

**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:**

Friday, 25 November 2011

Press clips are produced Monday through Friday.
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Awareness Times

Friday, November 25, 2011

Opinion

The SCSL Visit to Rwanda for Verification is Great, But Not Enough!

By Abu Shaw

It is now becoming crystal as day break that the Special Court for Sierra Leone SCSL is obviously unmoved in its resolve to make sure that the relocation of the Sierra Leonean prisoners in Kigali, the capital of Rwanda, remains irreversible.

For me personally, I do think it is unwise in the long run for these 8 Sierra Leonean war crime prisoners to finish their sentences in far away Rwanda.

Transferring them from the Mpanga Prison in Kigali to Sierra Leone would be appropriate for financial, social, cultural and many other reasons.

The beauty about such a transfer is the fact that their families and friends here would have easy access for visitations.

I will leave this discourse for a fine day. For now, my main focus is to revisit the recent visit of the two SCSL officials to Rwanda to verify the mistreatment claims made by the eight Sierra Leonean prisoners.

They accused prison authorities that their living conditions at the Mpanga Prison are unsatisfactory thereby violating their basic human rights.

The visit of the SCSL Court Registrar Binta Mansaray and her deputy Fidelma Donlon to investigate the mistreatment allegations in Rwanda is commendable considering the promptness of that visit. It is indicative of the seriousness that SCSL has attached to the welfare of the eight prisoners in Kigali.

Like the families and relatives of these Sierra Leone prisoners who are serving their respective sentences ranging from 15 years to 52 years, I strongly believe that the visits of the SCSL ladies will have less impact let alone cushion the campaign spirits for the relocation of these Sierra Leoneans to their motherland.

I am a little bit apprehensive about the revelation made by the Rwandan Minister of Internal Security Mussa Fazil Harelimana early this month. Minister Harelimana disclosed that every convict is supposed to get a monthly allowance of \$150 United States dollars for communication purposes. I understand the prisoners hardly exhaust their monthly allowances and this has always prompted the special court to take back the remaining monies to beef up the finances of... God knows for whom!

I frankly cannot understand why the Rwandan government as instructed by the SCSL would take back monies already disbursed for prisoners' use. The convicts are legally entitled to have every penny or cent of the 150 United States dollars monthly disbursements.

It is sensible for the special court to keep what ever change remaining in a safe place so that it could be handed over to the convicts when their sentences have been served.

Or better still, these monies, I mean the balance, could be handed over to the next of kin of each convicted prisoner, which I believe could be a brilliant idea. After all, it is their money by right, even though they are prisoners, it doesn't make any difference. But this is the 'ALMIGHTY' United Nations I am talking about here.

They seldom take advice from within the lower ranks, let alone from outsiders like me! But that won't deter me!

This world body always preaches about these Human Rights and that Human Rights, but I wonder where is the prisoners' rights in this monthly disbursements? I think it is the human rights of the convicts to keep their change or give it to their loved ones to ease family problems. Does the SCSL keep this change safe for the prisoners? Or does the SCSL take the monies back to beef up the bonus budget? I really want to know where the change is being taken to! Sincerely, I do not expect answers from the SCSL.

It will be a big surprise if I do!

British High Commissioner To Sierra Leone On Death Penalty

By Ian Hughes, British High Commissioner, Freetown, Sierra Leone.

Benjamin Franklin said that only death and taxation were certain. He may have been right, but his two certainties could hardly be more different.

Death is part of the immutable framework of life. It existed before humanity came to be. It will exist long after we are gone. We each have but one life which once taken away cannot be returned.

Taxation is a human law. It changes with human experience, with society's preferences. It can go up or down; it can be applied rigorously or forgiven; overpayments can be refunded.

Death's permanence is the root of my problem with capital punishment.

We yearn for justice, strive for it, and demand respect for it. Yet our expectations of it change from generation to generation, from year to year, from experience to experience. In its essence, justice is an aspiration. While trying to work out how to achieve it, we settle for the rule of law, which hard experience shows is our best defence - often our only defence - against another law: that of the jungle.

The rule of law tells you that if you do certain things you will be punished; steal from your neighbour, punished like this; bribe a judge, punished like that; kill someone, punished like the other. Does the law dispense justice? Sometimes. Is it effective? Sometimes. Is it wrong? Sometimes. And if the law can make mistakes, its decisions must be reversible.

Execution - legal killing to enforce the law - has been with us for as long as there have been laws. It used to be applied widely. Nowadays it is mostly reserved for murder. If you take a life, the

law can say, you forfeit your own.

