the government spends as per the revenue generated.
- Deputy Finance Minister for Budget, Dr. George Gonpu said if the difficulty in generating the projected revenue persists allotments to line ministries and agencies of government will reduced by a considerable percent to correct the financial problem.

Justice Minister Challenges Judiciary

(The Inquirer)

- Justice Minister Christiana Tarr says the Liberian judiciary must develop renew zeal and strategies or its systems would be undermined.
- The Attorney General of Liberia said the pace of programs of the judicial system is slow than the energy and resources placed in them.
- Speaking during the opening of the October Term of Court at the Temple of Justice, Madam Tarr said Justice includes law enforcement, prosecution and Correction saying if one single portion is not functional it affects the entire system.
- Earlier, Chief Justice Johnnie Lewis demanded that all public defenders perform their duties with personal and professional integrity.

UNDP, GOL Break Ground for 2 Clinics, Warehouse

(Daily Observer)

- Senior United Nations Development Program (UNDP) officials in Liberia and key Liberian Government representatives over the weekend broke ground for the construction of two clinics in Kokoyah District, Bong County, valued at a little over US\$180 thousand.
- Speaking at the groundbreaking ceremony at one of the two sites, UNDP-Liberia Assistant Representative for the Pro-poor programme, John Walker urged the citizens to consider the health project as their own property.
- Mr. Walker also urged residents of the area to se the health project as a vital component of the UNDP's way of addressing crucial social needs of every Liberian.
- At a similar ground breaking ceremony at Yolo town, both Liberian Government and UNDP officials urged the residents to take ownership of the clinic project.

- Meanwhile, construction work on a seed storage warehouse valued at over US\$29 thousand is ongoing in Kokoyah District under the auspices of the UNDP Millennium Village Project.

Police Raid Notorious Criminal Hideout

(The Inquirer)

- The Liberian National Police (LNP) have raided and closed down a notorious criminal hideout, 'Gbablah' on Centre Street.
- This is not the first time the police have raided the infamous criminal den.
- It can be recalled that several months ago, the LNP raided the notorious ghetto and moved its Metro Headquarter at the site.
- The criminals however moved their "ghetto" to another site from where they have been operating.
- Following a complaint from community residents', the police moved on the new site and arrested several of the criminals and subsequently sealed up the area.

Senate Pro-Tempore Unhappy over Justification for Increment of Senior NPA Officials Salaries

(Heritage, The Parrot)

- Senate Pro Tempore Cletus Wotorson says he is very appalled by the explanations being given for the huge salary payments by some public corporations.
- Senator Wotorson said it was disturbing to see salaries of public officials increased by hundred percent in the face of high poverty rate.
- At a news conference Monday, Senator Wotorson said justifications need to be provided on the huge increment in the salary of officials of public corporations.
- He called on the Senate's Committee on Public Corporations to conduct a full-scale investigation into the salary hike situation.

Rivercess Lawmaker Denies Link to Businessman's death

(National Chronicle, Daily Observer, New Democrat)

- Rivercess County Representative Jerry Masseh has dismissed reports linking him to the death of businessman James Berry and attributed it to the work of his detractors.
- The denial by Representative Masseh comes amidst mounting pressure from family members and some citizens of of the county to investigate the lawmaker.
- The body of businessman James Berry was found on September 18, three days after he visited the residence of Representative Masseh outside Monrovia.
- Representative Masseh pledged to submit to the ongoing investigation being conducted into the death of James Berry by National Security personnel.

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

Senate Pro-Tempore Unhappy over Justification for Increment of Senior NPA Officials Salaries

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

Public Works Minister Chairs OPRC Forum in Brussels

- Public Works Minister Samuel Woods is expected to chair a three-day meeting Tuesday on Output and Performance Road Contract (OPRC) in the Belgian capital Brussels.
- The three-day road show project is intended to provide exposure in marketing concept for the pending rehabilitation and maintenance of key roads in Liberia.
- The roads include the Red-light/Gbarnga Highway and Monrovia-Buchanan corridors among others.
- The event will be divided into three strategic sessions with Liberian Government officials and partners making separate presentations.

