SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE

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:
Monday, 25 May 2009

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

Concord Times
Monday, 25 May 2009

'Revenge is for the ignorant'

...says war victim

When Mariatu Kamara was 12 years old, living in Sierra Leone, West Africa, she lived in a tiny village of 200 people.

She lived in the safety and kindly environment of a society that believed in the communal parenting of any child and the sanctity of respect. All the children worked on the land with their families, playing with each other in the quiet tropical evenings. But one day, her world was blown apart by the civil war that gripped the country. Rebels came into her village. They slaughtered some of the people and they took her and her cousin to one side.

After some hours, they told her that they were going to cut off her hands. So, they turned her over to a group of boy soldiers, children themselves of only 10 or 11 years, who did, indeed, chop off her hands with a machete.

She passed out.

When Mariatu came to, she ran from the village, her arm stumps still bleeding, and ran into the jungle. And she ran. And ran. All the time she was running, she was thinking about survival; she was telling herself that she could live through this. She was praying for God to help her do just that.

"I didn't want to give up because you never know what is going to happen in the future," she told students at Orangeville District Secondary School Wednesday morning.

An unknown time later, she came to another village, without having any idea of where she was. A man, seeing her condition, offered to feed her a mango.

And she said: "No, I want to hold it myself." Even though her stumps were still bleeding, she wanted to feed herself the mango.

"That was the moment," she told the students, having come in response to an invitation to speak to them, "when I knew I was going to live."

She was taken to the hospital in Freetown. For the next three years, Mariatu lived in Freetown. Eventually, she was reunited with her family there.

She described those years to the students: "It was crazy - the streets were crazy. Some friends convinced me to join a group that did presentations about AIDS and HIV. I learned to dance. I learned how to forgive but not to forget. We showed the rebels that we were stronger than what had happened to us.

"It was fun - we were still alive - my family was there. I asked God to give me courage to live with hope for the future."

She grew serious with an oft-asked question: "How do I feel about my hands being cut off? Maybe God took my hands so that I can speak with my heart - as I'm doing now with you. I can speak on behalf of so many who cannot. I can tell the horror stories of what happened in Sierra Leone where half a million people were killed during the war." She admitted: "Sometimes, it's hard to just let go what happened."

However, she elaborated on that: "It's your own choice to forgive - it's something to help you move on - it's very difficult for some people."

In 2002, Mariatu was sponsored by a family here and came to Canada, with little or no idea of what Canada is; having come in August, she was not prepared for the winter. It came as quite a shock, from which she is still far from recovering. In the course of her talk, she mentioned the winter, a number of times, in tones of near disbelief.

Of her foster family, she said, "They took me into their family and made me their family. I have learned never to take people for granted."

Since coming to Canada, Mariatu has been going to school. At 16, she attended school for the first time. She progressed so quickly in her preliminary years that she went into high school, where she found her studies much more difficult. She gave sincere credit to her teachers, without whom, she was clear, she would not have done so well, would not have written her recent book and would not have been there at ODSS talking to the students.

She is currently at college, where she is studying social work, with the view of working to help abused women and children.

"That is what I'm thinking now," she commented, leaving the future open.

For Mariatu, education is the key to everything. She said to the students: "I challenge you not to take school for granted." Later she observed, "Canada has a healthy environment for making dreams come true. A truly successful person is one who has a well balanced education."

Mariatu Kamara ... a victim of the dreaded 11-year-old rebel war

Although there is much that is good about Canada, Mariatu worries that respect is "no big deal" here. For her, respect is paramount. She pressed the point to the students: "Respect is not a big deal, especially over parents, but they are our heroes. We must respect them. It is important to respect our teachers who come every day to teach us. Would they work this hard if they didn't love us?"

She was almost out of time and there was still so much she wanted to tell them. So, she resorted to points: "It's important to have a goal in life and chase after it," she told them. "Guard your physical health. Don't try drugs. Everything you do to harm yourself lasts." She addressed the girls in the audience: "Don't experiment with bad relationships. You are smart. Girls are the smart ones. Don't rush to have babies. Be responsible for yourself."

She pointed out to all of them: "Life can never be better than here in Canada. But all over the world, people are dying of wars, lack of food and water. Wherever there is war, there are children and women suffering. Most governments are corrupt and are not working hard enough to solve the problems."

She finished by saying: "I want to believe that the words I have spoken will help us become better people - other people need your help to make this world a better place."

Through all her sad story and difficult times, she told them: "I smile like the rest of you; I laugh and I love to dance." Unicef has appointed Mariatu Special Representative of children in war. In 2008, she returned briefly to Sierra Leone to see the work going one there to rescue injured and orphaned children. She has written, with a co-author, a book, The Bite of the Mango, and established a foundation for the orphanages in Sierra Leone, with a website www.mariatufoundation.com.

Rather wishfully, she remarked that she hoped to go back to her farm in Sierra Leone and be there again for a while, at least.

"But, for now, I am here. I am here in Canada. This is my home now."

She said to the students: "I challenge you not to take school for granted." Later she observed, "Canada has a healthy environment for making dreams come true. A truly successful person is one who has a well balanced education"

Cotton Tree News
Saturday, 23 May 2009

Brailed version of Sierra Leone's Constitution launched for the first time.

Written by Ndeamoh Mansaray

Chairman of the National Commission for Democracy, George Coleridge Taylor says the constitution is the foundation on which the country's democracy rests. He made the statement at the launch of the brailed version of the Sierra Leone constitution for the blind in Sierra Leone. He said the good things of the constitution were unknown to many people either because they did not have access to it or were not interested in it. He said it was vital that everybody had access to the country's constitution in order to develop as good citizens.

Mr. Taylor said that the transcribed version of the constitution would make a significant contribution to the country's democratic system. Patrick Fatoma, Coordinator of the Outreach Section of the Special Court said effort to transcribe the constitution into Braille was part of the Court's contribution to the rule of law in Sierra Leone.Principal of the Milton Margai School for the Blind, Albert Sandy said it was good that documents like the country's constitution were transcribed into brailed because it was considered as an important medium of communication for the blind.

