

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



Aerial view of a village in Biriwa chiefdom, Northern Sierra Leone

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:

Thursday, 21 October 2010

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

International News

The Best Defence / <i>Voice Online</i>	Page 3
Rwanda Priest Gets Genocide Sentence Cut to 23 Years / <i>Agence France Presse</i>	Page 4
ECCC Prosecutors Seek Life Term for Duch / <i>International Justice Tribune</i>	Page 5
STL Reality in The Hague Contradicts Beirut Wishes to Eliminate Tribunal / <i>Naharnet</i>	Page 6
Court Action Begins in The Hague... / <i>Naharnet</i>	Page 7
Darfur Rebel Figures Will not Contest Charges of Killing AU Peacekeepers: ICC / <i>Sudan Tribune</i>	Pages 8-9
Justice, Not Catharsis / <i>Deccan Chronicle</i>	Pages 10-11
Second International Training Course for Genocide Investigators Held / <i>International Police</i>	Page 12
Malovic at “From Rome to Kampala” conference / <i>Emg.rs</i>	Page 13
Did John Bolton help Create the ICC? / <i>Foreign Policy Magazine</i>	Page 14
Unspeakable Truths: Truth Commissions and Transitional Justice / <i>Radio Netherlands Worldwide</i>	Pages 15-17
Court of Remorse: Inside the International Criminal Tribunals for Rwanda / <i>New African</i>	Page 18

The best defence

He's one of Britain's most high-profile and respected barristers. **Merissa Richards** met Courtenay Griffiths QC to uncover the man behind the 'celebrity lawyer' label.

The Voice interview

Photo by Ruf Atwell



"It's time we stopped seeing racism as our problem and instead realise that it is a distraction."

LAW MAN: Courtenay Griffiths

AS ONE of Britain's most influential barristers, Courtenay Griffiths QC (Queen's Counsel) is no stranger to the limelight, having been involved in a number of high-profile trials - from the Harrods and Docklands bombings to the Damilola Taylor case.

The 55-year-old's most recent trial was that of Charles Taylor, the former Liberian president - a case that has grabbed headlines around the world.

But despite appearing on television cross-examining supermodel Naomi Campbell, Griffiths is certain that it was not the Charles Taylor trial that made him "a star," as some newspapers have reported.

"I'm immodest enough to think that I've been a star for years," Griffiths says. "I didn't need Naomi to appear in court to make me a star, because I've been recognised as one of the top criminal barristers in the

country for a good 15 years. And that's not me blowing my own trumpet, you can look in any of the legal journals.

"No other defence barrister has spent as much time in the Old Bailey as I have. Naomi Campbell was not a highlight. Her appearance, along with Mia Farrow and her agent, was a complete distraction and had nothing to do with the real individuals of the case."

Griffiths adds, "The real issues of the case were whether Charles Taylor was in control of the vicious conflict in Sierra Leone. We say he wasn't.

"Therefore, whether or not he gave diamonds to a supermodel is totally irrelevant to that central issue. It's not that I want to demean Naomi Campbell, in fact I have a lot of respect for her. A lot of people look at her and think she's so difficult and attacks people.

"What many seem to forget is that as a black kid, at age 15, she went into one of the most ruthless and exclusive professions in the world. There can't be more than 30 top supermodels, yet she stayed on top of her game until she's now 40 years old. Could you imagine what she went through?"

"The Naomi Campbell they see now has had to build up that suit of armour to protect herself, because I'm sure she's been used and abused in her profession..."

Since the trial, which was followed by thousands, fans of Griffiths have set up a Facebook and Twitter page in his honour.

He says if his achievements and performance in that trial has inspired youngsters to pursue a law career, "that's a good thing. But beyond that the last thing you can afford is to allow things like that to make you egotistical or make you feel like somehow you have arrived and there's nothing else to achieve. I have got loads I want to achieve."

Griffiths' most fulfilling case was the Damilola Taylor trial in 2002. He says: "Six young kids from Peckham [in south London] were put on trial for the murder of Damilola Taylor, and the whole trial had been surrounded by a great deal of media hype after the wickedness of those who had carried out his murder.



IN COURT: Naomi Campbell at the Charles Taylor trial

"The judge and I had to counteract a great deal of prejudice when the trial started. I came in for a lot of personal attacks in the national media because of the way that I fearlessly defended those boys.