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

Rivercess Lawmaker Denies Link to Businessman's death

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

Campus-based Student Group Worried by NPA Board Chairman's Threats

- The UL-based Student Integration Movement (SIM) says it is deeply troubled by statements from the Board Chairman of the National Port Authority (NPA).
- SIM's Party leader Sylvester Kanneh said threats of dismissal over a leaked memo disclosing the salary of the Managing Director of the NPA are worrisome.
- Mr. Kanneh said the threats from the NPA Board Chairman Binyah Kesselly give sufficient reason for the speedy passage of the Freedom of Information Act and the need for the drafting of a Whistleblowers Protection Act for Liberia.
- The UL student leader believes salaries of any entity of government must be structured within what he calls a reasonable range and described as unrealistic for an individual's salary to be US\$12,000.00.

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

Government to Establish Technology Transfer Centre

- Government says it has planned to establish what it calls Technology Transfer Centers across the country.
- Assistant Agriculture Minister for Regional Development, Research and Extension, Richelieu Mitchell said the centres would provide marketing services for farmers to export.
- Minister Mitchell said farmers will be able to process their produce into different forms for marketing.
- According to him, the first technology transfer center has already been constructed in Voinjama, Lofa County. He put the cost of one of the centers at US\$50,000.00.

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

Truth FM *(News culled from website today at 10:00 am)*

Senator Siakor Wants Gov't Officials Comply with LACC

- Bong County Senator Franklin Siakor is calling on the President Ellen Johnson Sirleaf to ensure that her appointees declare their assets as recommended by the Liberia Anti-Corruption Commission (LACC).
- Senator Siakor warned that the issue of assets declaration should not be taken for granted by government officials wants the LACC to bear pressure on government officials to immediately declare of their assets.

* * * *

Toward Freedom

Wednesday, 14 October 2009

<http://towardfreedom.com/home/content>

Guinea: A Wave of Horror But No UN Action

Written by Rene Wadlow

Captain Moussa Dadis CamaraA wave of horror spread among the assembled delegates at the UN Human Rights Council meeting in Geneva as news of the September 28 shootings of unarmed participants in a political meeting in Conakry was known. It was the last days of the Council session which was then in its final stage of negotiating and voting resolutions. Was there anything that the UN human rights body could do?

No one wants to deal with a new issue in the final days of a session when all the energies are concentrated on finding acceptable wording on resolutions so that they can be accepted by consensus rather than by having a vote with obvious divisions being highlighted.

The context of the situation in Guinea was generally known, but the Human Rights Council and its earlier incarnation, the Commission on Human Rights, had given little attention to Guinea. There is a long-standing habit among governments to look at only a selected few countries within a geographic region. West Africa already had the long-running conflicts in Liberia and Sierra Leone. There was trouble in the Ivory Coast, and Darfur, Sudan with the spill over into Chad was really all the attention that could be given to West Africa and its near neighbors. Thus, human rights violations in Guinea were always known, but few wanted to discuss them. The African States have always been an effective bloc to prevent considerations of human rights violations in Africa, suggesting in different ways that any attention given to human rights in Africa was a result of racism.

Human rights violations in Guinea had started soon after its independence from France in October 1958 — the first of the French African colonies to be independent. The first President, Ahmed Sékou Touré, was considered a hero of the African independence movement and as a champion of Pan-African unity. His rule fast became brutal and corrupt, leading many to leave the country while many others were killed at home. However, the hero image lasted for a long time — and for some until his death in 1984.

The military officer Lansana Conté took power one week after the death in 1984 of Sékou Touré through an agreement among military officers that one of them should be president, and he stayed on until his death in December 2008. His power was never shared, and the military who thought that they deserved part of the spoils of power were gotten rid of. There was also some popular discontent as the conditions of life, always poor, got worse and worse. Lansana Conté was ill for a long time which led to his spending less time on the affairs of government but without creating alternative forms of government decision-making. People became increasingly restless with the army taking things into its own hands but in a disorganized way. Military indiscipline became chronic.

As Richard Moncrieff, West Africa project director of the International Crisis Group, has written "This indiscipline can be traced back to the bloody repression of protests in February 2007 when over 100 people were killed in a very similar crackdown. Such repression, along with a guaranteed immunity for the military's abuses against civilians, kept the ailing Conté in power...In Guinea, the weakness of countervailing powers — political parties, parliaments, media — has opened space for the military, with the disastrous consequences we now see. More worrying, the border area with Liberia, which suffered a spill over from the Liberian civil war, is the site of increasing ethnic tension." The Liberian conflict which began in 2001 with Charles Taylor's slow march to absolute power led to the creation of a number of independent, usually tribal-based, militias, some of which went to Guinea where there were members of related ethnic groups.