Is execution consistent with the rule of law? Yes. Is it also justice? Sometimes. Is it right? No. Why not? Because the rule of law is unjust if it is incorrectly applied: mistakes must be correctable. And miscarriages of justice in capital cases cannot be repaired. It is therefore a longstanding point of principle for UK governments to oppose capital punishment in all circumstances.

While there have been no executions in Sierra Leone since 1998, execution is mandatory for murder convictions. A number of Salone men and women languish on Death Row in Pademba Road.

Many Sierra Leoneans I talk to believe that the threat of execution is essential to keep the peace. I respect that view, but disagree with it and hope to change it as part of a debate between us on what democracy means, how it works, and what it aspires to be.

My team and I have been working with our EU colleagues to engage with government, Parliament and Civil Society. We hope the moratorium will evolve into full-fledged abolition soon. In the meantime we encourage and support those like Advocaid who facilitate effective measures to examine the facts, procedures and circumstances relating to capital cases considered by the Judiciary.

I point to the discharge by the Court of Appeal in March of "MK", the longest serving woman on Pademba Road's death row. The Honourable Justices' decision demonstrates my point about the need to be able to reverse decisions that may be mistaken.

Today is the eighth World Day against the Death Penalty. Around the world British Ambassadors and High Commissioners are marking this occasion with discussions with governments, civil societies and



Parliaments. In London our Human Rights Minister, Jeremy Browne, has made a statement setting out the case for permanent abolition of this measure.

I am pleased that the government of Sierra Leone, too, is active. In April President Koroma commuted all death sentences to life imprisonment, and three death-row prisoners have been pardoned. Abolition is on the legislative agenda but it needs to move from theory to practice. It has been discussed during the Constitutional Review Process, and will continue to be a topic there after the 2012 election.

I welcome this debate and encourage further action to bring Sierra Leone justice into the twenty first century.

The Sierra Leone Truth and Reconciliation Commission's Report said: "Respect for human dignity and human rights must begin with respect for human life. Everyone has the right to life. A society that accords the highest respect for human life is unlikely to turn on itself... The abolition of the death penalty will mark an important and symbolic departure from the past to the future". What do you think?

Spiked

Wednesday, 23 November 2011

<http://www.spiked-online.com/index.php/site/article/11650/>

Legal justice: too fine a pursuit for Libyans

The International Criminal Court's insistence on controlling the trial of Saif Gaddafi reeks of neo-colonialism.

Even before Saif Gaddafi's capture over the weekend, preparations for the tug-of-war over where he should be tried were already well underway among liberal commentators and campaigners in the West. Many insisted that, despite the Libyan people's wishes for him to face justice at home, the eldest son of the recently deceased former Libyan dictator Muammar Gaddafi should be tried by the International Criminal Court (ICC) in The Hague.

Evidently, from the ICC trial proponents' point of view, a stooge army of Arabs is capable of doing the grunt work, scrabbling around in the desert to locate the Gaddafis, but they are incapable of undertaking the more civilised task of bringing them to justice. As Phillipe Sands QC wrote in the Observer, 'in staying the hand of vengeance, The Hague judges will have to be involved'. Such mature work as putting a former dictator on trial can apparently not be entrusted to the vengeful, angry Arabs of Libya. Instead, it needs to be undertaken by their coolheaded, Western superiors.

Yesterday's news that the trial of Saif Gaddafi is likely to take place on Libyan soil changes little about all this. As UK foreign secretary William Hague has explained, 'it is within the rules of the ICC that people can be tried within the country concerned, by agreement with the ICC'. The ICC will effectively be bringing The Hague to Tripoli, with its judges operating behind the scenes, nudging Libyan judges in the right direction and ensuring the trial is conducted in a way that complies with 'ICC standards'. The chief ICC prosecutor, José Luis Moreno Ocampo, is currently visiting Libya to negotiate the terms of the trial. He said: 'In May, we requested an arrest warrant because Libyans could not do justice in Libya. Now, as Libyans have decided to do justice, they could do justice and we'll help them to do it – that is the system.'

This 'helping hand' approach may suit the ICC very well indeed. Having only ever prosecuted black people, the ICC has often been open to charges of racism – and rightly so, as Brendan O'Neill has pointed out. Courtenay Griffiths, the British QC who acted as a defence lawyer at The Hague for former president of Liberia, Charles Taylor, has likened the ICC to a colonial enterprise. 'How is it possible that we have a situation where every indicted individual at the ICC is African and every investigation is, guess where, Africa...? The ICC was set up to try those lesser breeds without the law – the Africans. This is the same civilising mission from the late nineteenth century and I find it, as a black man, totally objectionable.'