The Director for the Educational Centre for the Blind, Thomas Allieu called on all to be supportive in promoting the interest of the blind. The Special Court for Sierra Leone funded and prepared the Braille materials.

Der Bund
Monday, 25 May 2009
http://www.derbund.ch/ausland/naher-osten-und-afrika/Das-Desaster-wirkt-nach/story/17804625

Das Desaster wirkt nach

Jahren ein mit grosser Brutalität geführter Bürgerkrieg zu Ende. Ein von der internationalen Gemeinschaft unterstütztes Sondergericht ist immer noch dabei, die Vergangenheit aufzuarbeiten. Das Land in Westafrika ist bitter arm, und die Bevölkerung muss hart ums Überleben kämpfen.

Kinder in einem Armenviertel von Freetown. (Keystone)

Die Familien stärken

Wie eine seltsame Oase liegt der Special Court of Sierra Leone in der lärmigen, staubig-stickigen Atmosphäre Freetowns, der Hauptstadt des Kleinstaates im Westen Afrikas. Wer durch das massive Eisentor in der hohen, von Stacheldraht umgebenen Mauer eingelassen wird, betritt eine Welt mit sauberen Gehwegen, gesäumt von Wassergräben zwischen akkurat gemähten Rasenflächen. Im Zentrum des Geländes steht das Gerichtsgebäude, darum herum gruppieren sich zahlreiche Container auf Betonsockeln, mit Büros von Richtern, Staatsanwälten, internationalen Beobachtern und Beratern und – in einem für Gäste zwar einsehbaren, aber nicht zugänglichen Teil – ein Gebäude mit den Zellen der Angeklagten.

Am 8. April verurteilte das Gericht drei Angeklagte wegen der Gräueltaten, begangen im Bürgerkrieg zwischen 1992 und 2002, zu langen Haftstrafen: Issa Sesay, der Anführer der Rebellengruppe Revolutionary United Front (RUF), wurde wegen Mordes, Vergewaltigung, Rekrutierung von Kindersoldaten und Angriffen auf Uno-Truppen zu insgesamt 693 Jahren Gefängnis verurteilt; 52 davon muss er absitzen. Seine Mitangeklagten Morris Kallon, ein Kommandant der RUF, und

Augustine Gbao,der Chefideologe der Rebellengruppe, müssen für 39 respektive 25 Jahre hinter Gitter.

Die Spuren des Bürgerkriegs sind in Sierra Leone sieben Jahre nach dem offiziellen Ende der Kämpfe überall sichtbar. Die Aufständischen der RUF haben im Krieg – angetrieben und unterstützt von Charles Taylor, dem Kriegsherrn und späteren Präsidenten des Nachbarlandes Liberia – die Zivilbevölkerung auf brutalste Weise terrorisiert. Hunderttausende flüchteten innerhalb des Landes und über die Grenzen, zwischen 50000 und 200000 Sierra-Leoner kamen in dem Krieg ums Leben. Zehntausenden haben die Rebellen Beine oder Arme abgehackt. «Amputees» werden diese Kriegskrüppel genannt, Bettler sind sie heute, überall im Land zu sehen. 20000 gibt es laut offiziellen Angaben. Und dann gibt es auch rund 70000 ehemalige Rebellen im Land, viele von ihnen damals für die «Small Boys Units» als Kindersoldaten rekrutiert, deren Wiedereingliederung äusserst schwierig ist.

In Goderich, einem Armenviertel Freetowns, posiert die 15-jährige Mathilda wie ein Modell für den Fotografen. Sie bewohnt mit ihrer Mutter und ihrer Schwester Grace eine Hütte mit zwei Räumen. Alles ist sauber und aufgeräumt; an der Wand hängt ein Bild von Obama. Noch besucht Victoria die Schule – sie tut es gerne, weiss, dass es ein Privileg ist, und sie hat Zukunftspläne. Elektrikerin ist ihr Traumberuf. Ob sie es schaffen wird, weiss sie nicht. Ihre Schwester, die Krankenpflegerin werden möchte, findet nirgends einen Ausbildungsplatz.

Victoria Johnson, die Mutter der beiden, lebt seit 14 Jahren alleine mit den Töchtern. Der Vater hat sich eine andere Frau genommen und die Familie verlassen. Er wollte auch die beiden Töchter mit zu der neuen Frau nehmen, doch dagegen hat sich Victoria gewehrt: «Ich wollte die Mädchen bei mir behalten, weil ich nur so sicher war, dass sie zur Schule gehen und nicht als billige Arbeitskräfte missbraucht oder als eine Art Sklavinnen an Verwandte verkauft werden», sagt Victoria.

Verheiratet sei sie mit dem Vater der Mädchen nicht gewesen, erzählt sie, deshalb habe sie sich durchsetzen können. Geheiratet werde in ihren Kreisen sowieso kaum. «Die Männer kommen und gehen.» Wegen einer anderen Frau, weil sie im Ausland Arbeit suchten – viele sind auch im Krieg spurlos verschwunden. Ihren Lebensunterhalt verdient Victoria mit dem Verkauf von Palmöl, das sie in grossen Fässern aus dem Landesinnern holt und auf dem Markt in Freetown verkauft. Zudem betreut sie Familien in einem Programm des Hilfswerks SOS-Kinderdorf (siehe Text unten). Seit dem Krieg sorgten viele Frauen auch für Kinder von Verwandten und Nachbarn, weil die Eltern in den Wirren von Krieg und Flucht einfach verschwunden seien, sagt Theodora Wilkinson, Koordinatorin des Programms bei SOS-Kinderdorf.