There have been reports that among those participating in the September 28 shootings and subsequent looting of shops were Liberians from the United Liberation Movement for Liberia for Democracy (Ulimo) militia who have continued living in the east of Guinea, but it is also easy to pass on the blame for abuses to foreigners.

Lansana Conté was president from 1984 until December 2008. Two days after his death, Captain Moussa Dadis Camara took power, again because the army officers felt that one of them should rule. Camara had no outstanding deeds to his credit, but neither did any other officer who might have been a rival. The army felt that if there was a gap in military-held power, there would be civilians who would demand elections. Thus Camara was proclaimed president even before the funeral of Lansana Conté.

There was, however, some popular pressure to have elections, and so Camara said that there would be elections at the end of January 2010 and that he might not run. On September 28, a large group of people, perhaps 50,000 who thought that elections would be a good thing, started entering the major football stadium in Conakry. The meeting was to have been the "Forum des Forces Vives", and there were to have been speeches from civilian politicians who had been part of the Conté government, including two former Prime Ministers.

Before there could be any speeches, but with a large crowd of people waiting, army members shot first into the air and then into the crowd. Panic followed as people tried to leave; others protested within the stadium. Looting began in the shops around the stadium. What seems certain from multiple eye-witnesses was that in addition to shooting, the military used their bayonets. It is estimated by UN sources that 150 died at the time and some 1,200 were injured, many seriously. What struck observers was the repeated attacks against women. While rape has become a widely used political weapon in African conflicts, such rapes are usually carried out in houses or in fields. Conakry seems to have been a first in the wide-spread rape and molesting of women in a public arena, leading the NGO "The Guinean Organization for Defence of Human Rights" to state that "the conscious rape of women is not only to dehumanize but to eliminate, punish, control, instill fear and dissuade them from taking part in any form of political participation."

Government delegates at the UN Human Rights Council were worried by the events in Guinea, not only because the shootings were an obvious violation of human rights but also because the regional implications are disturbing. In all West Africa, there are underlying problems of high levels of unemployment and poor governance causing extreme frustration. The delegates were even more worried when Captain-President Camara said in an interview with Radio France International that the army was "out of control, undisciplined and without an operational chain of command." But what to do?

There is a US expression "to pass the buck" meaning to pass a problem and the resulting decisions on to someone else. More elegantly, it is referred to in European Union circles as "the principle of subsidiarity" — having decisions made at the level closest to the problem as possible. Thus the UN Council passed the issue over to the African Union, which issued a statement deploring the violence and passed the issue on to the 16-member regional body — the Economic Community of West African States (ECOWAS).

The President of Nigeria which currently holds the rotating chairmanship of ECOWAS, Umaru Yar'Adua, appointed Blaise Compaoré, the President of Burkina Faso, as the mediator. Since Compaoré came to power in a coup in 1987, killing his former "best friend", the then president Thomas Sankara, Compaoré knows all about coups and political violence. Compaoré flew to Conakry and called for a later meeting in Ouagadougou. Thus perhaps "the buck stops" with Compaoré, who, if not an outstanding champion of human rights, is a crafty military-politician who may work something out. Future events merit close watching.

Rene Wadlow, Representative to the UN, Geneva, Association of World Citizens.

Agence Frances Presses

Tuesday, 13 October 2009

Khmer Rouge lawyers turn up pressure on judge at Cambodian court

By International Justice Desk



Phnom Penh, Cambodia

Defence lawyers increased the pressure on the French investigating judge at Cambodia's UN-backed Khmer Rouge court on Tuesday, filing

an appeal accusing his office of withholding information.

The move follows motions over the past week seeking to disqualify Marcel Lemonde from the court for alleged bias, filed by defence teams for former Khmer Rouge foreign minister Ieng Sary and former head of state Khieu Samphan.

Now, Ieng Sary's lawyers are arguing in an appeal that the co-investigating judges have refused to answer a May request to reveal how they collect and weigh evidence against leaders of the brutal late 1970s regime.