By operating behind the scenes, as in Saif Gaddafi's case, ICC judges effectively get to black – or at least brown – up. They get to say hey, look, even Libyans can serve justice effectively - provided there is sufficient ICC cooperation involved. And Libya's National Transitional Council (NTC), facing a crisis of legitimacy after having been largely cherrypicked to serve by the West rather than by the Libyan people, are able to claim that justice is being carried out on Libyan soil. This way, they hope to ensure an embarrassing and messy tug-of-war doesn't ensue.

But despite the fact that the ICC will be there to offer the Libyans a guiding hand throughout the trial, certain organisations are still deeply dissatisfied with the idea of justice being done in the country where Saif Gaddafi carried out his crimes. Gaddafi had been noted for his brutal warning of 'rivers of blood' as revenge for the rebel uprisings, and now the likes of Amnesty International are reportedly fearful that Saif Gaddafi could face mob justice like his father did. Richard Dicker, international justice director of Human

Rights Watch, has argued against a trial in Libya as ‘the NTC is burdened with many challenges, and taking on this legal proceeding will require extensive resources and capacity’.

The ICC, then, can lift that terribly burdensome mission from the Libyan people of bringing former dictators and their co-rulers to task. The Libyan justice system just isn’t up to scratch, according to Dicker. There would need to be ‘swift and substantial reform’ and the Libyans would need to prove they are ‘genuinely able and willing to prosecute the case in fair and credible proceedings’.

Instead of going through all that bother, why not just let Libyans watch and learn how civilised types mete out justice? Dicker calls for the new Libyan authorities to ‘send an important message that there’s a new era in Libya, marked by the rule of law, by treating Saif... humanely and surrendering him to the ICC... His fair prosecution at the ICC will afford Libyans a chance to see justice served in a trial that the international community stands behind.’

There you have it. The Libyan people may have suffered under the rule of the Gaddafi clan, they may have gone through the trouble of overthrowing a tyrannical system and locating the hiding places of former despots. But now all that blood, sweat and tears are out of the way, it’s important that they step back and allow their well-educated betters to carry out the final judgement. The Arab children have had their tantrum, now it’s time for the adults in the West to do the serious business. The Libyans can sit back, watch justice be carried out in their name and learn how to do it the right way.

The Libyan people may have achieved the remarkable feat of throwing off the paternalist shackles of Gaddafi and his sons, yet the ‘international community’ and the ICC look set to ensure that they continue to be infantilised for a good time yet.

Patrick Hayes is a reporter for spiked. Visit his personal website [here](#). Follow him on Twitter @p_hayes.

Reuters

Thursday, 24 November 2011

Libya will try Gaddafi's son fairly-ICC prosecutor

Libya will make a point of giving Muammar Gaddafi's son Saif al-Islam a fair trial to show the world it is no longer a tinpot dictatorship, the International Criminal Court's prosecutor said on Thursday. Luis Moreno-Ocampo has said he will not demand that Saif al-Islam be handed over to the Hague to face charges of crimes against humanity even though he has no guarantee that a Libyan trial would be fully fair.

In a Reuters interview, he said he believed Libya would still put together a convincing trial and not a whitewash.

"They are committed to doing something very good," Moreno-Ocampo said in Tripoli after meetings with Libyan officials following Saif al-Islam's capture on Saturday.

"They want to show the world that this is a serious country with smart people and they can do a good job. It's an issue of national pride. I think you should not distrust them so easily."

The National Transitional Council (NTC), which led the revolt that toppled Gaddafi in August and has ruled the country since his fall, has repeatedly said it will not hand over Saif al-Islam and will ensure that he faces a fair trial in Libya.

Moreno-Ocampo said the NTC had officially informed the Hague-based court that it intends to keep Saif al-Islam in Libya for the time being. It has yet to officially request from the ICC that the trial take place in a Libyan court.

Moreno-Ocampo said that although there were concerns about the state of Libya's judiciary after Gaddafi's 42-year rule, he believed the outcome would be satisfactory.

Until judges in the Hague allow the trial to be held under Libyan law, the ICC and Libyan prosecutors would continue separate investigations, with the Libyans providing the ICC with their findings, Moreno-Ocampo said.

The ICC indicted Saif al-Islam along with his father and Libya's former intelligence chief Abdullah al-Senussi over their alleged involvement in the killing of protesters during the revolt that eventually brought down Gaddafi.

In addition to investigating the same events as the ICC, Libyan judicial officials had launched a probe into five counts of alleged corruption by Saif al-Islam, Moreno-Ocampo said.

"We had a meeting with the general prosecutor here. They have five cases of corruption against Saif and they have a similar investigation to our investigation," he said.

If Saif al-Islam were charged with multiple murders over the deaths during this year's uprising, he would face the death penalty under Libyan law. The maximum sentence the ICC could impose would be life in prison.

