

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



**PRESS CLIPPINGS**

**Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office**

**as at:**

Thursday, 20 September 2007

Press clips are produced Monday through Friday.  
Any omission, comment or suggestion, please contact  
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Awoko

Thursday, 20 September 2007

# CDF defence plead for shorter jail terms

By Betty Milton

Defence counsels for the two Civil Defence Forces (CDF) Special Court indictees, Moinina Fofana and Alieu Kondewa, yesterday in their sentencing pleas submitted to the court that they would recommend jail sentences of four and three years respectively.

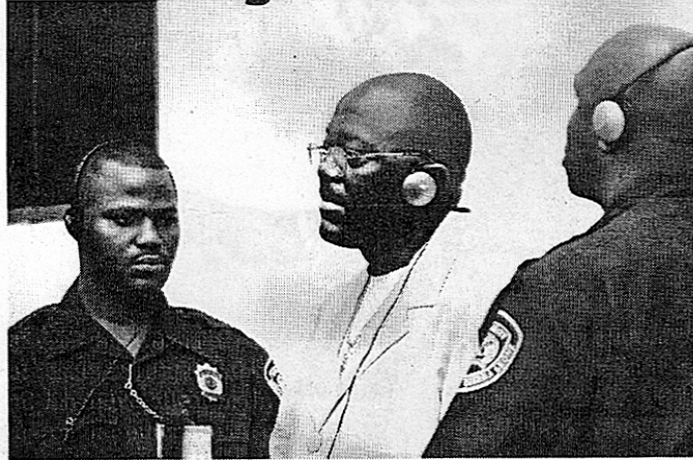
In his submission the defence counsel for the second accused, Steven Powels, said his client did not plan or instigate any of the war crimes in the indictment.

He told the court that the CDF attacks were directed at the RUF and AFRC who had various villages and chiefdoms under their control as the CDF were fighting for the restoration of democracy; and that they were engaged in those actions to restore the democratically elected government.

Steven Powels further submitted that his client, Moinina Fofana, did take part in the peace building process in the country.

The defence counsel also submitted that his client accepted crimes committed by the CDF and that he deeply regretted the unnecessary sufferings of civilians in the country.

On the issue of the court, the defence counsel said "Mr Fofana wholeheartedly accepts the jurisdiction of the



court and has profound respect for the rule of law."

Pleading for a lighter sentence, the defence submitted to the chamber that a 30-year sentence, which had been asked for by the prosecution, was inconsistent with the Trial Chamber.

"And therefore we are employing you to impose the right sentence of four years or less as this will enable Fofana to contribute to peace building in the country," he noted.

Charles Margai, representing the third accused Alieu Kondewa, submitted that the war for which his client was in the court had been described as the most brutal, and that it was only through the intervention of the CDF that things changed.

He also told the court that if his client received a heavy sentence, this would serve as a deterrent for other civil militia to defend the country during war.

For the court not to act in vain, Charles Margai, said he would want the chamber to give a sentence of three years to his client as he had already spent four years in detention.

"If my client had not spent such time in detention I would have asked for seven years but I don't want the court to act in vain so I-

*Cont. Page 6*

# CDF defence plead for shorter jail terms

*From Page 2*

am asking for three years," he admonished.

In their argument, Joseph Kamara who submitted on behalf of the prosecution said the sentences should be seen to deter people from engaging in hostility, and that it should not be seen also as a form of revenge but that they were seeking punishment for crimes committed by the accused.

Mr Kamara said none of the accused had shown remorse for the crimes they committed and that they did not plead guilty to the charges as this would have helped the court and saved witnesses' time. The senior attorney said although the second accused was not present when certain crimes

were committed, he had effective control over the Kamajors as "Fofana played a significant role in the CDF as he received reports from various chiefdoms even before they reached late chief Hinga Norman."

Kondewa, he went on, was charged with the responsibility of initiating civilians into the Kamajor society and that no Kamajor would go to fighting without Kondewa's blessing.

On the issue of sentencing, Joseph Kamara submitted that the judges should look into the gravity of the offence and the aggravating factor "so we are asking for a sentencing of 30 years each for the accused including time spent in detention."

Asked by Justice Benjamin Itoe whether they had anything

to say the second accused said he had nothing to say other than what his counsel had submitted to the court. Alieu Kondewa, in his statement, apologized to the people of Sierra Leone and thanked the judges and prosecution team for their work. He explained that his real name was Alieu Musa and Alieu Kondewa was a nickname but that he had accepted it as it was the name by which he was now known.

Mr Kondewa said he did not mean any harm for the people of this country, as his child and siblings were also killed during the war. The native medicine he used to administer during the war, he noted, was a revelation from God to give to people who wanted to save their lands from the rebels.