"No one was convicted in that first trial. Everybody saw that as a travesty of justice, including Damilola's parents. Lo and behold, a couple years later, police found DNA evidence which implicated three completely different defendants.

"Had those first boys been convicted, based on that public preju-

dice, it would have meant that you had 14 to 15-year-old boys serving life imprisonment for something they didn't do."

Helping to prevent the conviction of six innocent boys, Griffiths says, makes it one of the most meaningful cases he has ever undertaken.

Asked how he feels when having to defend those who have committed a crime, he says: "I have no problems whatsoever, because I am not there to make moral judgements or decide guilt or innocence, but instead to present a case. As a barrister you are a mercenary hiring out your skills to either prosecution or defence."

Born in Jamaica, Griffiths came to the UK in 1961 when he was five years old, and lived in Coventry until he left school.

His father kindled his interest in law. "When I was 11 I fancied the idea of becoming a barrister, partly because my father had been a great admirer of Norman Manley - the first prime minister of Jamaica - who had been in a practice of the QC here in the UK, mainly doing crime in the 1930s and 40s," he says.

"I always enjoyed public speaking, and one of the reasons for that was because my father, although he was a carpenter, was a very religious man who would preach on a regular basis at the church that I used to attend in Coventry.

"I loved the idea of public speaking and the ability to use words to achieve a purpose.

"If there's one lesson I would like black British society to take on board is that we are entering into the second decade of the 21st century; we're now a permanent presence in the United Kingdom. We have been a part of this population for over half a century. We're not going anywhere.

"It's time we stopped seeing racism as our problem and instead realise that it is a distraction. What we need to focus on is developing and exploiting our own abilities; creating our own space within British society, rather than expecting what space British society chooses to allocate to us."

Griffiths' success has come at a price. Married for 25 years with four children, he admits that he has had to be selfish and make sacrifices to get to where he is now.

He describes juggling family life and travel as "extremely difficult."

"It puts a lot of pressure on your domestic life because at one level to get to where I've got to I've had to be very selfish and I appreciate that my family has suffered consequently.

"I think that my wife and family have appreciated why I have needed to make that sacrifice, such as not being present at your child's play or graduation, those kinds of milestone events in any family's life.

"I appreciate that my family has suffered but they have also gained. I doubt that I would have achieved what I had to achieve without making such sacrifices," he says.

Agence France Presse

Wednesday, 20 October 2010

Rwanda priest gets genocide sentence cut to 23 years

ARUSHA, Tanzania — The UN tribunal trying the masterminds of the 1994 Rwandan genocide Wednesday cut on appeal the sentence of a Catholic priest to 23 years from 25.

Emmanuel Rukundo, a former army chaplain, was sentenced last year for genocide, sexual assault and kidnapping during the killings in Rwanda.

"The Appeals Chamber, sitting in open session, Judge Pocar dissenting, reduces the sentence of 25 years of imprisonment imposed on Rukundo by the Trial Chamber to 23 years of imprisonment," presiding judge Fausto Pocar said.

Rukundo, 51, will remain in the custody of the International Criminal Tribunal for Rwanda (ICTR) in the northern Tanzanian town of Arusha until he is allocated a country in which to service his sentence, Pocar said.

The appeals chamber upheld the previous convictions for genocide, extermination and homicide but said the judges had erred slightly in the way they qualified some of the charges.

Copyright © 2010 AFP. All rights reserved.



Emmanuel Rukundo

International Justice Tribune

Tuesday, 19 October 2010

ECCC prosecutors seek life term for Duch



Phnom Penh, Cambodia

Prosecutors at the UN-backed Extraordinary Chambers in the courts of Cambodia (ECCC) on Tuesday demanded an increased sentence of life imprisonment for a former Khmer Rouge prison chief

convicted of crimes against humanity.

Kaing Guek Eav was sentenced in July to 35 years for overseeing the deaths of over 12,000 people in the late 1970s, reduced to 30 years on the grounds that he had been detained illegally for years before the tribunal was established.

"We are asking for life imprisonment," said international co-prosecutor Andrew Cayley, after his team submitted their appeal document.

But he said the sentence should be shortened to 45 years because of the unlawful detention.