He is being held by fighters from the mountain town of Zintan who captured him in the southern desert. They say they are ensuring his protection and will hand him over to the interim government, which was due to take office on Thursday.

DARFUR

Despite reports of former intelligence chief Senussi's capture on Sunday, Moreno-Ocampo has said he appeared to still be at large, making Senussi the last man on the ICC's wanted list in Libya who has yet to be found.

While Moreno-Ocampo's Libyan investigation would continue, cases in Ivory Coast, the Democratic Republic of Congo and Kenya would also keep him busy until his mandate expired in June. His next item of business was Sudan's western region of Darfur.

"Next week we will request a new arrest warrant in Darfur," the 59-year-old said, though he declined to say who it was for.

During his two-day visit to Tripoli, Moreno-Ocampo has underscored the importance of holding the trial in Libya as the country emerges from decades of dictatorship, much as his native Argentina did with trials of former junta leaders.

"In Argentina we did a national case in '85, no international lawyer or prosecutor and it was a fair trial," said Moreno-Ocampo, who worked on those cases as a prosecutor.

"The Libyans are very eager to show that they can do it as well," he added.

Public opinion in Libya appears to be strongly opposed to handing over Saif al-Islam to the Hague but Moreno-Ocampo said the concern for Libyans was that Gaddafi's son would be able to spend his days in relative comfort.

"They don't like (the idea of) Saif in a nice jail in the Netherlands," he said.

Agence France-Presse

Thursday, 17 November 2011

UN tribunal orders arrest of prosecutor's spokeswoman

The UN's Yugoslav war crimes court issued an arrest warrant Wednesday for the French former spokeswoman for the tribunal's chief prosecutor. Florence Hartmann (pictured) refused to pay a 7,000 euro fine for contempt of court charges dating from 2009.

By News Wires (text)

AFP – The UN Yugoslav war crimes court issued an arrest warrant Wednesday against a former



spokeswoman for the tribunal's chief prosecutor for refusing to pay a 7,000-euro (\$10,000) fine.

Florence Hartmann, a French national, was found guilty of contempt in 2009 for disclosing confidential details of the trial of the late Serbian strongman Slobodan Milosevic.

"The French Republic is hereby directed and authorised to search for, arrest, detain and surrender promptly to the tribunal, Florence

Hartmann," the Hague-based court said in an order.

Her fine "has been converted to a term of seven days of imprisonment," it added.

The International Criminal Tribunal for the former Yugoslavia (ICTY) found her guilty of contempt in September 2009 for having "knowingly and wilfully interfered with the administration of justice".

Hartmann was prosecuted for writing about two confidential appeals chamber decisions in a 2007 book she authored on the ICTY and in a later published article.

The confidential information which emerged during Milosevic trial allegedly implicates the Serbian state in the 1995 massacre of some 8,000 Muslim men and boys in the Bosnian city of Srebrenica.

Hartmann covered the Balkan wars of the 1990s as a journalist for French newspaper Le Monde and went on to become spokeswoman for former ICTY chief prosecutor Carla Del Ponte from 2000 to 2006.

Del Ponte was succeeded by current prosecutor Serge Brammertz.

International Justice Tribune

Friday, 25 November 2011

ICC: Convictions and money for victims

The lofty ambitions of the International Criminal Court in The Hague extend not only to denying impunity for atrocities committed by the powerful, but also to offering compensation to their surviving victims. But the difference in funding levels for these two branches of the court's work could not be more stark: The Court's annual budget - 100 million euros; ICC Trust Fund for Victims (TFV) – 1 million euros for compensation payments. The Head of the Victim's Fund Pieter de Baan explains how the system works.

By Richard Walker, The Hague

Doesn't a victim's right to compensation depend on how much money you've got? How much money can you pay in any given case?

Reparations depend on the available resources of the convicted persons. The individual criminal responsibility extends to payment of damages as a result of the harm caused by the actions for which he has been convicted. The trust fund has then several roles to play, one of these roles is to complement Court-ordered reparations in case the accused has no funds.

Concerning the amount of money spent on a particular case, it is difficult to tell right now because it depends on the outcome of the verdict and the scope of reparations that the chambers are considering. In some cases there are a certain number of victims recognised by the court and in other cases there may be 10 times as many victims.

For instance, in the case of Lubanga, if he is found guilty, the first group of victims in this case would be child soldiers. They will look at criteria of eligibility, most probably not so much the numbers, but the scope and what kind of reparations would be most appropriate. That's within the discretion of the Trial Chamber to determine. From our side, we have an overall reserve of 3,5 million euros for all the cases. In the next annual meeting in March, the board of directors may consider increasing the reserve for reparations, which would be the source of funding for any complementary financing of reparations.