## Awareness Times

Thursday, 20 September 2007

### *CDF hearing continues at the Special Court*

Former Civil Defense Force war crimes indictees at the Special Courts continued their hearing yesterday. In the proceedings, the Judge was to reportedly ask the Defense to temper justice with mercy and not to impose custodian sentences. They would reportedly also go further to draw the attention of the judges to the fact that the accused were part of a militia that fought along side government soldiers and peacekeepers against rebels for the restoration of the legitimate government. The prosecution on their part would ask the Court for the imposition of longer sentences for the two men as well as the other AFRC accused.

## Kamajors to be sentenced October 1st

### Hinga Norman Memorial Rites next April 2008

*“With the defeat of Mr. Berewa and the retirement of the other three architects of the special court agreement, former UN Secretary General, Kofi Annan, former British Prime Minister, Tony Blair, and former Sierra Leone President Ahmad Tejan Kabbah, the newly elected government of President Ernest Bai Koroma of Sierra Leone and new UN Chief Scribe, Ban Ki Moon, must now weigh the theory of international jurisprudence with respect to the Special Court.”*

Sentencing hearings for Second Accused, Moinina Fofana, and Third Accused, Alieu Kondéwa, were held yesterday morning at the UN-backed special court for Sierra Leone. Mr. Fofana, the former Director of War was represented by court appointed counsels Michael Pestman, Andrew Koppe and Arrow Bocakrie. Fofana's lawyers asked the court for a four-year prison term. If granted, and with time already served, Mr. Fofana will be released from jail immediately.

Third Accused, Dr. Alieu Musa Kondewa, High Priest and Chief Initiator of the Society of Kamajors, was represented by Chief Counsel, Charles Francis Margai, and his court-appointed co-counsels, Ansu Lansana and Yada Williams. Mr. Margai requested a three-year prison term for his client. If granted, and with time already served, Dr. Kondewa will also be released from jail immediately.

The prosecutor asked the court for a thirty-year prison sentence for both CDF leaders. Fofana and Kondewa were indicted on eight counts each of war crimes, crimes against humanity and other serious violations of international humanitarian laws in June 2003. Both Mr. Fofana and Dr. Kondewa were found guilty on four counts of violations of protocols of war under Article III Common to the Geneva Conventions and Additional Protocols also known as war crimes. Additionally, Dr. Kondewa was found guilty of one count of international humanitarian laws for recruitment of child soldiers. As High Priest and Chief Initiator, Kondewa actually never led any one into battle and he and his deputy initiators were forbidden by the protocols of the society from carrying weapons or touching the dead. Neither of the accused was found guilty of crimes against humanity as charged under the Consolidated Indictment. Crane's submission to the court was so flawed that Chief Judge, Benjamin Mutanga Ito, called Crane's arguments "speculative and unreliable". Crane has since left the court and is now a law professor at Syracuse University in New York.

First Accused and former National Co-ordinator of the CDF, Chief Samuel Hinga Norman, also charged with eight counts of war crimes, crimes against humanity and violations of international humanitarian law died from gross medical negligence while in the custody of the special court in a dilapidated prison facility in Dakar, Senegal on 22 February 2007. The cause of his death was given as natural causes by

a subsequent inquest ordered by the president of the court. The Hinga Norman family with contrary evidence at its disposal summarily rejected the court's findings and is pursuing other avenues to redress the family's grievances against the court and its agents.

Those efforts had been put on hold pending the outcome of the recently concluded presidential and general elections in Sierra Leone. It is now widely believed by even hard-core supporters of the former ruling SLPP government that the mischief and betrayal of Chief Hinga Norman led for the most part to the outright defeat and disgraceful performance of the ruling party led by former Vice President, Solomon Berewa. Mr. Berewa negotiated both the Lome Accord, which gave absolute, free and full pardon to the CDF in their conduct of the war as well as the Agreement between the Government of Sierra Leone and the United Nations that established the court in 2002.

With the defeat of Mr. Berewa and the retirement of the other three architects of the special court agreement, former UN Secretary General, Kofi Annan, former British Prime Minister, Tony Blair, and former Sierra Leone President Ahmad Tejan Kabbah, the special court now appears like a freckle faced, orphaned bastard of an international band of ex-lovers. The newly elected government of President Ernest Bai Koroma of Sierra Leone and new UN Chief Scribe, Ban Ki Moon, must now weigh the theory of international jurisprudence with respect to the Special Court against the realities of West African turbulent and often unpredictable political realities.

Sentencing for the CDF leaders originally scheduled for next Monday, has now been set for October 1.

On a related matter, the Hinga Norman family wishes to inform friends and supporters world-wide that the one year memorial anniversary of the death of the former Regent Chief of Jaiama-Bongor Chiefdom is scheduled for the weekend of April 11-13, 2008. Observances will be held in Freetown, Bo, Mongere in the Valunia Chiefdom and the Chief's ancestral home in Goala also in the Valunia Chiefdom, Bo District, Southern Region. All directors, commanders, initiators and rank and file of the Society of Kamajors, government, chiefs, elders and civic organizations are advised accordingly.