Prosecutors said the request for a tougher sentence reflected doubts over the remorse of the former jailer, better known as Duch, who apologised during his trial but shocked the court in November by finally asking to be acquitted.

"Frankly now, after he said he should be released... we are not convinced about this man's contrition," said Cayley.

Duch, 67, was the first former Khmer Rouge cadre to face an international tribunal.

In their appeal document, the co-prosecutors argued that "a sentence of 35 years for crimes of this magnitude is plainly unjust."

They are also seeking additional convictions "for the crimes against humanity of extermination, enslavement, imprisonment, torture, rape, persecution on political grounds, and other inhumane acts".

Duch's lawyers are also appealing the sentence, which they have described as a "miscarriage of justice," and want the jailer to be acquitted.

They have until November 22 to file their appeal documents.

Naharnet

Thursday, 21 October 2010

STL Reality in The Hague Contradicts Beirut Wishes to Eliminate Tribunal

Naharnet Special Report - The Hague

The International Media Forum agenda, organized by the Special Tribunal for Lebanon in The Hague, reflects a completely different view on the Court from what is going on in Beirut.

Those in charge of the STL in The Hague simply refuse to discuss the majority March 14 coalition's or March 8's approaches to the Tribunal.

While March 14 is committed to the STL as part of its political strategy adopted five years ago without having sufficient means to provide local protection for the Court, the Opposition March 8 alliance has launched a relentless campaign against the Tribunal, accusing it of politicization.

On this basis, it seems that the International Media Forum -- which includes visits to three headquarters: Special Tribunal for Lebanon, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Court -- is a message in itself to the Lebanese who are divided in their outlook on the STL, set to try killers of former Prime Minister Rafik Hariri.

The March 14 coalition which appears to be making reactions on the dynamism of Hizbullah and its allies who reject the Court and demand that the Tribunal be shut down "should be more confident in the future of the Tribunal and its work and stop doubting themselves and the Court and its the ability to reach results.

March 8 forces, which seek to bypass the Court, also "should be less ambitious and more modest in their quest to topple the Special Tribunal for Lebanon."

The Special Tribunal for Lebanon, at least from the standpoint of the International Media Forum, is part of the international justice system alongside the Criminal Court for the former Yugoslavia and the International Criminal Court.

It seemed that those in charge of the Special Tribunal for Lebanon wanted through the first episode of the first day under the title: "The evolution of International Justice," to send a message to the Lebanese via the vice president of the International Criminal Tribunal for the Former Yugoslavia that there has been no precedents in international justice where a court has been stopped or suspended.

Naharnet

Wednesday, 20 October 2010

Court Action Begins in The Hague: International Media Forum Accompanied by STL 'Explosive Experiment'

Naharnet Special Report: The Hague.



Special Tribunal for Lebanon action has begun. Key developments in the past few hours suggested that field and technical preparations are underway for the launch of Court work which is expected after issuance of the indictment in the assassination of former PM Rafik Hariri.

An Air France jet carrying 16 editors-in-chief, news directors and editors of the local and judicial sections of Lebanon's leading media outlets left Beirut airport around 4:00 pm Tuesday to take part in an International Media Forum on the STL to be held in The Hague Oct.

20-22.

As the plane embarked on its destination, the Office of the STL Prosecutor Daniel Bellemare said it conducted a "controlled explosive experiment" at the Captieux military base in France as part of its probe into the Hariri murder.

The journalists were in The Hague at the invitation of the STL and the Association of Foreign Journalists in the Netherlands.

The first day of the Forum will be held on Wednesday at the STL's International Media Center amid tight security measures – No cell phones, cameras, audio recorders are allowed in.

Forum organizers, however, permitted journalists to bring their personal computers, providing internet access that allows them to communicate with the media they represent.

The second day of the Forum includes visits to both the International Tribunal for War Crimes in former Yugoslavia and the International Criminal Court.

On Day 3, the International Media Forum will be held at the Media Center that belongs to the Foreign Journalists Association in the Netherlands.

The Forum brings together journalists from Lebanon and the world. Media outlets from Lebanon include An-Nahar, As-Safir, al-Hayat, al-Mustaqbal, The Daily Star, L'Orient Le Jour, state-run National News Agency, Tele Liban, al-Jadid, Future TV, Voice of Lebanon, in addition to Naharnet and Now Lebanon.