Auf dem Mount Aureol, dem Hausberg von Freetown, liegt das Fourah Bay College. Einst galt Fourah Bay als die beste Universität Westafrikas, heute sieht alles sehr heruntergekommen aus. An Studenten fehlt es allerdings nicht. Auch im Büro von George Bennett wimmelt es von jungen Leuten, alle sind äusserst freundlich und sehr beschäftigt. Bennett hat 2007 die Leitung des von der Fondation Hirondelle in Lausanne ins Leben gerufenen Projekts «Cotton Tree News» übernommen.Während vieler Jahre hat er davor für die britische BBC aus Afrika berichtet. Nun zeigt er den

Studenten und junge Journalisten, wie professionelle, das heisst von politischer Beeinflussung unabhängige Radio-News gemacht werden.

Sechs Stunden täglich sendet «Cotton Tree News» heute. «Ein unabhängiges Radio kann in schwierigen Zeiten eine entscheidende Rolle spielen», sagt Bennett. Seine Leute bei «Cotton Tree News» hätten schnell gelernt, Propaganda der Interessengruppen von den wirklichen Fakten zu unterscheiden. Mehr Mühe hätten sie gehabt, sich dem Druck von Politikern zu widersetzen. Heute wage er die Behauptung, dass ihre Sendungen im Abstimmungskampf vor den Wahlen im August 2007 einiges zur Meinungsbildung – und damit zum Regierungswechsel – beigetragen hätten. Victoria Johnson in Godrich kennt «Cotton Tree Radio» auch. Sie findet es allerdings besser, «wenn man sich aus der Politik heraushält».

In seinem Büro auf dem Gelände des Sondergerichts sitz Joseph Kamara und sagt zum Special Court: «Wir schreiben hier Geschichte.» Bei der Aufarbeitung des Bürgerkriegs beurteile das Gericht Tatbestände, die davor noch nie bei einem Gericht zur Anklage gekommen seien. Kamara arbeitet seit 2004 für das Tribunal, seit 2008 ist er stellvertretender Ankläger. Zu diesen «neuen Straftaten» gehörten das Rekrutieren und Ausbilden von Kindern zu Soldaten oder das Erzwingen von Ehen bei entführten Frauen. Besonders wichtig in den Verfahren sei, dass alle Verantwortlichen benannt würden, sagt Kamara. Auch jene innerhalb der staatlichen Hierarchie und sogar, wenn man ihrer nie habhaft werden könne. Er als Sierra-Leoner betrachte dies als wichtigen Teil der Vergangenheitsbewältigung.

«Viele in Sierra Leone sehen den Krieg als nationales Desaster, für das niemand verantwortlich ist», sagt Corinne Dufka, die für Human Rights Watch (HRW) seit 1999 regelmässig in Sierra Leone arbeitet. Bisher hätten sie die Erfahrung gemacht, dass jemand, der mächtig ist, sich der Justiz immer entziehen könne. Aus Furcht vor dieser Macht wird der Prozess gegen Charles Taylor nicht in Freetown, sondern in Den Haag stattfinden. Viele befürchten, dass Taylor, würde er in Sierra Leone festgehalten, auch aus dem Gefängnis heraus einen Umsturz organisieren könnte.

«Das Sondergericht hat nach dem Ende des Kriegs der neuen Regierung eine Art Verschnaufpause gegeben, um sich zu organisieren, um Sicherheitskräfte und Militär aufzubauen», sagt Dufka. «Der Gerichtshof wirkte wie eine Drohung für jene, die Umsturzpläne geschmiedet haben.» Doch noch sei die Demokratie schwach, die Not gross, und die internationale Unterstützung werde immer geringer.

United Nations Nations Unies

United Nations Mission in Liberia (UNMIL)

UNMIL Public Information Office Media Summary 22 May 2009

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

International Clips on Liberia

05/22/2009 05:15:55

Budget Committee Takes Up Financing For Missions In Cyprus, Georgia, Liberia

Sixty-third General Assembly, Fifth Committee, 46th Meeting (AM)

The Fifth Committee (Administrative and Budgetary) today took up the proposed budgets of $56 million for the United Nations Peacekeeping Force in Cyprus (UNFICYP), $38.84 million for the United Nations Observer Mission in Georgia (UNOMIG) and $593.49 million for the United Nations Mission in Liberia (UNMIL).

Presenting the Secretary-General's proposals on the financing of the three missions for the period 1 July 2009 through 30 June 2010, the Director of the Peacekeeping Financing Division, Catherine Vendat, said that the estimates for the maintenance of the Cyprus mission included $24.37 million from voluntary contributions from the Governments of Cyprus and Greece. The proposed amount of about $56 million represented an increase of about 2.1 per cent compared to the approved resources for the 2008/09 financial period. Additional requirements were related to the proposed establishment of two additional international posts and the increase in the cost of rations.

Liberia Delays Rubber Re-Planting Plans Due to Slump in Prices

By Ansu Konneh

May 22 (Bloomberg) -- Liberia, Africa's second-largest rubber producer, is delaying plans to replant aging trees because of falling demand for the commodity, President Ellen Johnson-Sirleaf said.

"We are feeling the pinch of the global recession which has affected our rubber industry," she told reporters today in the capital, Monrovia. "Re-planting of rubber trees has declined and companies operating in the sector have started laying-off employees."

Rubber production in Liberia surged 45 percent last year, boosting economic growth in the West African nation, which is recovering from 14 years of civil war.

At the start of 2008, rubber sold for more than $1,000 a metric ton, said Andrew Carr, a farmer in central Liberia. "Now agents are buying a ton from us at $250," well below the government-mandated price of $450, he said.

The Ivory Coast is Africa largest rubber producer.

International Clips on West Africa

Another Mining Company Leaves Kono

By: Alasan Conteh

Freetown, May 22, 2009 (Concord Times/All Africa Global Media via COMTEX) -- African diamond producer Petra Diamonds Ltd (PDL.L) has suspended development of its Kono project in Sierra Leone due to weak gem prices, the London-listed company said on Thursday.

The project, a joint venture with Stellar Diamonds Ltd, is at an advanced stage of exploration and underground trial mining has already been undertaken. "This decision will be reviewed by both parties when the rough diamond market improves sufficiently to achieve a more reasonable sales value for the Kono trial mining production," Petra said in a statement.