**Rev. Alfred M. SamForay,**

**For the Hinga Norman Family & CDF Defence Fund.**

## Standard Times

Thursday, 20 September 2007

### The Right To Bail In Criminal Proceedings

*Analyses by Musa Mewa of special court monitoring programme*

The right of an accused to bail in criminal proceedings is worth examination of recent times. In March 2007, the Sierra Leone Court Monitoring Programme (SLCMP) carried out a study of 20 cases before different Magistrates in various Magistrates Courts in Freetown dealing with criminal matters. We acknowledge the fact that it is of limited scope. However, it provides an insight into the practice of bail applications on a day to day level.

The ensuing discuss is an assessment of what we saw, and a more general discussion of the strengths and weaknesses of the current system, and suggestions on how improvements could be made.

In Sierra Leone, the right to bail in criminal proceedings is guaranteed under Admission to Bail in the Criminal Procedure Act of 1965. Bail is the process by which a court releases a person pending appearance at a future court hearing. It also refers to any security which the court may demand such as cash or a bond required by the court for the release of a prisoner in order to ensure that they appear at a future time. Under the 1991 Constitution, an accused person must be brought before a court within 72 hours of his arrest or detention in the case of misdemeanours and 10 days in felonious offences.

At the first occasion when he is brought to court the accused person listens to the charges against him and is asked to enter a plea of guilty or not guilty. If the accused enters a plea of guilty, he is convicted, sentenced, and the issue of bail would never arise. On the other hand, if the accused enters a plea of not guilty, and if the offence is one for which bail may by law be granted, at this stage the issue of bail usually arises. The defense counsel or the accused person himself, if he has no representation, makes an application for bail. The prosecution has the opportunity to give counter arguments, and bail is granted or denied by the judge or magistrate as the case may be.

Bail is not usually a complicated matter of law, but almost always depends on the particular circumstances of the case. However, in certain cases, the court has discretion. When a person is charged with any felony other than murder or treason, such as rape, malicious damage, fraudulent conversion etc., the Court may, if it thinks fit, admit him to bail. Subsection 3 of section 79 of the Criminal Procedure Act of 1965 states that when a person is charged with any offence other than those referred to in subsections (1) and (2), (murder or treason), the Court shall admit him to bail, unless it sees good reason to the contrary.

International conventions and protocols make parallel provisions

for the granting and refusal of bail in criminal proceedings. Article 9 (3) of the International Covenant on Civil and Political Rights (ICCPR) provides that "it shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantee to appear for trial." In line with the principle of fair trial, international instruments require the granting of bail where bail conditions are fulfilled. In fact while bail is a right in other national jurisdictions, in Sierra Leone bail is not a constitutional right of the accused. For example, bail is a right according to the European Court of Human Rights, and as such all the countries in Europe contain a provision in their national law that there is a right to bail, and Judges must explain why that right needs to be breached in the particular circumstances of the case.

#### GROUND FOR BAIL

The Defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the Defendant, if released on bail, would: (a) Fail to surrender to custody (eg. run away); or (b) Commit an offence while on bail; or (c) Interfere with witnesses or otherwise obstruct the course of justice. When considering these, the court should consider: (a) The

nature and seriousness of the offence and probable method of dealing with the offender for it (eg. if the defendant was convicted, what would the punishment be? If a long sentence is likely, the defendant may be more likely to run away); (b) The character, community ties, employment, previous convictions of the accused; (c) Whether he has returned to court when given bail previously (or whether he's run away) (d) The strength of the evidence against him ( if it is strong the accused may be more likely to run away).

Other reasons for refusal of bail: (a) Defendant's own protection (eg. where community anger might mean the defendant is at risk of revenge/ mob action). (b) Already in custody (for another offence). (c) Absconded previously in the same proceedings (eg. defendants who have already escaped from prison and are caught).

If the defendant is charged with an offence for which he would not receive a prison sentence even if he were convicted, the defendant should always be granted bail unless: (1) for his own protection (as in (a) above). (2) he is serving a sentence for another offence (3) he failed to appear after being granted bail on a previous occasion.

#### CONDITIONS FOR BAIL

The Court may decide that they will grant bail but only with certain conditions: (a)

The Defendant provides a 'surety'. Where there is a risk of the defendant running away, the court may require that the Defendant provides a 'surety'. This is when another person comes to court to promise the court that if the Defendant runs away, that other person will pay the court a certain sum of money. (b) The defendant must stay, live and sleep at a certain address. (c) The defendant must report to a local police station several times a week. (d) The defendant must not go out at certain time, usually at night (curfew). (e) The defendant must not enter a particular area/ address. (f) The defendant must not contact any victim or witness. (g) The defendant must give his passport to the court or police.