The absence of the media outlets of Hizbullah, AMAL and the Free Patriotic Movement was obvious even though they were invited.

Sudan Tribune

Thursday, October 21, 2010

Darfur rebel figures will not contest charges of killing AU peacekeepers: ICC

(WASHINGTON) – Two Sudanese rebel leaders who stand accused of leading a deadly attack on African Union (AU) peacekeepers more than three years ago will not contest the charges at the confirmation hearing scheduled for next month, the prosecutor's office at the International Criminal Court (ICC) said today.



Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus each face three counts of violence to life in the form of murder, war crime of attacking a peacekeeping mission and pillaging.

The two men allegedly commanded a 1,000-strong rebel force in the Sept. 29, 2007 attack, on the African Mission in Sudan (AMIS) base in Haskanita in

North Darfur. They looted the camp of 17 vehicles, refrigerators, computers, mobile phones, ammunition and money.

The attack killed twelve soldiers and severely injured eight others who were mainly from Nigeria, Senegal, Mali and Botswana. It was the deadliest single attack on the peacekeepers since they began their mission in late 2004.

Banda was a senior military commander in Darfur's rebel Justice and Equality Movement (JEM) before he was dismissed during a bitter split among the movement's governing elite in mid-2007. He went on to form a rival faction, the JEM Collective Leadership, with former JEM vice president Bahar Idriss Abu Garda. The latter appeared voluntarily before the ICC to answer charges relating to the same attack but the court declined to pursue those charges in February citing insufficient evidence to prove his criminal responsibility.

Jerbo on the other hand was a leading figure in the Sudan Liberation Movement (SLM)-Unity faction before being removed later for unknown reasons.

The two suspects surrendered voluntarily to the ICC last June, almost a year after a summons of appear was issued for them in secrecy and appeared before a judge to be formally notified of the charges. Presiding judge Sylvia Steiner from Brazil set November 22nd as the date for a hearing to confirm the charges against the two men — a requirement before the case can go to trial.

The weekly briefing issued by the prosecutor on Wednesday revealed that his office and the defense made a joint filing before the Pre-Trial Chamber informing the

judges of an agreement between the parties which may allow for a shortened confirmation hearing if the judges so decide.

"The parties agreed that the facts contained in the document containing the charges, which the judges are encouraged to consider, as being proven for the purpose of the confirmation hearing.....the Defence waived its rights to challenge the prosecution evidence, present its own evidence or contest the charges during the hearing. The approach agreed by the parties will involve a limited oral presentation by the Prosecution and the Legal Representatives for Victims as may be ordered by the Chamber," said the prosecutor's office.

The prosecution described this approach as a " novel" one for the ICC and if approved by the judges "could save judicial time and resources".

"This agreement by the parties is limited to the confirmation hearing. In the event the Pre-Trial Chamber confirms the case for trial, the Defence may at that stage contest any of the charges".

Officials at the prosecutor's office declined to comment on the new development when contacted by Sudan Tribune.

The Hague-based court, established in 2002 to try those responsible for war crimes and genocide, has also issued an arrest warrant for Sudanese President Omer Hassan al-Bashir, who has snubbed the court and denied the allegations as part of a Western conspiracy against his government.

The ICC is investigating both sides of the Darfur conflict. In addition to the three cases involving Banda and Jerbo, Garda and Bashir, it is also seeking the arrest of two government figures namely South Kordofan governor Ahmed Haroun and militia leader Ali Kushayb for 51 counts of crimes against humanity and war crimes

Deccan Chronicle

Wednesday, 20 October 2010

Justice, not catharsis

By Shankari Sundararaman

As the second phase of the Khmer Rouge trials began last month with the indictment of the four members — Noun Chea, Ieng Sary, Ieng Thirath and Khieu Samphan — for genocide and crimes against humanity, there is a growing feeling that the trials may not prove to be effective in bringing closure for the millions of Cambodians who suffered human rights violations under the Khmer Rouge.

In July 2010, the verdict in the trial of Duch, alias Kaing Guek Eav, who was the chief of the dreaded S-21 interrogation centre also known as the Tuol Sleng Prison and facing charges for overseeing the deaths of about 15,000 people in the late 1970s, left the Cambodian people and the international community pitted against each other in a debate on the quantum of punishment. Following the announcement of the verdict by the Extraordinary Chambers in the Courts of Cambodia (ECCC) that Duch was to be given a 30-year jail sentence and that he would be free to leave the prison after 18 years, the public reaction was one of disappointment. The court had taken into consideration the fact that Duch had already served 11 years in prison since 1999 while awaiting trial, and hence commuted his sentence to 18 years. Prosecutors are demanding life imprisonment.