Local Media – Newspaper

President Sirleaf Names New Management Team for NPA

(The News, Daily Observer, The Informer)

- President Ellen Johnson Sirleaf has named a new management team for the National Port Authority with Madam Matilda Parker as Managing Director.
- Other members of the NPA Management Team are Samuel G. Karmo, Deputy Managing Direction for Administration and Mr. Jeffrey George, Deputy Managing Director for Operations.
- An Executive Mansion release says the appointments follow a recommendation by the Board of Directors of the National Port Authority.

Egyptian Ambassador Presents Letters of Credence

(Heritage, The Analyst, The Informer)

- President Ellen Johnson Sirleaf has received the Letters of Credence of the Ambassador Extraordinary and Plenipotentiary of the Arab Republic of Egypt, His Excellency Amed Mohamed Yakoup.
- Speaking during a ceremony held today at the Foreign Ministry, the Liberian leader traced the history of relations between both countries which began in 1957 and was severed due to Liberia's civil conflict. She lauded the Government of Egypt for supporting the operations of UNMIL. On bilateral relations, she commended Egyptian President Hosni Mubarak and his government for assisting the country in the area of capacity building, mentioning specifically the provision of scholarships as well as assistance to the health sector.
- For his part, Ambassador Yakoup commended the President for maintaining peace and security in the country after years of civil conflict. His mandate, he noted, is to strengthen bilateral relations in every sector and said that his government has proposed to increase the number of Egyptian doctors currently working in Liberia.

Electoral Bill Stammers at Liberian Senate

(New Vision, Daily Observer)

- Members of the Liberian Senate on Thursday May 21, 2009, failed to concur with the Lower House on the passage of the Threshold set at 40,000 by the House of Representatives on Tuesday this week. It all started when Bong County Junior Senator Franklin Siakor pleaded with plenary to suspend their rule and concur with the Lower House in passing the bill since, according to him, the passage was long overdue and that the delay in holding onto such the bill would create political crisis come 2011.

Local Media – Star Radio *(News monitored today at 09:00 am)*

President Sirleaf Names New Management Team for NPA

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

Senate Submits Threshold Bill to Judiciary, Internal Affairs Committees

- The Senate has mandated its Committees on Internal Affairs and Judiciary to review the controversial population threshold bill for advisement.
- The Senate took the decision Thursday after the threshold bill finally hit its plenary for the first time.
- The House of Representatives forwarded the threshold bill to the Senate for concurrence after approval on Tuesday.
- Reports say like the House of Representatives, views are divided in the Senate on the threshold bill.

- According to the reports, a motion by Grand Cape Mount County Senator Abel Massaley to pass the threshold bill Thursday was defeated.
- The action led to a warning by Bong County Senator Franklin Siakor that any delay to pass the threshold bill would create a setback to the 2011 elections.
- The warning by Senator Siakor also prompted angry responses from Senators Nathaniel Williams and Gloria Scott who saw his remark as threatening.

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

Finance Ministry to Settle Domestic Debts

- In an interview, the Minister of Finance, Augustine Ngafuan says Government will begin the payment of domestic debts next week.
- According to the Minister more than six million Liberian dollars in domestic arrears would be paid out in three categories.
- He said government had intended to pay domestic debts in January but was unable due to the global financial crisis.
- Claimers of domestic arrears who were vetted by a Ghanaian Auditing Firm, KPMG would be the ones to receive their money.
- Early this year, a group of domestic creditors said they were going to complain government to her international partners for not settling its domestic debt.
- The Finance Minister disclosed that about eight million United States dollars has been projected in the proposed budget to service domestic areas.

World Bank sets condition for more assistance

- The World Bank says the maintenance of projects being initiated in Liberia would attract more donors.
- Speaking Thursday at the dedication of the emergency rehabilitation of the Tubman Boulevard, a World Bank representative, Mr. Gylfi Palsson said they hope as the country's revenue improves, allotment would be made for maintenance.
- The Tubman Boulevard was rehabilitated by the Chinese company, CHICO, with funding from the World Bank.
- Mr. Palsson said in the next few weeks CHICO would commence the Cotton Tree-Bokay Town road leading to Buchanan which would be followed by the rehabilitation the Monrovia-Ganta road.
- For her part, President Ellen Johnson Sirleaf thanked Liberia's partners for their assistance to the country and appealed to the World Bank to consider some feeder roads in the city for quick rehabilitation as they await the commencement of the Cotton Tree-Bokay Town roads.

House Wants President Sirleaf take Action on NASSCORP

- The House of Representative has instructed President Ellen Johnson-Sirleaf to take the necessary actions on the GAC's audit findings on National Social Security and Welfare Corporation.
- According to the House, the actions of the President would ensure improvement in the accountability framework of government.
- The House said the issue of further prosecution or investigation as recommended by the GAC lies with the Executive.
- In its audit findings the GAC reported massive corruption at NASSCORP, a report authorities at the Social Security entity have rejected.

****

BBC Online
Friday, 22 May 2009

Rwandan guilty of 1994 atrocities

Tensions remain between genocide survivors and perpetrators

Canada has completed its first war-crimes trial - convicting a Rwandan man of atrocities carried out during Rwanda's genocidal conflict in 1994.

The trial of Desire Munyaneza, 42, heard from 66 witnesses over two years.

He was accused of leading a militia who raped and killed dozens of Tutsis, and orchestrating a massacre of 300 to 400 Tutsis in a church.

Munyaneza, who faces a life sentence, is the first person to be convicted under Canada's 2000 War Crimes Act.

The law claims "universal jurisdiction" over the world's most serious crimes.

Munyaneza was found guilty of seven charges - including genocide, crimes against humanity and war crimes.

Appeal expected

The BBC's Lee Carter in Toronto says the judge's decision-making was complicated by the genocide charge.

It meant that he needed not only to conclude that Munyaneza had committed crimes of murder or rape, but that he did so with the intention that the Tutsis should be wiped out as a people, our correspondent says.