In local criminal proceedings the arguments for and against bailment shows that the lawyer has not spoken properly to his client about the case, and has not dedicated the necessary time and research into the case, and overall lack of respect for the client. Alternatively it suggests s/he does not understand the grounds for granting bail, which is a worrying indictment on lawyers who often charge large fees for their services. This argument was used in six cases out of those studied where there was representation. Other arguments used which were inadequate were "the accused is married and has children." This argument was used in four cases. Exaggeration of offence was used in four other arguments and one for the accused being a foreigner. However, in seven cases good arguments such as the accused being a worker with a fixed resident and weakness of evidence were used.

#### Discussion of Legal Representation and how it relates to Granting of Bail

Overall, of defendants who were represented by counsel, 55% were granted bail.

Of defendants who were not represented by counsel, 55% were granted bail. This underscores the fact that defendants who are not legally represented are not adequately able to represent themselves in bail applications, whether that is because they do not know on what grounds they can be granted bail or what conditions they could seek bail on, do not understand the language properly or what is going on. Consequently, out of nine accused persons who were not represented in our case study, two were granted bail and seven refused. It was also recorded that among the unrepresented accused persons one application was listened to and another not listened. It may also be that those persons who are so poor as to not be able to afford counsel may not be able to assure the court that they have adequate reasons not to flee but to remain in their place of abode. For example, if an accused don't have a property/employment. In this case the Judge may be justified in refusing bail.

In all the cases the level of surety demanded was reasonable. The bench in some cases requested property ownership in the city and reasonable amount for the granting of bail in bail able offences. To this extent the judiciary has done a great job as it reflects in the cases we observed.

TO BE CONTINUED



## The Spectator

Thursday, 20 September 2007

# UNIOSIL JOINS CIVIL SOCIETY TO OBSERVE INTERNATIONAL DAY OF PEACE

The United Nations Integrated Office in Sierra Leone (UNIOSIL), in collaboration with the African Youth for Peace and Democracy (AYPAD) movement and a coalition of civil society organisations will observe this year's International Day of Peace on 21 September with a Music and Drama Festival at the Victoria Park in Freetown, and other parts of the country.

The messages of the 2007

commemoration of Peace Day - a timely event following largely violence-free and credible elections in the country - will be centered on post-election reconciliation; regular inter-party dialogue; respect for freedom of expression and assembly; political tolerance; youth employment and the strengthening of the justice system.

During the Festival the Pan African Youths will perform the dramatization of peace skits and songs featuring

groups such as Giants of the East; Youth Arise; Shain Foundation and the renowned Refugee All Stars. A message from the UN Secretary-General will also be read as part of the celebrations.

Members of the newly established Civil Society Transition Committee, representatives from the newly elected Government, activists of non-governmental organizations, media practitioners, the international community, the diplomatic corps and staff of the United Nations agencies,

funds and programmes at large will participate to make that Day a powerful demonstration of the joint will to further consolidate peace in the country.

In 1981 the United Nations General Assembly passed resolution 36/67 declaring an International Day of Peace.

In 2001, the United Nations General Assembly adopted a new resolution 55/282 declaring 21 September of each year as the International Day of Peace.

## UN News Service (New York)

Wednesday, 19 September 2007

### **Security Council Urges Continued Support to Post-Election Sierra Leone**

The Security Council today commended Sierra Leone on the recent holding of presidential elections and called for continued international support as the West African nation proceeds on its path to peace and security.

In a statement read out by Ambassador Jean-Maurice Ripert of France, which holds the rotating Council presidency this month, the 15-member body "congratulated the people and institutions of Sierra Leone - particularly the National Electoral Commission and the Sierra Leone Police - on their conduct over the election period and the commitment that they demonstrated to the democratic process."

Ernest Bai Koroma of the All People's Congress Party was declared the winner of the run-off elections held on 8 September, after polls held on 11 August failed to produce an outright winner.

The presidential elections were the first since UN peacekeepers left in 2005 after helping to bring peace and stability to the country which was torn apart by a brutal 10-year civil war. Since then the UN Integrated Office in Sierra Leone (UNIOSIL) has been engaged in assisting the fledgling democracy.

Echoing the Council's comments, the top UN envoy to Sierra Leone today expressed appreciation for the restraint demonstrated by the people since the announcement of the results on Monday.

The Secretary-General's Executive Representative Victor Angelo called on everyone to "remain within the rule of law, and to respect public order and private property" in a statement issued in the capital, Freetown.

Stressing that "constructive dialogue at this time in the history of Sierra Leone is crucial," he reaffirmed that the UN remains actively engaged to support national efforts to consolidate peace, democracy and development.