What's the difference between handing out money and the other mechanisms of victims' reparations?

To begin with, handing out money is not the only form of reparation; it may even be the last form you might wish to think about. There are other forms of reparations that you can consider, these may include educational services, rehabilitation or medical support. So it doesn't have to be money necessarily, and in the circumstance of already poor communities, handing out money to certain individuals may cause them more problems than it would resolve.

In simple words, we have two mandates. One is related to a particular crime which is before the ICC and victims may be entitled to reparations as ordered by the Court. The other mandate is more generic, not related to a particular case but to victims of crimes who are found to be within the jurisdiction of the court. That could be different parts of eastern Congo or northern Uganda or the Central African Republic - even in those areas where the Prosecutor has decided not to go with his investigations.

For example, if in one area a large group of people has been victimised, the prosecutor may decide to prosecute crimes committed only in a certain place, for various relevant practical and legal reasons. It doesn't mean that victims in the other parts of that area are not victims of the same type of crime.

Thus, the trust fund has the ability with its second mandate to engage with those victims. The difference with judicial reparations is that eligible victims possess a legal right; the TFV's second mandate addresses the need among victims for assistance. It is complex and the system may be imperfect. However, as it was designed, it still allows the trust fund to engage with a wider group of victims. I think it is fair to say that the people who are currently prosecuted before the ICC mostly do not have fortunes behind them.

Who decides what happens to these assets if a conviction is secured?

The ICC has the initiative. If the Judges deem it appropriate, the Office of the Prosecutor has to identify the assets of the suspect then to work together with the Registry work and in collaboration with those countries where these assets are being held to ensure that they are being frozen and seized. This is a very complex and challenging process which the TFV does not have any direct engagement in.

Do you conduct needs assessments? Estimating the number of victims and the resources needed to deal with their situations?

In the case of Court-ordered reparations, the moment for that is when reparations are being considered by the Chamber, after a conviction. A partnership should develop between the Court and the Trust Fund to identify the most appropriate measures, making use of the frozen assets of the convicted person and the additional those resources that the Trust Fund may be able to provide.

International Justice Tribune

Friday, 18 November 2011

Dutch genocide bill comes with caveats

A bill expanding the jurisdiction of Dutch courts to hear cases involving international crimes was adopted by the Dutch parliament on 10 November. In particular the bill, which still has to be adopted by the Senate, allows for the exercise of universal jurisdiction over crimes of genocide committed since 1970. Also, for jurisdiction over cases referred to the Netherlands by international criminal tribunals.

By Cedric Ryngaert, Associate Professor of International Law, Utrecht University

To their credit, these legal changes close some remaining impunity gaps in the Netherlands that had become quite glaring over the last few years. While the Dutch Parliament adopted an International Crimes Act in 2003, which provided for the exercise of universal jurisdiction over war crimes, crimes against humanity, genocide, and torture, this act did not have retroactive effect. This meant that the act did not apply to crimes committed before 2003, a legal lacuna that was particularly problematic for crimes of genocide, as no earlier statute conferred universal jurisdiction regarding such crimes (unlike torture and war crimes).

As a result, alleged perpetrators of crimes of genocide committed, amongst other killing fields, in Rwanda could not be prosecuted, at least not for genocide, the ‘crime of crimes’. Furthermore, Dutch courts did not have jurisdiction to hear cases transferred by international criminal tribunals, typically in the framework of their completion strategy. Thus, a transfer of an ICTR accused (Bagaragaza) under Rule 11bis of the ICTR Rules of Evidence and Procedure failed, and he had to be tried by an already overstretched ICTR.

Looking foolish

The government realised that these legal deficiencies made the Netherlands – a leading promoter of international justice that hosts a considerable number of international courts and tribunals – look foolish in the eyes of the international community. Hence, remedial action was needed. Under the new bill, Dutch courts have jurisdiction over crimes of genocide stretching back to the entry into force of the first Dutch statute on genocide (1970). The Netherlands can now extradite suspects of international crimes to other States even in the absence of a bilateral extradition treaty. It can also try suspects transferred from international criminal tribunals. Clearly, these legislative reforms further accountability for international crimes.

Not clear

However, some critical observations on the law can be made as regards (1) Dutch prosecutors’ and courts’ financial capacity to take up cases of international crimes, (2) the prosecution of crimes against humanity, and (3) the position of victims.

Firstly, it is not clear whether the Dutch judiciary has the capacity to conduct additional investigations and prosecutions of international crimes. The Dutch Council for the Judiciary calculated that the treatment of new cases, which is now facilitated by the legislative changes, would require an additional investment of €30.000 (excluding security), and the Dutch Association for Jurisprudence stated that one judge needs six months (!) to deal with only one international crimes case. The Government has not clarified whether in times of austerity it can provide those resources.