Munyaneza arrived in Canada in the 1990s and tried to claim asylum - but the authorities rejected his claims.

He was arrested in 2005 in a Toronto suburb after allegations emerged that he had been a militia leader during Rwanda's civil conflict.

Emotional testimony was heard during the two-year trial from genocide survivors, who claimed they had seen Munyaneza lead attacks on Tutsis and moderate Hutus.

The trial heard that Munyaneza, a Hutu, set up and manned roadblocks in Butare, southern Rwanda, to select victims based on their ethnicity or allegiances.

He and his militia then carried out a series of rapes and murders.

Munyaneza is expected to appeal against his conviction and take the case to Canada's Supreme Court.

Voice of America
Monday, 25 May 2009

African Leaders Told to Renew Commitment to Justice on 'Africa Day'

By James Butty

Monday is 'Africa Day', a day set aside in 1963 to celebrate the founding of the then Organization of African Unity (OAU) which later became the African Union (AU) in 2002.

According to a news release from the AU headquarters in Ethiopia's capital, Addis Ababa, the theme for this year's Africa Day celebration is "Towards a United, Peaceful and Prosperous Africa".

Brigitte Suhr, director of regional programs at the Coalition for the International Criminal Court said African leaders must renew their commitment to justice if there is to be peace and prosperity on the continent.

"For the Coalition for the International Criminal Court, we believe that for a prosperous and stable Africa, justice must be an important component of that future...and we want the African governments to take the opportunity of Africa Day today to renew their commitment to justice, nationally and internationally," she said.

Suhr said many African governments who had been supportive of the ICC for years have now begun questioning their membership in the court, especially since the ICC's announcement of arrest warrant against Sudanese President Omar al-Bashir.

"In the aftermath of the ICC having authorized arrest warrant for President Bashir of Sudan, some African countries are under pressure to withdraw their support from the court. And we're watching those developments very carefully, and are working with our counterparts nationally all over Africa to shore up the government support so that they don't waver at this critical time," she said.

Some Africans have criticized the ICC as a Western tool designed to subjugate only African leaders. But Suhr said such allegations are baseless.

"We would point to two responses to the allegations that the ICC is over-focusing on Africa. One would be that three of the four situations that the court is currently investigating were referred to it by African states themselves. Uganda, CAR (Central African Republic) and the Democratic Republic of Congo, each referred their own situation to the court because they felt they could not handle those cases nationally," she said.

In addition Suhr said the ICC is currently considering opening investigations in Colombia, Georgia and Afghanistan.

She said African countries have a long history of supporting the ICC and played a leading role in the court's establishment.

"There's been a 20-year history and negotiation process to create the court, and African states were very heavily involved from the beginning. And at the Rome Conference itself which is where the final treaty was negotiated and approved, 47 African states participated. Subsequently, 30 of them became formal members of the court. And that's the highest number of any other region in the world," Suhr said.

Suhr also said Africa is highly represented at the ICC as five of the court's current judges are from Africa.

The Patriotic Vanguard
Saturday, 23 May 2009

Is America's opposition to the ICC an unjustifiable justification?

By Mohamed Kunowah-Tinu Kiellow, The Netherlands.

From the early nineties up to the present day, international criminal law has made major developments 'unknown since Nuremberg Tribunal': norms have been changed, refined or even expanded. Moreover, after the Cold War, institutions have been established and norm-creating judgments passed both domestically and internationally. The setting up of the Yugoslavia and Rwanda Tribunals is an example of such international institutions created. The Pinochet decision is an example of such norm-creating judgments. The adoption of the Rome Statute International Criminal Court, which came into force on 1 July 2002, crystallised all these developments. This day will be a red-letter day in the history of international criminal law. On this day, a permanent international criminal court came into existence. This Court has enjoyed broad and enthusiastic support from governments and non-governmental organisations around the globe.

However, not all states were happy about all provisions in the Rome Statute. One major country which refused to ratify this milestone treaty is America; an opposition which many termed as a blow dealt to the effectiveness of the Court. America sees itself as the sole remaining world super power which should be involved in promoting peace all around the world. It is of the conviction that its involvement in peace keeping processes is highly needed if they are to succeed. Scheffer, the former US Ambassador-at-large for War Crimes and Head of the US Delegation to the UN Conference remarked at a Press Conference in 1998 that the US "continues to have significant responsibility for peace and security. It is often called upon to execute a Security Council mandate." It therefore has to protect its citizens who take part in bringing peace to the world. In recent years the US has been very instrumental in bringing human rights violators before the American and international courts. It played a pivotal role in bringing the alleged war criminal, Milosevic to The Hague. But in 2000, America became opposing to an international court that would try people like Saddam Hussein, and also Americans, who commit international Crimes. This article will address the issue as to whether the American opposition to the statute can be clarified in the light of nationalism or hegemony. Are these arguments well-founded or are they nationalistically motivated or is it one of America's hegemonic steps to shape international law which can suit its convenience?

The discussion on the establishment of a permanent international criminal jurisdiction gained momentum in 1989- the discussion actually started in 1937- when the Prime Minister of Trinidad and Tobago suggested to the UN General Assembly that an international tribunal be established to try individuals accused of serious drug trafficking offences. This suggestion renewed the international attention to the need for an international court. The General Assembly asked the International law Commission (ILC) to resume its consideration on the issue. That was the beginning of the 'expert phase.' The ILC spent four years to formulate the principles, institutional outlines, and draft texts. At the request of the General assembly, the International law Commission produced its final draft in 1994. In some respect, though, it was rudimentary, but the draft was based on principles that continue to underlie the Rome Statute. The establishment of the Court by treaty was proposed, and recognising that the widespread of support of States would be essential, a scheme was proposed based on respect for State consent, a complementary relationship between the ICC and the national justice systems, and cooperation between States and the Court. When the ILC completed the Draft Statute, it delivered it to the General Assembly.