The dichotomy between the interpretations of humanitarian justice and the angst of the Cambodian people are on two distinct parallels. One of the victims who has lived to see the trials stated that the Duch verdict made those who suffered the atrocities go through the ordeal twice — once as victims of the Khmer Rouge and a second time when the punishment was less than expected.

In the context of crimes against humanity and the Geneva Conventions which lay out a code of conduct with relation to war and barbarity, the Khmer Rouge trial is very significant. The degree of atrocities carried out by the Khmer Rouge was of such serious nature that a strict implementation of the convention must be applied. In the context of the Khmer Rouge trials this has become somewhat diluted as a result of the ambiguous role played by the international community during the Cold War years.

Another process that is coming under scrutiny is the fact that in the case of the Cambodian trials the system of a hybrid international judicial system has been adopted. The hybrid system includes both international and domestic jurists and laws.

Also, for the first trial of Duch, the court included civil parties as part of the hybrid judicial process. These consisted initially of both civil society groups and groups formed by members of victims and their families. However, out of the 87 civil parties that were formed, only 66 were recognised. The court felt that the other 21 groups did not qualify for consideration as civil parties. This announcement was made at the time of the Duch verdict and left several groups bewildered. Many felt that since in the context of the ECCC there is no trust fund to give monetary compensation to the aggrieved parties, there was no need to limit the number of civil parties. While their inclusion would in no way impact the trial process, it could have provided psychological closure to the victims and their families.

One of the stated objectives of the courts is to provide “collective and moral reparations”. Not including these parties does not fulfil that mandate.

The trial of Noun Chea, popularly known as Brother No. 2, second to Pol Pot in the Khmer Rouge hierarchy, is slated to commence early next year. Along with him will be three other key figures — Ieng

Sary, his wife Ieng Thirath and Khieu Samphan. There is concern that their trial will lead to more divisiveness between the ruling government of Prime Minister Hun Sen and the United Nations because these men are the central figures of the Khmer Rouge and the current government is a breakaway faction of the Khmer Rouge. The revelations of these four could provide evidence leading to the ruling government.

A recent documentary, titled *Enemies of the People* (2009), by Thet Sambath and Rob Lemkin, has interviews with Noun Chea who highlights the power struggles within the Khmer Rouge and alleges the complicity of the current ruling establishment of Cambodia in the genocidal crimes. This may indeed be credible information given that the early years of the Khmer Rouge were incoherent in terms of establishing its leadership. Even immediately after the Khmer Rouge victory, the administration remained weak and control was diffused among many leaders.

It is believed that the leadership of the Khmer Rouge was divided into two factions — anti- and pro-Vietnamese — and in the struggle between these conflicting ideologies, both sides indulged in genocidal crimes against the Cambodian people. Establishing this fact could lead to a more complex scenario for the ECCC. The dilemma would then be over whether only the core group of the Khmer Rouge needs to be tried for genocide or if the net needs to be cast over a larger group of individuals who may have also had a hand in the killings.

The trial of Brother No. 2 and others may reveal if more leaders were involved. Though only five members of the Khmer Rouge are being prosecuted, five other former Khmer Rouge members are also on the ECCC's agenda. However, their identities remain secret. The challenge for the ECCC will be to give a clear verdict in these cases and also bring others compliant in these crimes to book.

The four senior members, including Brother No. 2, were part of the core decision-making group which led the four-year-long darkest period in Cambodian history — from 1975 to 1979, an estimated 1.7 million people were executed or died from overwork, disease and malnutrition. While Duch may have appealed to the court for leniency stating that he was merely carrying out orders, the remaining four were the masterminds. The verdict in these four cases will highlight the seriousness of the trials. The collective psychology of an entire generation of victims will depend on what the courts are able to deliver.