Lucky

One political party, the PVV, proposed tapping the development cooperation budget to fund international crimes prosecutions. However rash such a proposal may seem, undeniably, resources will have to be diverted away from other laudable programmes to fund Dutch atrocity trials. The government has luck on its side, however. In June, the ICTR finally cleared the way for transfers of ICTR cases to Rwanda, and in October, the European Court of Human Rights sanctioned the extradition by Sweden of a génocidaire to Rwanda. These evolutions allow Rwandan génocidaires to be transferred to Rwanda to stand trial, and obviate the need for the exercise of universal jurisdiction by third States such as the Netherlands.

Before the ink is dry

But as the ink of the amended Dutch law is not even dry, its main rationale - the facilitation of Dutch jurisdiction over crimes of genocide committed in Rwanda – may already appear to be undercut. Still, the statute may prove valuable for some other past crime situations – the explanatory memorandum mentioned Afghanistan, the Balkans, Iraq, and Argentina, alongside Rwanda – and provides a legal basis for any future referral by any international criminal tribunal to the Netherlands (if ever any such need would arise again).

Secondly, in spite of the progress made as regards genocide, the new bill has not improved the regime governing the prosecution and extradition of alleged perpetrators of crimes against humanity. It failed to grant retroactive effect to the 2003 International Crimes Act and, in the absence of a specific extradition treaty, no alleged perpetrator of crimes against humanity can be extradited from the Netherlands. Most stakeholders pointed out that this situation was not desirable, but that the law bound the government's hands. Still, it is arguable that individual criminal liability has been attached to crimes against humanity under customary international law for quite some time before 2003 (thereby removing concerns relating to the principle of legality), and that the principle of *aut dedere aut judicare* applies to any international crime, including crimes against humanity (thereby providing a customary law basis for extradition).

And thirdly, the position of victims participating in Dutch international crimes proceedings remains problematic. In a last-ditch amendment to the bill, the government ensured, at the behest of the National Office of the Public Prosecutor, that the amount of damages that victims could claim would no longer be limited to the puny €80 which it previously was, and that also relatives of victims could join the criminal procedure. Still, the bill remains silent about the statute of limitations for civil actions regarding international crimes, about the law applicable to such actions, and about the enforcement of money judgments against defendants.

Inspiration

This may mean that civil actions may be barred by statutes of limitations, that they remain governed by the *lex loci delicti* (which is often disadvantageous to the victims), and that the government will not take the lead in enforcing civil judgments.

By and large, however, the Dutch bill deserves international acclaim. In particular, it demonstrates that the principle of legality need not constitute an obstacle to prosecutions brought under the universality principle regarding (treaty-based) international crimes that were committed at a time when domestic jurisdiction over them was lacking. This may inspire other States to follow suit and to bring to trial, or to extradite, any remaining perpetrators of international crimes who are residing in their territory.

International Justice Tribune

Friday, 11 November 2011

Empty chair at Mladic genocide hearing

Even before it began, the second initial appearance of former Bosnian Serb general Ratko Mladic before the ICTY, was postponed. He was not well enough to attend on Thursday, said the Detention Unit Medical Officer, who examined him. He is accused of responsibility for genocide, war crimes and crimes against humanity, committed during the Bosnian war in the early '90's.

Related articles

By Elsana Nurkovic, The Hague

Mladic was expected to enter a plea in response to the third amended indictment issued against him. But he waived his right to be present in court and gave consent for the session to be held in his absence. The issue of Mladic's health overshadowed substantial topics, such as the charges in the indictment or possible defence strategies.

Devil in the detail

After five months, Mladic finally agreed to disclose his medical file to the Chamber. But the health of the accused is not an issue to be dealt with by the Chamber, unless it impacts on the course of the legal process, said presiding judge Alphons Orie. The Chamber will now consider whether to request a full medical report.

The details "should be left to the medical experts," said Orie.

This comes after a series of alarming statements by Mladic's lawyers, stating that he is in extremely poor health.

Mladic himself - during the last pre-trial hearing in October, which started an hour later than scheduled – said the delay was caused by his poor health. Serbian media later reported that Mladic collapsed just before his court appearance. However, Orie explained on Thursday that the delay was caused by Mladic's ill health, but by 'internal miscommunication with the unit responsible for his transport'.

Absent from court

Certainly, everyone interested in this case hope that Mladic remains healthy and able to stand trial. No one wants to see a repetition of the Milosevic trial, which ended without judgement after four years.