The process of creating a permanent criminal Court entered its 'diplomatic phase.' The General Assembly handed the ILC Draft over to the ad hoc Committee in 1995. With more States and a number of non-governmental Organisation and academics joining the process, refinements, new options were proposed and procedural mechanisms elaborated. In March and April of 1998, the Preparatory Committee presented a consolidated text of its Draft Statute and Draft Final Act to the Diplomatic Conference. This Draft included new options: empowerment of the Prosecutor to initiate investigations ex officio, the possibilities to opt or opt out of the jurisdiction of the ICC were reduced, and extensive State obligations to cooperate. On Monday 15 June 1998 the Secretary General Kofi Annan opened the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in Rome. About 160 countries, hundreds of NGO's, several inter-governmental

Organisations were present to participate in the discussion. At the conference, the State participants fell into a number of significant groupings, which affected the course of negotiations.

The Like-Minded Group of countries promoted the early establishment of an effective ICC, and also its members sponsored some of the most progressive proposals to appear at the Preparatory Committee and the Diplomatic Conference (Dipcon). This State grouping supported not just an ICC but an independent and relatively effective one. There was also another of Southern African Development Community (SADC). They frequently spoke with one voice through the delegation of South Africa, and were also fervent supporters of an effective ICC. The EU countries issued joint statements on framework of the issue through Austria (president of the EU at that time). The Non-Aligned Movement and the Arab block also made their presence felt. The P-5, that is the Permanent Members of the SC shared key positions and held some common perspectives. However, they were not of one view and each took its own position in certain respects, with Britain, France, and The US being the most active. The impact of these three delegations on the proceedings could hardly be exaggerated, although the US occupied a category of its own. Its large and well prepared delegation, led by David Scheffer(former Ambassador at Large for War Crimes Issues) presented many and strongly held views, often in isolation from the other delegations. After five weeks of discussion, a proposed text was presented without options on an 'all or nothing' basis on the eve of 17 July, the last scheduled day of the Conference.

This package was voted on and supported by a majority of over two-thirds (120 States in favour, seven against, and twenty-one abstaining in an unrecorded vote, with the non-Aligned Movement and the P5 being, significantly, split. The Rome statute of the international was adopted. The Statute and Final Act of the conference were then open for signature. The following day, twenty-six States signed the treaty.

On April 11, 2002, ten different states ratified the Rome Statute bringing the number of ratifications from fifty-six to sixty-six. The required sixty ratifications having been attained, the International Criminal Court (ICC) will come into existence on July 1, 2002. Although this event made headlines around the world, it was critically mentioned, in view of the gravity of the occasion, in the American press. This reflects the hostility to the Rome Statute by the Bush administration.

Why does the US oppose the International Criminal so intensely? What is in the Rome Statute that made the Department of State, the Pentagon, the National Security Council, various senators and congressmen and a lot of other participants in Washington's complex policy-making fearful? Before giving an answer to this question, I am, in the first place, going to give a picture of the role of America in international criminal justice. At the outset of international justice in 1945, United States had been a greater friend and promoter of it. Apart from playing a pivotal role in the great post-war trials at Nuremberg and Tokyo, America's military tribunals also held a series of thematic trials that set precedents followed today. United States took the initiative to promote the ad hoc tribunals for former Yugoslavia, Rwanda and Sierra Leone. Moreover, it has used its financial muscle to make these projects a reality. The United States more presidents of the International Criminal Tribunal for the Former Yugoslavia. David Crane, the prosecutor of the Special Court in Sierra Leone was a senior lawyer in the United States Department of Defence. United States government bodies like the Agency for International Development and think tanks like the United States Institute of Peace can be found around the globe in the midst of transitional justice and accountability initiatives.

The United States played a very important and active role in the process leading to the establishment of the international Criminal Court. It made many productive contributions to the final product. Some of these contributions are, to name but a few: the broadening of the complementarity regime to include a deferral to national jurisdictions at the outset of an overall situation to the ICC rather than only at the preliminary stage of the work on any particular case; crimes against humanity include crimes committed during an internal conflict and crimes happening outside any arm conflict, due process protection. I think that the notion of atonement for serious violations of international humanitarian law lies in very much at the heart of America. Yet, the United States rejected the ICC when it came into existence in July 2002. It makes the whole world start to doubt the role of the US as a champion of the protection of human rights. This step by the US will go long way to affect the prevention of violation of human rights and the bringing to book of the authors of serious international crimes

The United States gave several reasons for their opposition to the establishment of the Permanent Criminal Court. When the Bush came to power; he 'unsigned' the Treaty. In a letter to the United Nations, the US says it will not consider itself bound by the treaty - even though Bill Clinton signed up to it in 2000. Giving a statement on the ICC

Treaty, Secretary Rumsfeld said that: 'The ICC's entry into force on July 1st means that our men and women in uniform — as well as current and future U.S. officials — could be at risk of prosecution by the ICC. We intend to make clear, in several ways, that the United States rejects the jurisdictional claims of the ICC. The United States will regard as illegitimate any attempt by the court or state parties to the treaty to assert the ICC's jurisdiction over American citizens'. He then went on to give the main reasons why the Americans are disgruntled with the Permanent Criminal Court: "The U.S. has a number of serious objections to the ICC — among them, the lack of adequate checks and balances on powers of the ICC prosecutors and judges; the dilution of the U.N. Security Council's authority over international criminal prosecutions; and the lack of an effective mechanism to prevent politicized prosecutions of American service-members and officials."