United Nations  Nations Unies

United Nations Mission in Liberia (UNMIL)

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## UNMIL Public Information Office Media Summary 19 September 2007

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

### **International Clips on Liberia**

*There were no relevant stories on Liberia in the international media today.*

### **International Clips on West Africa**

09/19/2007 21:06:58

#### **Sierra Leone's vote strengthens hope for democratic change in Africa**

TODD PITMAN

Associated Press Writer

Source: AP WorldStream English (all)

Date: September 19, 2007

DAKAR, Senegal\_ War-ravaged Sierra Leone's peaceful transfer of power through the ballot box bodes well for a continent that has struggled against repression and conflict for half a century. But violence often simmers behind the democratic facade in Africa, where corruption is rife and a dying breed of tyrants remain. **Sierra Leone's** runoff, in which Ernest Bai Koroma defeated Vice President Solomon Berewa 55 percent to 45 percent, saw the opposition oust the ruling party \_ a rare occurrence in a region where power-hungry leaders keen to stay on have long used the machinery of state to their advantage.

09/19/2007 11:02:37

#### **INTERVIEW-Sierra Leone still needs help after polls -UN envoy**

By Katrina Manson

FREETOWN - Sierra Leone deserves high marks for holding credible elections but needs further international assistance to help rebuild its war-scarred economy and society, a senior U.N. official said on Wednesday. The elections, which swept opposition leader Ernest Bai Koroma into the presidency, were billed as a test of stability five years after the end of a 1991-2002 civil war notable for its brutality. "There were many attempts at disrupting the elections, many manifestations of intolerance, but they never went beyond a very small group of people," U.N. mission head Victor Angelo said.

### **Local Media – Newspaper**

#### **Leading Industrialized Countries Support Liberia's debt relief initiative**

(The Inquirer, Heritage and The Analyst)

- The world's leading industrialized countries under the banner of the G-8 have taken another measure to relieve Liberia of its multilateral debt burden.
- G-8 countries have announced a contribution of 324.5 million dollars in Special Drawing Rights (SDR) which will go towards financing the cost of clearing Liberia's arrears at the International Monetary Fund. The G-8 countries' contribution represents 60-percent of the cost for financing Liberia's arrears at the IMF.

- A communication from the German Minister for Development Cooperation, Madam Heidemarie Wieczoreck-Zeul, addressed to President Ellen Johnson Sirleaf, disclosed that Germany and some G-8 countries are also currently holding discussions with other countries to achieve a rapid solution to the Liberian debt issue and to ensure that the rest of the costs are covered.

### **Senate Holds Auditor General in Contempt**

(Heritage, The Inquirer and New Democrat)

- Liberia's Auditor General, John Morlu, has finally tasted the wrath of the Liberian Senate for disrespecting that august body to reinstate some 71 employees who were allegedly dismissed by the General Auditing Commission (GAC).
- The AG has been held in Legislative contempt and fined the amount of four thousand-five hundred, ninety-nine dollars and ninety-nine Cent (L\$4,599,99), which is to be paid within twenty-four hours into government's revenue and present receipt to the Secretariat of the Liberian Senate.
- The Senate therefore, demanded that Morlu appear before five committees of the Liberian Senate on Thursday with his restructuring plans for their perusal and approval. According to plenary decision, Mr. Morlu must reserve all action against the employees until the Senate's demands are met. The five committees include committees on Labor, Public Account, Judiciary, Ways, Means and Finance, and Autonomous Agency.

### **Second State Witness Confirms Coup Plot as Suspects' Lawyers Claim Intimidation**

(The News, New Democrat and The Inquirer)

- The second state witness in the ongoing treason Colonel James Kanneh of the National Security Agency (NSA), has confirmed in his testimony that there were arrangements to overthrow the democratically elected government of Madam Sirleaf.
- Col. Kanneh revealed that in February 2006, the Ivorian National Security in the Ivory Coast drew the attention of NSA to an arrest of a Liberian national, Mr. Andrew Dorbor. He noted that suspect Dorbor, in the preliminary investigation told them that sometime ago he was asked by retired General Charles Julu to go on a follow-up mission in the Ivory Coast and according to him (Dorbor) Julu gave him US\$200.00 and to be accompanied by one Ephraim Gaye.
- Meanwhile, lawyers representing suspects in the treason trial on Tuesday alleged that state security personnel were harassing and intimidating wives of the suspects.

**Local Media – Radio Veritas** (*News monitored today at 9:45 pm*)

### **G-8 Takes Measure to Clear Liberia's Debt**

- An Executive Mansion release issued in Monrovia yesterday said the world's leading industrial nations the G-8 have contributed nearly US\$324.5 million in special drawing rights that will go toward financing the cost of clearing Liberia's arrears at the International Monetary Fund (IMF).
- The Minister of Development Cooperation of Germany, Heidemarie Wieczoreck-Zuel said discussions are being held between her country, some G-8 member countries and others to achieve a quick solution to Liberia's debt issue and to ensure that the rest of the cost are covered.
- Minister Wieczoreck-Zuel stressed the importance of debt cancellation to the reconstruction and development of Liberia and assured the Germany would use its current role as President of the G-8 to continue to press for a solution that will allow Liberian to gain entry into the Heavily Indebted Poor Countries (HIPIC) debt relief initiative.