On the other hand, there have already been cases before the ICTY, where the accused have attempted to use the state of their health as an excuse to try to delay the trial as much as possible.

Whether Mladic and his defence team will follow that lead remains to be seen. But the Presiding Judge was very clear when he said that medical expertise, rather than the accused's claims or his lawyers' interpretations, will guide the judges' decisions on the crucial issue of being present in court.

International Justice Tribune

Friday, 11 November 2011

ICC prosecutor monitors Congo elections

Congolese politicians must avoid electoral violence or risk facing the International Criminal Court (ICC), its prosecutor said on Friday, joining an international chorus of warning about the prospect of bloodshed in this month's voting.

Luis Moreno Ocampo said he is following the electoral process in the Democratic Republic of the Congo (DRC) with "utmost vigilance," stating that violence related to the presidential and legislative polls later this month will not be tolerated.

"My office is gathering and carefully reviewing converging reports of both verbal and physical violence arising out of the electoral campaign for the presidential and parliamentary elections on 28 November," the Argentinean prosecutor said in a statement issued by the ICC.

Ocampo urged all parties in the electoral process to refrain from violence, noting that the ICC has jurisdiction to investigate and prosecute perpetrators of serious crimes committed either in the DR Congo or by Congolese nationals since 1 July 2002, the date the court opened its doors in The Hague.

He said his office has the capacity to document any crime within its jurisdiction and, in coordination with domestic courts, will take all necessary action to investigate such crimes.

"We are keeping watch to ensure that the process does not lead to acts of violence or attacks against the civilian population. We are paying particular attention to reports of inciting hatred, exclusion and physical violence by various political figures in Kinshasa and across the entire country," he said.

"Electoral violence can result in the commission of crimes falling within our jurisdiction. No one should doubt our resolve to prevent crimes or, if need be, prosecute individuals, as we are doing in Kenya and Côte d'Ivoire," he added, naming two African countries where the ICC has investigated election-related violence.

The prosecutor reiterated that people alleged to have committed serious crimes, such as Bosco Ntaganda, for whom the ICC has issued an arrest warrant, must be taken into custody and put on trial. Ntaganda, a former commander of armed militias in eastern DRC, is accused of playing a central role in enlisting and conscripting children below the 15 and using them in active combat.

"The electoral process should not feed a sense of impunity on the part of those responsible for such crimes. On the contrary, it should strengthen the rule of law and the fight against impunity," said Mr. Moreno-Ocampo.

A United Nations report released earlier this week detailed numerous human rights violations during the pre-electoral period in the DRC, and warns that such incidents could threaten the democratic process and result in post-electoral violence.

The joint report issued by the Office of the High Commissioner for Human Rights (OHCHR) and the UN peacekeeping mission in DRC (MONUSCO), documents 188 violations apparently linked to the electoral process that occurred between 1 November 2010 and 30 September this year.

New York based-Human Rights Watch has said that the report documents just a fraction of the actual abuses.

The European Union and African Union have issued separate warnings of a deteriorating political situation in the central African country.

The Hague-based ICC has already brought four cases from the Congo wars, where investigations have been ongoing since June 2003.

RTT News

Thursday, 24 November 2011

ICC Prosecutors Seek To Expedite Ratko Mladic's Trial

(RTTNews) - Prosecutors at the International Criminal Court on Friday proposed a drastic reduction in the scope of the indictment of former Bosnian Serb Army chief Ratko Mladic in an effort to expedite his trial in wake of the defendant's deteriorating health condition.

In their request filed Friday, ICC prosecutors sought to reduce the amount of evidence to be presented against the defendant and slash the number of crimes they seek to prove against Mladic by about 45%.

Even if the prosecution request is approved by the judges, Mladic will still be tried on all the charges pressed against him, as each crime does not make up for a separate charge. The Court will make a final decision on the prosecution request only after Mladic's legal team studies the amended charge sheet.

The latest prosecution move comes after the court ordered a thorough medical examination of Mladic over his claims that he was too ill to attend a hearing last week. Mladic, who has been complaining of health problems throughout the trial process, had sought hospital treatment last month for pneumonia.

While ordering Mladic's medical examination, the court said the move was "to better assess whether and to what extent his health condition could affect the preparation of the upcoming trial." The medical expert appointed by the court is due to submit a report on Mladic's health on December 6.

The UN court had entered a not guilty plea on behalf of Mladic on all the 11 charges pressed against the former Bosnian Serb Army chief after he refused during his first hearing at the court on June 3 to enter any plea on what he described as "obnoxious" charges.