One can gather from Secretary Rumsfeld's statement on the ICC that there are three main concerns of the United States which led to it not ratifying the Treaty. First, the Permanent Criminal Court lacks adequate checks and balances on powers of Prosecutors and judges. By virtue of Article 13, a criminal investigation may be initiated with respect to a crime referred to in Article 5 in one of the three following ways:

1. The charged crime may be referred to the Prosecutor by State Party

2. The charged crime may be referred to the Prosecutor by the United Nations Security Council acting under Chapter V11 of the United Nations Charter,

3. The ICC Prosecutor may initiate investigation proprio motu.

It was argued at the Conference that the authorization of the Prosecutor to initiate criminal investigations would make firm his or her autonomy and independence, as well as independence and credibility of the Court. It was also argued that this authorization was accorded the Prosecutor of the ad hoc International Criminal Tribunals for the Former Yugoslavia and Rwanda. Proponents therefore saw no reason why the Prosecutor of the I CC should not get the same power. The US was vehemently against the vesting of the Prosecutor with ex officio powers. The US argued that the Prosecutor will abuse this power and there were no checks and balances on the powers of the prosecutor. According to the United States, a Prosecutor with the power to initiate criminal investigation would become a 'human rights ombudsman' and be flood gated with complaints. They also argue that practice is in violation of the American constitution. The underlying reason for America's fear for an independent Prosecutor is that the Prosecutor might single out US military personnel and officials

In his Statement, Secretary Rumsfeld also mentioned that United State was against the fact that there was "no effective mechanism that will prevent politicized prosecutions of American service-members and officials." Article 12 of the Statute exposes U.S service men to the jurisdiction of the ICC while the United States remains a non-State Party. According to this Article a State which becomes a Party to the Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in Article 5. A State Party to the Statute therefore has the right to refer a committed crime on his territory even if the State of the accused is a national of a non-State Party. For example, if an Iraqi soldier or official commits one of the crimes mentioned in article 5 on the Sierra Leonean territory, the latter will refer the case to the Prosecutor of the ICC, even though Iraq is a non-State Party.

However, if neither Sierra Leone or Iraq is a Party to the Statute, and the case is referred to the Prosecutor by a State Party, or the investigation has been caused to begin by the Prosecutor Proprio motu, the territorial State, in this case Sierra Leone, or the State of nationality, in this case Iraq, must consent to the jurisdiction of the ICC. The United States claims that this article will lead to politicized referral by State Party and non-State Party. This can make it possible for American Servicemen and officials to be tried by a court to which America is not a Party. This, they argue, is in contravention of a fundamental principle of international treaty law which states that only States that are party to a treaty should be bound by it. According to Scheffer, the Statute provision 'could inhibit the ability of the United States to use its military to....participate in multinational operations. Other contributors to peacekeeping operations will be similarly exposed.'

Rumsfeld further argued in his Statement on the ICC that the Statute shows no respect for the Security Council of the United Nations. In other words, the Rome Statute gives no effective power to The Security Council. The US was well-disposed to the proposal presented to the General Assembly by the ILC in 1994. The Draft provided for an international Court that fit neatly within the Charter of the United Nations. This ILC provision provided that the SC would initiate prosecution which would mean that Permanent Members would be able to exercise the veto under the

normal voting procedures. At the Conference in Rome, it was firmly pleaded by the Permanent members of the Security Council that the Court should not undermine the power of the organ. In his Statement, Ambassador Richardson asserted that '(T)he Council must play an important role in the work of the permanent Court...(which) must operate in conjunction-not in conflict-with the Security Council and its role and powers under the UN Charter. However, this subordinate position was changed at the Conference. This was at the displeasure of The US which wanted a strong SC role in the referral of cases to the Prosecutor. Many academic commentators have also argued in favour of America's point of view. Two of these people are Ruth Wedgwood and Jack Goldsmith. Article 16 of the Rome Statute provides that the Security Council is allowed to 'defer' prosecution.

The United States rejected the ICC because of the 'flaws' in the Rome Statute. The United States is afraid that the Court will prosecute his nationals even though it has not ratified the Treaty. In my opinion, the arguments given to justify the 'flaws' in the Rome Statute are in themselves flawed. The Statute gives adequate safeguards to US servicemen and officials with or without US ratification of the ICC Treaty.

First, the principle of complementarity-a brainchild of the US-offers an adequate safeguard to the US. Salient in this principle is that the primary responsibility for investigating, prosecuting and trying international crimes lies with the municipal courts. The ICC acts as a complement to the national court. Put in another way, the ICC comes into action when the domestic prosecutor fails to act. The case will be inadmissible if the national authorities of a state thoroughly investigate or prosecute, or if they have tangible reasons for not prosecuting. In contrast to the ICC, the ICTY and the ICTR have primacy over national court. It sounds paradoxical that America was a vanguard behind the setting up of these courts. America may argue that it supported these courts because they were based on Security Council Resolution. I think this should not play a role. These courts still have jurisdiction over Americans who might have committed international crimes in Rwanda or Former Yugoslavia. Moreover, these courts were still in tension with the American constitution. Yet, America supported them in all aspects.

It is very hard to believe that American is doing all its power to frustrate the effective operation of a court that respects its sovereignty by way of the principle of complementarity. In Article 17(1) of the Statute the most fundamental consequences of the principle of complementarity are laid down. Article 17(1) states that a case is inadmissible before the Court if the state acts by investigating and prosecuting the accused, or there are good grounds for not acting. If the state is unwilling or unable genuinely to carry out the investigation or prosecution, the Court will step in. According to the paragraph of this Article a state can be termed unwilling if the whole national procedure is a sham, or there has been an unjustified delay in the proceedings which in circumstances is inconsistence with intent to bring the person to trial, or the proceedings were not or are not being carried out impartially or independently. Further, Article 17(3) lays down the criteria for determining the incapability of a state: total or substantial collapse or availability of its national judicial system, the state is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings. I think that American justice system functions efficiently, independently and impartially. This concludes that it would be an uphill task for an ICC prosecutor to term a US prosecution as sham, or incapable of investigating or prosecuting an American accused of committing international crimes. Article 18 requires that before a case is taken up, the ICC Prosecutor has to notify all states parties as well as the states that would normally have jurisdiction. Cases referred by the SC under article 13(b) do not require this notification. The State Party or any other State, including non-State Party- may inform the Court that it is investigating or has investigated the case. The Prosecutor shall defer, at the request of the state, to that state, unless the Pre-Trial Chamber, on application of the Prosecutor, decides to authorize the investigation. In my opinion, America's opposition to article 12 is groundless. The Court does not have jurisdiction over or otherwise affect non-Party States. Rather, it has jurisdiction over nationals of non-Party States for crimes committed on the territory of a Party State. Above all, international law does not prohibit the prosecution of nationals of another who commit genocide, war crimes and crimes against humanity in the territory of another state. If an American commits an international crime on the territory of Saddam's Iraq, or Fidel Castro's Cuba, these countries can exercise jurisdiction over him, even though they are 'rogue States'.