(Also reported on ELBS, Star Radio and Truth F.M)

### **State Lawyers Want Bryant's Defense Team Held in Contempt**

- The Government of Liberia has filed its return to former Chairman Gyude Bryant lawyers' Bill of Information questioning the trial of former heads of state.
- In an 18- count return the Government said Criminal Court "C" lacks jurisdiction over such a Bill of Information filed by Defense lawyers in the case and said it should have been filed before the Supreme Court which ruled that the former head of state should be tried.

- Recently, lawyers representing Mr. Bryant filed a Bill of Information to Criminal Court "C" saying that the former head of Government could not be tried on the ECOWAS audit based on the ruling of the Supreme Court.
- The Supreme Court at the end of its March term of court ruled that Bryant should be tried based on the binding resolution passed by the former National Transitional Legislative Assembly (NTLA).

*(Also reported on ELBS, Star Radio and Truth F.M.)*

#### **Liberian Senate Fines Auditor General Morlu**

- Members of the Liberian Senate yesterday held Auditor General, John Morlu in contempt and fined him L\$4,999.99 and mandated him to pay the amount into government coffers within 24 hours.
- The lawmakers also mandated that Mr. Morlu appears before five committees of the Senate on Thursday with his restructuring plans for scrutiny and approval.
- The Senators took the decision following Morlu's reported failure to reinstate dismissed employees at the General Auditing Bureau.

*(Also reported on ELBS, Star Radio and Truth F.M.)*

#### **Senate Rejects Presidential Nominees**

- The Liberian Senate has denied Commerce Minister designate, Cllr. Frances Johnson-Morris and Foreign Minister-designate, Olubankie King-Akerele confirmation.
- The plenary of the Upper House reached the decision following an executive session at the Unity Conference Centre in Virginia.
- Meanwhile, Senator Joseph Nagbe of Sinoe County yesterday filed a motion for reconsideration which is expected to discuss during Thursday plenary.

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## The Seattle Times

Thursday, 20 September 2007

[http://seattletimes.nwsourc.com/html/editorialsopinion/2003892600\\_beckyroe20.html](http://seattletimes.nwsourc.com/html/editorialsopinion/2003892600_beckyroe20.html)

### **The U.S. should embrace the international justice system**

By Rebecca Roe

Opinion

Earlier this year I spent a week at the International Criminal Court in The Hague as a member of a team invited to train prosecutors in presenting child-soldier testimony. The experience there convinced me the U.S. needs to be a member of the ICC.

Genocide, crimes against humanity and conscription of child soldiers are gruesome news topics in the U.S but horrific reality in Darfur, the Congo, Uganda and elsewhere.

Numerous reports have brought the problem of child soldiers to the public's attention; Ishmael Beah's outstanding book, "A Long Way Gone," has heightened interest in the problem.

Individual Americans are trying to help in a variety of ways but the U.S. government has refused to officially join the ICC. This should change.

The ICC, established in 2002, has a distinguished history. The permanent court arose from several temporary or ad hoc courts including Nuremberg (1945-1949), International Criminal Tribunal Yugoslavia (ICTY, 1995 to present), ICT-Rwanda (ongoing in Arusha, Tanzania) and Special Court Sierra Leone (SCSL, 1994-ongoing). The international courts prosecute genocide, ethnic cleansing, crimes against humanity, systematic rape, child soldiering and similar atrocities.

The Nuremberg trials resulted in convictions, imprisonment of and death sentences against many high-ranking Nazis. While specific accountability for some was a sufficient reason to support Nuremberg, the trials had greater intangible benefits. Nuremberg provided a forum for the world to hear what happened and how, though perhaps not why. Had there been no Nuremberg, the atrocities would have ended without the true extent of the Holocaust ever being known.

Most important was the impact on the development of international criminal law. International laws on genocide, war crimes, crimes against humanity and the Geneva Conventions were born in the late 1940s as a result of the issues identified during the Nuremberg trials. These laws set universal standards of conduct and an international system of accountability.

The breakup of Yugoslavia resulted in atrocities, popularly known as ethnic cleansing, perpetrated against the civilian population. Legal proceedings have been taking place in The Hague since 1994. Scores of people have been indicted and dozens have already been sentenced.

Rwanda is responding to the 1994 genocide with both prosecutions at the ICT-R and truth-and-reconciliation hearings in villages ("gacacas"). Rwanda trials are occurring in Arusha, Tanzania, and have resulted in convictions of high-level defendants, with more awaiting trial. Thousands have been transferred to the "gacacas" at least in part because of the number of defendants.