Dr Shankari Sundararaman is an associate professor of Southeast Asian Studies at the School of International Studies, JNU

International Police

Thursday, 21 October 2010

Tanzania: Second International Training Course for Genocide Investigators Held

Press release

Arusha — Developing the knowledge and expertise in investigating and prosecuting genocide, crimes against humanity and war crimes is the focus of a 10-day course co-hosted by INTERPOL and the International Criminal Tribunal for Rwanda (ICTR) in Tanzania.

More than 30 law enforcement officers and specialists from 16 countries are taking part in the second such course organized by INTERPOL, with training provided by a wide range of experts from United Nations Tribunals, the International Criminal Court, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and other international institutions and national specialized agencies.

Addressing crucial aspects of investigating serious international crimes, participants will be trained in areas including handling witnesses, forensic evidence related to mass atrocities, sexual and gender-based violence in conflict situations and issues related to the status of refugees.

The course also aims to prepare participants for possible collaboration with peacekeeping forces that might be deployed in different countries as well as on how to integrate national investigations with investigations carried out by International Courts and Tribunals.

Opening the meeting, Mr Adama Dieng, UN Assistant Secretary General and Registrar of the ICTR, saluted the partnership and the close relationship that INTERPOL has maintained with the ICTR over the years, stressing that ‘this partnership has been remarkable and is now characterized by a renewed sense of urgency in strengthening our co-operation for the apprehension of the remaining ten fugitives at this critical juncture of its completion strategy.

Stefano Carvelli and John Barry of INTERPOL’s Fugitive Investigative Support unit which organized the course, said the meeting was ‘an important measure since investigating genocide, war crimes and crimes against humanity is a specialist area that clearly requires specialist training’.

International expert of International Humanitarian Law Professor Ray Murphy from the Irish Centre for Human Rights, said “We can only end impunity when we provide investigators with the training and the knowledge required. INTERPOL is to be commended for organizing a course for this purpose”.

INTERPOL has been supporting member countries and International Criminal Tribunals in this area since 1994, primarily through issuing wanted persons Red Notices and other investigative assistance.

In December 2007, INTERPOL created the Rwandan Genocide Fugitives Project following a resolution at its General Assembly that year. It aims to apprehend the fugitives wanted by the ICTR and by Rwandan Judicial Authorities and to date has led to the arrest of six fugitives wanted by the international tribunal.

Emg.rs

Thursday, 21 October 2010

<http://www.emg.rs/en/news/serbia/136144.html>

Malovic at “From Rome to Kampala” conference

Malovic will meet with the ICC Registrar to discuss the possibility for Serbia to sign an agreement with the ICC about taking over convicts, which would make it the first country in the region to have signed such an agreement with the Court.

Minister of Justice Snezana Malovic will address the participants in the International Criminal Court (ICC) review conference “From Rome to Kampala” at 09.30 on 21 October, at the International Red Cross Committee, Simina 19.

Representatives from the ICC and experts in international criminal law will take part in the conference, dedicated to strengthening cooperation with the ICC and a more efficient implementation of the Rome Statute.

Malovic will meet with the ICC Registrar to discuss the possibility for Serbia to sign an agreement with the ICC about taking over convicts, which would make it the first country in the region to have signed such an agreement with the Court.

Foreign Policy Magazine

Tuesday, 19 October 2010

Did John Bolton help create the ICC?

By David Bosco

Recent reports from Kenya paint a confusing picture on the government's willingness to cooperate with the International Criminal Court's probe into the 2008 election violence. Coupled with Kenya's decision to host Sudanese president (and ICC indictee) Omar al-Bashir, these moves raise the possibility that cooperation between the government and the court could break down altogether.

Kenya's on-again, off-again support for the ICC process is part of a broader trend of African officialdom having apparent second thoughts about joining the court. Prominent African leaders and commentators have made increasingly angry objections to the court's exclusive focus on African conflicts. The African Union officially supports suspending the case against Bashir.

All of which begs the question: What exactly did African states expect when the ICC was being debated? And why did so many of them -- more than thirty -- join the court in the first place? A number of these states that signed on the dotted line had experienced recent internal violence or were vulnerable to it -- and thus would be very plausible targets for ICC investigations and prosecutions. Two leading political scientists recently offered one possible explanation for the puzzle (discussed here) -- in essence, they claim that governments facing internal violence sought to use ICC membership as a way of advancing fragile peace processes.