“Negative implications”

"This denial effectively obstructs the defence's ability to ensure Mr Ieng Sary receives a fair trial and has negative implications for the transparency of the proceedings," said the appeal, a copy of which was obtained by AFP.

Tribunal spokesman Lars Olsen said Tuesday that the investigating judges did not consider they had rejected the request from Ieng Sary's lawyers, but had been occupied by a number of other time-consuming defence filings.

"The request by the defence team is currently under consideration by the co-investigating judges. There has been no intention to not answer their request," Olsen said.

The accusations of bias also facing Lemonde were based on a sworn statement by his former chief of intelligence, alleging the judge told subordinates to favour evidence showing suspects' guilt over evidence of their innocence.

No comment

Lemonde has refused to publicly comment on the allegations, but indicated he will provide necessary information about the issue to the court.

His office is currently investigating the court's second case, against Khieu Samphan, Ieng Sary and his wife, former minister of social affairs Ieng Thirith, as well as Khmer Rouge ideologue Nuon Chea.

Final arguments in the court's first trial of prison chief Kaing Guek Eav, known by the alias Duch, are scheduled for late next month.

Led by Pol Pot, who died in 1998, the Khmer Rouge emptied Cambodia's cities in a bid to forge a communist utopia between 1975-79, resulting in the deaths of up to two million people from starvation, overwork and torture.

Source: AFP

Amnesty International
Monday, 12 October 2009

Cambodia Tribunal Must Not use Torture "Confessions" as a Legitimate Source of Information

INTERNATIONAL COMMISSION OF JURISTS

JOINT PUBLIC STATEMENT

What prisoners say or "confess" to under torture should never be admissible in any court proceedings, said Amnesty International, The International Commission of Jurists and the Redress Trust, after submitting a brief to the Pre-Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC).

The brief was submitted on 25 September 2009, as part of an application to intervene as "friends of the court" (*amicus curiae*) in the case of Ieng Thirith, where a dispute has arisen in respect of the potential admissibility of certain statements. In it, the organizations explain that the prohibition on the use of the content of statements obtained by torture by courts is absolute. It both reflects and supports the absolute prohibition on torture and is essential for preserving the integrity of the judicial process and the right to a fair trial. It is also impelled by the moral repugnance at the prospect of using the torturer's creation -- the "confession" -- to seek justice.

Admitting the content of a torture "confession" as evidence, bearing in mind that it was extracted out of a helpless detainee through the intentional infliction of pain and suffering, would irreparably taint any court proceedings.

Article 15 of the UN Convention against Torture, which binds the ECCC, excludes all statements obtained by torture from any court proceedings, with one exception only: torture statements may be used against the suspected torturers themselves, but then only "as evidence that the statement was made." In other words, such statements may be used as part of the proof that the act of torture took place, and not in any way for the truth of its contents or any other purpose. This limitation is clear from the language of the article, which uses the word "only" to prevent any misinterpretations. It is also clear from the history of its drafting in the UN, which the brief describes. During the drafting, proposals to allow the wider use of statements obtained by torture were considered but rejected.

The brief also explains that under international law, the use of statements obtained by torture to prove that they were made, is not limited to proceedings against the actual torturer, but also against commanders and political superiors accused of bearing responsibility for the torture.

The prohibition on the use of "confessions" does not extend automatically to all related material. For instance, other documents in the same file, including registration forms, need not be excluded automatically. However, the admissibility of any such material can nevertheless be challenged, on grounds that it did form part of the statement obtained by torture, that it was obtained by torture independently of the statement, or on other grounds set out in international and Cambodian law.

The organizations urge the ECCC to ensure that its proceedings adhere to international law and standards, which would contribute to the Court's credibility and ability to leave behind a positive and long-lasting legacy. A failure to do so would run counter to the international community's fundamental rejection of torture and refusal to provide it any legitimacy, and potentially undermine the integrity of the ECCC itself.

Regrettably, procedures in the Pre-Trial Chamber involving this brief have been rendered confidential.

Radio Netherlands Worldwide

Wednesday, 14 October 2009

Special Tribunal for Lebanon on the back burner



Beirut, Libanon

Six months after the Special Tribunal for Lebanon (STL) opened its doors, a drastically changed political and security environment in Lebanon, coupled with trim concrete output from The

Hague, are driving even some of the tribunal's staunchest advocates to adopt an increasingly cautious stance towards the court. This is visible in both dampened expectations and increasing questions as to whether the very mechanism will prove to be the best model for trying a crime of terrorism.