Special Court Sierra Leone has had trials ongoing in Freetown, Sierra Leone, and now in The Hague. Former Liberian leader Charles Taylor, reportedly behind the atrocities in Sierra Leone vividly portrayed in the movie "Blood Diamonds," faces trial in The Hague.



The first ICC indictee was Thomas Lubanga, a militia rebel leader from the Democratic Republic of the Congo, charged with enlistment, conscription and combat use of child soldiers under the age of 15. More prosecutions arising from the Congo are anticipated. The ICC recently issued arrest warrants arising out of the violence in Darfur.

It is too early to tell what impact these prosecutions will have in reconciling long-standing hatreds. But, the fact that the persons responsible for horrific crimes will spend the rest of their lives in prison, as opposed to living luxurious lives spending their ill-gotten millions, is some justice.

The absence of U.S. participation in the ICC is an embarrassment. Americans believe in justice; and as a society, we believe people who commit atrocious acts should be brought to account and punished. These values are the foundation of our criminal-justice system: accountability, punishment and restitution. The rule of law has made America the great nation that it is, and the goals of the American justice system are the goals of the ICC.

We cannot reshape societies and eliminate ethnic hatred. We can and we must help achieve accountability. To stand idly by is to suggest the slaughter of thousands of innocent people is not a moral transgression worthy of our time and effort.

While at The Hague, I talked with an ICC prosecutor who interviewed witnesses whose Sierra Leone village had been attacked in the all-too-familiar scenario — civilians, including infants, maimed and killed, women raped, children kidnapped for use as soldiers and sex slaves. As the prosecutor was getting ready to leave, a woman approached to thank her for caring enough to bring some justice to her and the other village women. The human need for accountability is basic and universal.

My involvement with the ICC was admittedly brief. Participation in an international court has challenges, with an astounding array of legal systems and procedures. The ICC is not a jury system; instead, decisions are made by three-judge panels. Interpreting the law is a matter of determining the consensus of law internationally. But neither the differences in legal procedure nor the politics and bureaucracy of the ICC diminishes the overall value of bringing perpetrators of horrendous crimes to justice.

The U.S. has much to contribute to the ICC, and U.S. participants could offer much-needed expertise and training. I was excited to be able to offer my help in such a worthy endeavor, and I hope that my country can reclaim its position as a moral leader by participating in the international justice system.

*Rebecca Roe is an attorney in private practice with Schroeter, Goldmark and Bender and is a former King County prosecutor.*

# INTERNATIONAL BAR ASSOCIATION

Tuesday, 18 September 2007

## **IBAHRI Visit to Uganda Uncovers Threats to Judicial Independence**

### NEWS RELEASE

Today, the International Bar Association's Human Rights Institute (IBAHRI) releases a report entitled, *Judicial Independence Undermined: A Report on Uganda*, in which it states that in political cases the government has pressurised judges, defied orders of the court and repeatedly criticised judicial decisions. The report follows the findings of a visit by a high-level delegation, under the auspices of IBAHRI, which uncovered evidence of tampering with judicial independence by Uganda's Government, headed by President Yoweri Museveni.

The high-level delegation visited Uganda between 20 and 25 May 2007 to investigate the implications for judicial independence and the rule of law arising from reports that in March 2007, armed government forces had invaded the Kampala High Court in an apparent attempt to intimidate the judiciary and disrupt the proper discharge of its functions. The report is informed by meetings with a wide range of people and organisations, including: members of the judiciary; the Directorate of Public Prosecutions; the Electoral Commission; the Uganda Human Rights Commission; the Judicial Service Commission; members of Parliament; and members of the legal profession. The Attorney-General did not respond to the delegation's requests for a meeting.

In the report, the most serious cited examples of judicial intimidation are in relation to the trial of opposition leader Dr Kizza Besigye and his co-accused. Dr Besigye, a presidential candidate in 2001 and 2006, was arrested along with 22 suspected rebels and charged with treason and rape. On two occasions in November 2005 and March 2007, when High Court judges had granted bail, armed forces prevented their release. On the second occasion, forces stormed the court and held the accused captive before later re-arresting them on fresh charges. The report concludes that these actions represent a gross infringement of the independence of the judiciary.

Jo Salsbury, IBAHRI Programme Lawyer says, 'Independence of the judiciary, executive and legislature is crucial in ensuring proper functioning of the administration of justice and adherence to the rule of law. Uganda's 1995 Constitution is unambiguous in guaranteeing the independence of the judiciary from external interference and states "no person or authority shall interfere with the courts or judicial officers in the exercise of their judicial functions". Ms Salsbury adds, 'After decades of civil war and unrest, the Ugandan people are to be commended for adopting a fine constitution. However, without judicial independence the constitution will become meaningless. I urge the Ugandan Government to respect Uganda's judges and refrain from interference or intimidation.'