But it's occurred to me that there could be another contributing factor: early and vocal U.S. opposition to the court. The principal dynamic during the negotiation of the Rome Statute was U.S. anxiety about the danger the court posed. These were most eloquently and insistently voiced by John Bolton and a handful of other influential national security conservatives. Their warnings reverberated around Washington and helped shape the conversation on Capitol Hill, where support for the court turned out to be almost non-existent. Listening to the U.S. debate, one would have thought that the ICC was a dagger directed at the superpower's heart.

Surrounded as they were by alarmist rhetoric from the superpower, many smaller and weaker states may actually have come to believe that the new court was going to target major powers as often as it would focus on weak and failing states. They may have convinced themselves that unlike so many international organizations, this new court would treat big and small, powerful and weak countries alike. And if that's true, should John Bolton get just a little bit of credit for launching the court he despises?

Follow me on Twitter @multilateralist.

Radio Netherlands Worldwide

Wednesday, 20 October 2010

Unspeakable Truths: Truth Commissions and Transitional Justice



Truth commissions have gained steady ground as a mechanism to deal with past atrocities. In 2009 alone, five commissions were

set up. Geneva-based expert Priscilla Hayner studied over 40 truth commissions established since the 1970s to record the 'unspeakable truths' about human rights abuses.

By Thijs Bouwknecht

Are truth commissions global phenomena?

You find them spread out almost evenly between the Americas, Africa and even in Asia. There have also been some commissions in Europe - such as in the former Yugoslavia. In North America there have also been such commissions, like in North Carolina and now in Canada, which is looking into treatment of indigenous populations going back several generations.

Five commissions were established last year. The most recent is the Truth and Reconciliation Commission for Thailand, which intends to look into events earlier this year, and also go back a number of years to try to understand the polarisation in the country.

The first one I documented, ironically, was a commission set up in Uganda in 1974 by Idi Amin, who himself was an abusive dictator. He set it up thinking he could somehow whitewash what had taken place, but it worked fairly independently and people still see its report as quite an important marker as to what took place.

The most successful commissions were in South Africa, Guatemala, Peru, East Timor and Morocco. They each undertook quite a sophisticated and complex exercise of truth seeking and engagement of the community. This included public hearings, reaching out and holding public communities sessions. But in-depth investigations also took place.

There were a handful of commissions that were set up as TRCs, but never really got underway with their work. One example was the commission created out of the 2002 peace accords in the Democratic Republic of Congo. The exercise was doomed to begin with, and it never properly undertook its work. Another was in the Federal Republic of Yugoslavia under President Kostunica, which was never given the political support, budget and independence to undertake its work well, and really wasn't able to accomplish anything before it ultimately closed down.

What is the role of truth commissions in transitional justice?

It's one leg of a multi-legged stool. These various legs, judicial or non-judicial approaches, ultimately should work together. Truth commissions should not be seen as an alternative to, or something you would do instead of, other mechanisms such as trials or reparations for victims. All of these things may take place, either simultaneously or sequentially. A truth commission may provide much more solid grounding for prosecutions, but I am not sure that one approach should actually wait for another to conclude.

There are various ways in which you can have a dual process of a judicial and a non-judicial entity, both looking at patterns of mass crime and looking into the most responsible persons. That is likely to raise questions about access to information, sharing of information, access to individual persons. Those things can not be entirely avoided. They need to be looked at in advance, and one must find ways to manage them fairly and carefully. Kenya is the first country to have a truth commission underway while the ICC is engaged at the same time. We will see if there are questions raised along these lines: how they are raised and how they are managed.

What is your main concern now?

Truth commissions are often set up due to the desire and lobbying by victims groups and human rights advocates at the national and local level. But one concern could be the rapid expansion of their use. There is an initial inclination to turn too quickly to some of the most well-known examples such as South Africa.

What is necessary for a successful process is to first step back and consider whether it is appropriate for the country, and if it is the kind of commission that is wanted. More rigorous attention needs to be given to what happens after the truth commission, so that its long-term impact will be seen. Very often, recommendations are not implemented.

The array of contexts in which these bodies are being considered is impressive and important. Sometimes they are not even created but at least they were considered, like in the US. It somehow opens up the possibility of looking back.

The demand to know and the discomfort with hidden history is almost universal. This history sort of remains alive, even if it cannot be addressed immediately. But the desire to somehow put to rest parts of history, at least through acknowledging what took place, seems to be very common. We should not expect time to entirely take away that demand.