The STL's primary mandate is to prosecute those responsible for an attack in Beirut on February 14th 2005 that killed former Lebanese prime minister Rafiq Hariri and 22 others. The court's mandate also covers other attacks between October 2004 and December 2005 that are found to be connected by method and motive to the 2005 assassination.

The STL came into force on June 10th, 2007 when the United Nations Security Council decided to enact what was a negotiated agreement between the Lebanese government and the UN. A severe political crisis in Lebanon, however, blocked the agreement's ratification process and led the Council to go ahead with establishing the Tribunal.

Lessons learned

The latest in a series of hybrid model tribunals, the STL is composed of international and Lebanese judges. But it differs in many substantial ways from its predecessors: besides the fact that it will be hearing a limited number of cases (possibly only one), it will also be the first to address crimes of terrorism, and the first where subject-matter jurisdiction will apply domestic law exclusively.

In the relatively young world of international justice, lessons have already been drawn that were explicitly integrated into this most recent newcomer. In his March 2006 report to the Security Council, former UN Secretary General Kofi Annan mentions that "a key lesson learned from these experiences was that the interested State should be associated in the establishment of the tribunal."

Indeed, the STL was meant to be created in accordance with an agreement between the UN and the government of Lebanon. But political upheaval in Lebanon cut short the ratification process and, at the request of Lebanese Prime Minister Fouad Siniora, the UN Security Council put this agreement into effect through a Chapter VII resolution. Chapter VII of the UN Charter allows the Security Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to take military and non-military action to "restore international peace and security."

Larry D. Johnson served as Deputy Legal Counsel of the UN from 2006-2008. He says the STL “was modelled on the Special Court for Sierra Leone: request by a State, not a Chapter VII ‘imposed’ model”. The STL however fell short of both models - it was neither a treaty-based body, nor did it benefit from the full powers enjoyed by ad hoc tribunals - something that may well prove to be decisive when addressing a crime of terrorism.

Looking at the court’s six-month report released last month, one of the powers that seems to be lacking relates to UN member-state cooperation.

“Assistance from States, in the form of witness relocation agreements and protection of witnesses, is of vital importance for the success of the tribunal,” writes STL president Antonio Cassesse. “Although many countries have already been approached, the results so far have not yet borne fruit. The demanding operational environment and subsequent witness protection concerns, as well as the adequacy of State cooperation, remain the main challenges for the section.”

True, a Chapter VII power regarding state cooperation does not guarantee anything, as was made clear by the experiences of the tribunals for the former Yugoslavia and Rwanda. But here we come again to the nature of the crime in question: an efficient investigation into a crime of terrorism, rather than widespread abuses, may very well be more dependent on a limited number of witnesses coupled with more stringent witness protection measures.

No suspects

Less than two months after its establishment, and acting on the tribunal’s rules and procedures, the pre-trial judge ordered the release of the only four persons to have been detained, on the grounds of insufficient evidence. A couple of weeks earlier, the Lebanese investigating judge lifted the arrest warrant issued in absentia for one person who had been identified as a witness, and then as a suspect, by the UN International Independent Investigation Commission (UNIIC).

Today, the tribunal has no suspects while the Office of the Prosecutor is replenishing its investigative resources. This seems to indicate that after four years of investigations led by the UNIIC, there may well be admissible evidence as prosecutor Daniel Bellemare has stated, but it is probably not sufficient to date.

Moreover, in the current regional context - marked by an international overture towards Syria and domestic political realignments in favour of Syria - assistance from third-party states, especially from within the region, may become even more difficult to secure than when the STL was first set up.

In the past months alone, the Syrian Vice President Farouk al-Sharaa was quoted as saying that his country was “stronger in Lebanon than when it maintained troops in the country.” Lebanon’s Progressive Socialist Party leader Walid Jumblatt, meanwhile, whose well-known shifting political stances act as a barometer for shifting regional dynamics, went from explicitly accusing Syria of Hariri’s assassination, to calling for “distinctive relations” with Syria.

Low expectations

For those in Lebanon who believed that a full-fledged international commission of investigation, boosted by Chapter VII powers and significant human and technical resources, would, in four years, manage to gather sufficient evidence admissible in court, expectations are low.