ENDS

#### NOTES TO THE EDITOR

Members of the Delegation

Justice Johann Kriegler, former Judge of the Constitutional Court of South Africa

Beatrice Mtetwa, President of the Law Society of Zimbabwe

Michael Topolski QC, Barrister, UK

Lorna McGregor, IBA Programme Lawyer

Michael Duttwiler, Mission Rapporteur, Judicial Law Clerk, Switzerland



## BBC Online

Thursday, 20 September 2007

### Cambodians await Khmer Rouge trials

Police in Cambodia have arrested the most senior surviving member of the notorious Khmer Rouge regime, who will be tried by a UN-backed tribunal.

The 82-year-old Nuon Chea was second-in-command to Khmer Rouge leader Pol Pot.

Cambodian people talk about the significance of this arrest and whether the trials will bring justice for the victims of the regime.

**KAO SAMRETH, 49, TOUR GUIDE, ANGKOR WAT, SIEM REAP**

“The arrest of Nuon Chea is very good news. He knows a lot about what happened in those days and who else is responsible.

I hope that he will confess faithfully about everything he did. That will show the real history of Cambodia.

Hopefully his confessions will also lead to more arrests.



Kao Samreth is hopeful that there will be more arrests

I think the trials are starting too late. Many witnesses have died and many others are too old. Evidence has been destroyed.

But it's better than nothing, and it's better later than never.

Cambodian people are awaiting the trials with expectation. Some are not very happy with them, because they don't trust Cambodian judges who can be under political pressure.

Most of the judges are Cambodian and they must have lost relatives and friends during the Khmer Rouge regime. They will be biased. I think 50% of the judges should be Cambodian and 50% foreign.

I was 17 years old when the Khmer Rouge came to power. I lost my father, brother and many friends. The whole town was emptied and its people sent to camps.

I was separated from my family and sent to work in a camp. I spent there three years, eight months and 20 days. My father was killed simply because he was a teacher. ”

**VIREAK, 23, ENGINEER, SIEM REAP**

“The arrest looks like a step forward, but I reserve my judgment until the verdict is out. For now at least, it gives reassurance that preparations for the trials are going well.



Vireak: The younger generation doesn't know anything

I am too young to remember the Khmer Rouge regime. I was born after that period. My parents never talk about what exactly happened then.

I believe most parents are the same - they just want their children to look forward to the future. That's why they want to spare them the pain of the past. That partly explains why younger generations have little knowledge of what was going on.

One of my friends who is the same age thinks that the trials are a waste of money and that we should just forget about them and move on. We can never understand the pain and feelings of the victims because we never went through it ourselves.

In a way I am glad that the trials are going to start. But I also want them to end quickly. I hope that they can bring justice, but I am not sure whether they will. ”

**TAILY SENG, CORNER SHOP OWNER, PORTSMOUTH, UK**

“Nuon Chea has been living freely for 30 years. Everyone knew where he was. How hard was it to arrest him?



Taily Seng: Justice can be achieved only up to a point

Why take 30 years to bring those responsible to justice? Many of the victims are now dead and those who still live don't even care anymore.

Everyone knows that the government has been protecting leaders of the Khmer Rouge. They've arrested Nuon Chea now because of pressure from the outside that will hopefully lead to more arrests.

I doubt if he'll confess anything. Why would a mass murderer confess? He knows that he will lose no matter what he says, so why confess?

It would be great if the trial can go on smoothly and some justice is achieved, but it will be only up to a point.

Me and my wife both went through the killing fields. We have all suffered and lost loved ones. After so many years, the trial for justice is still in a limbo.

Still, the arrest is a good development, it shows that there is will, but there is more to do. Bring the whole lot, all of them, put them in the same place for the people of Cambodia to see.

That's what will satisfy me. Not just one or two, but all of them. That will take time, perhaps another five or 10 years.

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As a survivor of the Khmer Rouge regime, I would not give too much thought on this trial. Arresting 'Brother Number Two', as Nuon Chea is known, will not make any difference.

There are others who are living freely and by the time they get arrested and put on trial, they will all be dead like Ta Mok and Pol Pot.

Why doesn't the Cambodian government arrest all the remaining former Khmer Rouge leaders together and put them on trial at the same time, instead of arresting them one by one?

[Prime Minister] Hun Sen and his government would not allow this trial to go ahead regardless of what the international community thinks.

China and Vietnam have strong connections with the current and past governments. They were the main supporters of the Khmer Rouge regime and today they are the largest investors in Cambodia's economy. Millions of dollars are loaned to the Cambodian government without conditions. They would not allow this trial to go forward.

This trial is a joke. It is happening too late and it is insulting for the victims. Cambodian people don't care about it. You can't help people after they had died, you help them while they are still alive. Where was the UN in 1975? ”