Moreover, the argument that the Rome Statute lacks checks and balance on the powers of the Prosecutor is based on an unfounded premise. There is a proprio motu Prosecutor. Before initiating investigations on the basis of information on crimes within the jurisdiction of the Court, the Prosecutor should in the first place analyse the seriousness of the information received. I do not think the Court will be flooded with complaints. There are a number of provisions in the Statute which make this assumption very unlikely. The Court and its Prosecution will concern themselves only with the most serious crimes as defined in the Statute. Secondly, the Pre-Trial Chamber must have to authorize the investigation by the prosecutor. The pre-Trial Chamber should determine if there is

reasonable basis to continue the investigation, and that the case falls under its jurisdiction. The US argues that the Statute does give much power to the Security Council. In my opinion, that is not necessary because that will jeopardize the proper functioning of the Court. Precedents in the past have made clear how the SC had not been able to function properly because of the Permanent members who have veto powers. However, the Statute gives the SC some power to defer cases for 12 month. I think that America can still use this power to deter imminent criminal investigation and prosecution. Therefore, the arguments for not joining the ICC are not strong enough to justify rejection of such an important permanent Court which has been set up to try people who commit the gravest international crimes.

Why is America so bent on protecting its nationals from the jurisdiction of the Court, bearing in mind that it is a self-proclaimed champion of human rights? Do the reasons lie in nationalism or does America have a down on the Rome Treaty because it is a stumbling block to its hegemonic practices? I argue that both cases apply in this context. Secretary Rumsfeld further stated in his Statement on the ICC that

“For a strong deterrent, it is critical that the U.S. be leaning forward, not back. We must be ready to defend our people, our interests, and our way of life. We have an obligation to protect our men and women in uniform from this court and to preserve America’s ability to remain engaged in the world. And we intend to do so.”

‘Unsigning’ the Treaty on 6 May 2002, Marc Grossman, the then |Under Secretary for Political Affairs, stated that ‘United States respects the decision of those nations who have chosen to join the ICC; but they in turn must respect our decision not to join the ICC or place our citizens under the jurisdiction of the court’. In both statements it is abundantly clear that the two speakers do not want the court to have jurisdiction over their citizens. Moreover, Rumsfeld mentions that they ‘are ready to defend our people, our interests, and our way of life’. Americans believe that the US represents a new development in human history, a particularistic community of universal significance. In other words, the national identity of American is based on the conviction the nation is bigger, more inclusive, and more significantly purposeful than any individual or group who belongs to it and that its binding principles are rooted in qualities and capacities shared by men everywhere. The US campaigned seriously at the Conference to share its view on the ICC; the Court should serve the interest of America and their way of life. The Court should be divested of all the powers that allow US citizens to appear before it.

That was the reason it pleaded for a strong SC role. This would have allowed it to block any prosecution of American citizens. This is “American exceptionalism”, which refers to the strong belief that America is in many ways different from-and even better than-any other states in he world. Typical of exceptionalism, is the opinion of superiority that imparts to the US the right and capacity to lead others. The Court is an embodiment of a superior power which will encroach upon the sovereign right. Moreover, that phenomenon will be a severe threat to American nationalism. The Bush administration wisely thought that not ‘unsigning’the Treaty will be a blow dealt to their effort on war on terrorism. Consequently, that will jeopardize their interest and paving the way for a possible appearance of their citizens before the Court. It is clearly evident that the arguments were an attempt to protect Americans from trial on the same grounds as other citizens of other states.

America’s refusal to accept the ICC has hegemonic traits.’ In an article that appeared in Time, Charles Krauthammer asserted that ‘America is no mere international citizen. It is the dominant power in the world, more dominant than any since Rome. Accordingly, America is in a position to reshape norms, alter expectations and create new realities. How? By unapologetic and impeccable demonstration of will.’ I wholeheartedly agree with this writer. America has reshaped norms, alter expectations and create new ones. In the past it has rejected treaties which were against its interests. A hegemon can easily be irritated by treaties since they represent limitations at some level on unilateral action parties. America hates the ICC because it will amass a lot of power, which will hamper its unilateral actions. The Court will act as a barrier to its doctrine of pre-emptive strikes and this would pose a problem.

Moreover, a hegemon have strong aversion towards agreements that create ‘international regimes or organisations that might enable lesser powers to form coalitions that might frusatrate the hegemon.’ America thinks it has the sole ‘global duty’ of keeping peace in the world and fighting human rights violations. By creating the ICC, some of these powers would be lost and the court would be a threat to American soldiers scattered all over the world. It should therefore be exempted from prosecution by the court because of its role as a global police. To achieve this, it sought to convince the other states that the SC should be given more power to block cases from going to the Court. That is another characteristic of a hegemonic state. It can use an international organisation-in this case United

Nations- ‘to magnify its authority by a judicious combination of voting power and leadership.’ The US wanted to use the United Nations to be able block cases against Americans from going to the Court.

In this article I have discussed the main reasons for America’s rejection of the ICC. An attempt was made to analyse the arguments given by the US. I argued that there are enough safeguards in the Statute that can prevent Americans coming before the ICC. Finally, I argued that the reasons for opposition of the US lie in nationalism and hegemony.

Mohamed Kunowah-Tinu Kiellow(photo) holds a combined LLM in International Law and Criminal Law, a certificate in French Language and Culture, a certificate in Criminology from Utrecht University, The Netherlands. He also holds a Postgraduate Associate certificate in Law from the University of East London. He works as a Project Legal Adviser. He recently returned from Sierra Leone after having worked there for five months as a Human Rights Expert/consultant.