What would be your advice to ICC prosecutor Luis Moreno Ocampo?

To urge him to think carefully about how he considers and requests information from mechanisms such as truth commissions. While it is true that information within a commission's archive is likely to be of great interest to his office, providing the information may compromise the actual process of the commission itself.

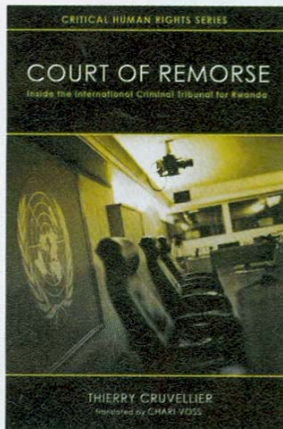
And for him to actually approach it not from just a criminal justice question, but as a much broader justice question: the actual possibility - not just the right - of a wide range of people to come forward in the truth seeking exercise and provide their story.

I think in most cases those people who come forward, certainly those who are victims, would probably welcome the idea of their testimony being shared with an international prosecutor. But it also raises the question of how much can be shared with the defence council if there may be any exculpatory information in the commission files.

(Priscilla Hayner was co-founder of the International Center for Transitional Justice and served as program director and director of its Geneva office. She recently published the second edition of 'Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions')*

Book Reviews

Selected and reviewed by **Belinda Otas**



COURT OF REMORSE: INSIDE THE INTERNATIONAL TRIBUNALS FOR RWANDA

By: **Thierry Cruvellier**
Translated by Chari Voss
Published by University of
Wisconsin Press (US)
ISBN: 978-0-299-23674-8

Rwanda, land of a “thousand hills”, conjures up varied memories for many of us, but the most vivid are images of the 1994 genocide, an atrocity which left over half a million people dead and forced the international community to make its promise of “Never Again”. But when it mattered most, the same international community pulled out its peacekeeping forces, and to save face, set up the International Criminal Tribunal for Rwanda (ICTR), similar to the one established for Yugoslavia, precedents which led to the formation of the International Criminal Court (ICC). However, will this court serve justice when it really matters without

political interference?

In this book, Thierry Cruvellier, an investigative journalist and editor of *International Justice Tribune*, who observed the ICTR from 1997 to 2002, gives a first-hand and absorbing account of the daily legal drama at the tribunal as it unfolded. Set up in November 1994, the ICTR was charged with the task of bringing the perpetrators of the heinous genocide crimes to justice. Cruvellier quickly established that achieving justice for those who were wronged was not going to be as straightforward as many would have liked.

From the trials of the alleged key players, like Jean-Paul Akayesu, Jean Kambanda, Georges Rutaganda and Georges Ruggiu, he details the political dance and interference which would taint the tribunal and force many to question the legal and moral framework on which it was established.

He exposes the legal flaws and complexities of the tribunal, with its double-dealing with some of the alleged criminals it was supposed to bring to justice. Cruvellier also provides an exposé of the administrative and legal failures that would almost see the likes of Jean-Bosco Barayagwiza get away with their role in the genocide.

He goes on to raise questions about the one-sided form of justice that was dished out, which he refers to as “victor’s justice”.

While the Hutu perpetrators were being prosecuted, no one from the Rwandan Patriotic Front (RPF) was ever arrested nor was there an effort to find out about crimes which may or may not have been carried out by the other side.

With the Hutus effectively defeated and removed from power, the RPF, which brought the massacre to an end and was now in power, would go on to hold the international community to ransom and in a way use its failure to help the Tutsis as a guilt mechanism to assert pressure on the tribunal when it wanted to.

One thing is certain, the key testimonies captured by Cruvellier enlarge our insight into the skill with which the brutality was dished out to victims. It also shows how ordinary men lost every shred of humanity and became skilled killing robots.

This is an enthralling read that would make a riveting court-room drama series for television, except for one thing; Rwanda’s story and continuous quest for justice is real. It is real life with real people whose national pain and loss is forever engrained in world history. *Court of Remorse: Inside The International Tribunals For Rwanda*, is a must-read for anyone who is intrigued and has questions about the events of 1994, but has never fully understood what happened in those brutal 100 days or why the international community still cannot keep its promise of “Never Again”.