According to Michael Young, opinion editor of the Lebanese Daily Star newspaper, there have been two reactions as of late among those who advocated for the STL’s creation. “There are those, such as Walid Jumblatt, who appeared to have lost confidence a long time ago. And those, such as [Saad] Hariri who are

still putting up a front of confidence. For March 14 [the political group headed by Hariri], the STL has been put on the back burner while awaiting possible progress,” he says.

Some observers are even predicting the death of the STL and calling for its incorporation into the International Criminal Court (ICC). While this may well be premature, it nonetheless raises the question of whether terrorism can be considered an international crime, and if so, whether in the future the ICC’s statute could integrate crimes of terrorism; a discussion all the more relevant in the aftermath of former President Benazir Bhutto’s assassination in Pakistan, and Iraq’s request to the UN Security Council to investigate September’s bombings in Baghdad.

In Lebanon today, says Michael Young, there is certainly the feeling that “the only thing that can give impetus today is a sign from Bellemare that things are moving forward.”

Radio Netherlands Worldwide

Wednesday, 14 October 2009

Changing attitudes at Special Tribunal for Lebanon



*Leidschendam,
Netherlands*

Appointed to a three-year term by the United Nations Secretary General last March, the French lawyer François Roux will take up his new role

as head of the Defence Office at the Special Tribunal for Lebanon (STL) at the end of this month. During his 30-year career as an international lawyer, Roux has spent ten years working with international criminal tribunals.

Mr. Roux spoke to the IJT's Franck Petit.

You will be in charge of the first fully independent defence office at an international tribunal. What does that mean?

It means that for the first time, the international community has realised the importance of putting up a strong defence in face of the prosecution. Until now, the defence has been incorporated into the Registry. Today at the STL, the Defence Office is an organ of the tribunal that has the same standing as the Presidency, the Prosecution and the Registry. We see it as enormous progress.

What are the new roles that the defence will be taking on?

I'm [...] going to organise as many training seminars as I can, particularly for lawyers from the Middle East who want to work with the tribunal. Then [...] I would like to set up a team of defence lawyers. At a traditional international tribunal, the prosecutor has a permanent team working for him. When the defence lawyers arrive, they are in entirely unfamiliar territory. It will be the role of the Defence Office to give them the chance to quickly get to the same level of understanding as the prosecutor.

And does your budget allow for that?

For the moment, the budget doesn't reflect the balance we're looking for between the prosecution and the defence teams...I hope that the [defence] teams [...] will be adequately equipped in terms of personnel and resources so that the equality of arms will mean something. For the moment, there are five of us. At the prosecutor's office, there are about a hundred, 70 of whom are investigators. That's obviously a position that will diminish over time, while we will get stronger once the first suspects arrive. In any case, we all know that in the fight between David and Goliath, it was David who won!

Are you going to increase the lawyers' salaries?

There, I will really go to bat to make sure the defence lawyers are paid appropriately. At the ICTR [International Criminal Tribunal for Rwanda], the lawyers haven't had a raise in ten years. That's just not on. If we really want first class lawyers, we have to pay them appropriately. In this respect, the Cambodian chambers have made a lot of progress compared to Arusha.

Why did you finally accept this job, when it meant you had to give up all your other commitments?

Precisely because I want to be involved in changing the role of defence lawyers before these courts. The perverse thing about these tribunals - and it really is perverse - is that at the beginning, the international community created them to fight impunity. And so, as soon as we say that, it also means that the people who appear before them are assumed to be guilty. But if we really manage to change attitudes, the judges and states will have to change their understanding of the defence. The defence won't only be there to prevent convictions, but to fully exercise its role.

And do you think that there's a will for that?

I think that we are really at the beginning of international criminal justice, and some serious mistakes were made in the earliest days and it seems to me that we're at a point where we must correct those mistakes. The international community has taken the first step by creating this office, but it's not enough to have created it, it also needs to be given the means to thrive.

Radio Netherlands Worldwide

Wednesday, 14 October 2009

ICTR: Nizeyimana to plead; Gatete on trial

By Karl Dowling



Arusha, Tanzania

Idelphonse Nizeyimana will appear before the ICTR this Wednesday following his arrest in Uganda earlier this month.

Nizeyimana, a prime suspect in the 1994 Rwandan genocide, is facing five counts of genocide, or in the alternative, complicity in genocide, direct and public incitement to commit genocide and crimes against humanity.

Nizeyimana is the second ICTR fugitive apprehended in less than two months. The former intelligence chief and captain in the Rwandan Armed Forces is one of four top accused earmarked by Chief Prosecutor Hassan Jallow to be arrested as part of the ICTR completion strategy and brought to trial in Arusha. The United States Rewards for Justice Program offered a \$5m bounty for information relating to his arrest.

Nizeyimana is alleged to have ordered the execution of entire families; ordered an attack on orphans evacuated from the Red Cross centre in Kacyiru; supplied transport and weapons to Interahamwe and soldiers; drawn up lists of people, mainly intellectuals and influential Tutsis, to be killed, as well as ordering the killing of Queen Rosalie Gicanda, the widow of former Rwandan king Mutara III, and a symbolic figure for Tutsis.

Prosecutors also allege that Nizeyimana did nothing to stop rapes and sexual assaults; an attack on the parish of Ngoma; and an attack on the University of Rwanda in Butare.

Gatete on trial

Next week also sees the beginning of Jean Baptiste Gatete's trial at the ICTR. The prosecution case opens on October 19th. Gatete is accused of genocide and crimes against humanity and has been in custody since 2002. The ICTR prosecutor initially requested to refer his case to the Rwandan national courts, but the ICTR appeals chamber denied the request, citing concerns he would not receive a fair trial in Rwanda.

Radio Netherlands Worldwide

Wednesday, 14 October 2009

Radovan Karadzic “not ready for trial”

By Sebastiaan Gottlieb



*The Hague,
Netherlands*

Former Bosnian Serb
leader Radovan
Karadzic is working

hard on his defence case from his prison cell in Scheveningen. Since the beginning of his pre-trial proceedings before the International Criminal Tribunal for the Former Yugoslavia (ICTY) 14 months ago, he has filed more than a hundred motions – including one that claims that former **United States Special Envoy Richard Holbrooke had promised him immunity from prosecution.**

Peter Robinson is Legal Advisor to Karadzic. He says that their team has already received over a million pages of documents from the prosecution and that more arrive every day. They have also asked 27 states and international organisations for documents to help them prepare for cross-examination of prosecution witnesses.

“Some states – such as Bosnia and Croatia - haven’t replied at all, while others - such as Sweden, Norway and Belgium - responded right away. There are also states - including the Netherlands and the United States - who promised to cooperate but haven’t yet done so,” says Robinson.

Because of the heavy workload, Karadzic had asked to extend his trial preparation by another ten months. The Trial Chamber initially denied the request and ruled that the trial would start October 19th. However, on October 13th the appeals chamber ruled that the prosecution must submit a marked-up indictment by the 19th. Karadzic will then have an additional week to review it before going to trial.

Changing indictment

Karadzic and the Trial Chamber judges have been trying to reduce the indictment against him in a bid to shorten the duration of trial. The original indictment was drafted in July 1995, right after the massacre of over 7,000 Muslim men and boys in Srebrenica. A second indictment was filed in November 1995, following the Dayton peace talks. The indictments have been amended three times since then - most recently in February of this year.

Some of the biggest changes to the indictment include the addition of charges of involvement in joint

criminal enterprises. Karadzic is now the only person to appear before the Yugoslavia Tribunal accused of being a member of four different joint criminal enterprises.

On the other hand, the number of municipalities where Karadzic is accused of having committed war crimes has been reduced from 45 to 27.

Any further reduction of the indictment would jeopardize the possibility of securing Karadzic's conviction, the prosecution told the court.

Peter Robinson visits Karadzic every other day to discuss the trial. Robinson drafts the motions which Karadzic then files with the Trial Chamber.

"Karadzic is in good shape and looking forward to the start of this trial," Robinson says, "but he will be very disappointed if the trial starts before he completes his preparation."

In a written interview with the IJT, Karadzic added: "I hope my trial is fair, but my expectations are very low."

ICTY President Patrick Robinson has said that he expects the Karadzic trial to end in early 2012 and all appellate proceedings to be concluded by mid-2013.

Robinson is concerned about the toll this could take on his client: "It would be exhausting for anyone to defend themselves before a court that sits five days a week for ... three years."