Mladic was arrested on May 26 by Serbian Special Forces from a house in the village of Lazarevo in Vojvodina province, ending a 15-year-long manhunt for the former Bosnian Serb Army chief. He was later transferred from Serbia to the Hague-based UN court to stand trial after a war crimes court in Belgrade rejected an appeal against his extradition.

Mladic is accused of genocide, war crimes and crimes against humanity committed during the Bosnian conflict of the 1990s. He was indicted on genocide charges by the Hague-based tribunal in 1995.

As chief of Bosnian-Serb forces, Mladic is believed to have been personally responsible for the massacre of nearly 8,000 Bosnian Muslim men and boys at Srebrenica in 1995. He has also been charged over the 44-month-long siege of Sarajevo from May 1992, which led to the deaths of more than 10,000 people.

Ahead of Mladic's capture, his boss during the 1992-95 war in Bosnia-Herzegovina, Radovan Karadzic, was arrested in Belgrade in July 2008 and is currently facing trial at the UN war crimes tribunal. He faces a maximum sentence of life imprisonment if convicted of the charges.

Two months after Mladic's arrest, Goran Hadzic, former leader of Croatia's ethnic Serbs, was arrested in the mountainous Fruska Gora region of northern Serbia on July 20 after seven years of evading capture. He also has been extradited to Hague from Serbia to face trial at the ICC.

Former Yugoslav President Slobodan Milosevic had died of a heart attack in 2006 before his trial concluded at the ICC. Prior to their capture, Karadzic, Mladic and Hadzic were in the most wanted list of the ICC for their involvement in alleged war crimes and crimes against humanity committed during the Balkan wars.

Serbia had been under tremendous pressure from the European Union earlier over its failure to arrest and extradite Karadzic, Mladic and Hadzic. The EU had set their arrests as a pre-condition for Serbia's entry into the European bloc, which is now expected to progress smoothly as Belgrade has detained all suspects indicted by the tribunal.

By RTT Staff Writer

Associated Press

Tuesday, 15 November 2011

Experts pay tribute to Yugoslav war crimes court

By MIKE CORDER

THE HAGUE, Netherlands (AP) — Greeted with skepticism at its inception in 1993, the Yugoslav war crimes tribunal is today being hailed as a trailblazer that will help end impunity among the world's ruling classes long after it closes in three years.

At a seminar Tuesday assessing the legacy of the court, legal experts said the precedents set during dozens of trials will live on in jurisprudence, mainly through the International Criminal Court, the first permanent war crimes tribunal.

Critically, the tribunal effectively scrapped the notion of immunity for heads of state when it first indicted Yugoslav President Slobodan Milosevic in 1999. Since that landmark indictment, international courts have filed charges against Sudan's Omar al-Bashir, Liberian President Charles Taylor, Libya's Moammar Gadhafi and senior ministers of the Kenyan government.

The court formally known as the International Criminal Tribunal for the former Yugoslavia, or ICTY, also laid down key case law on rape as a war crime or crime against humanity.

Alison Cole, of the Open Society Justice Initiative, said the Yugoslav court "led the way in forging a new path to justice" by laying down crucial case law in the evolving field of international criminal law.

The tribunal was established by the U.N. Security Council 17 years ago with war still raging in the Balkans. It was the first international war crimes court since the Nuremberg and Tokyo prosecutions after World War II, and observers doubted it would be able to bring justice to victims of the brutal conflicts ravaging the former Yugoslavia.

It started slowly, trying low-level officers, and it appeared unlikely that authorities in the region would ever arrest top suspects. By now, the tribunal has taken into custody all 161 suspects it indicted, including political and military leaders such as Milosevic, Bosnian Serb leader Radovan Karadzic and his military chief Gen. Ratko Mladic.

"Perhaps one of the most remarkable achievements of the ICTY is the fact that every single arrest warrant ... was eventually executed," said U.N. High Commissioner for Human Rights Navi Pillay.

The tribunal "demonstrated beyond question that an international criminal tribunal for the most serious crimes can work," said Richard Dicker, director of Human Rights Watch's international justice program.

But meting out justice has not been easy for the court, which has been criticized for the slow pace of its trials and its high budget. Serbs have repeatedly accused prosecutors of bias because the majority of those indicted have been Serbs.

In the most significant setback for the tribunal and victims of the Balkan wars, Milosevic died of a heart attack in his cell in 2006 before his four-year genocide trial could reach a verdict.

But now another of the alleged architects of Serb atrocities, Karadzic, is on trial and preparations are under way for Mladic's trial, which is expected to start next year.

With the arrest this year of Mladic and former Croatian Serb rebel leader Goran Hadzic, the tribunal finally took custody of its last two fugitives. Mladic, 69, had been on the run for 16 years and he was arrested by Serb authorities with his health apparently failing.

Even so, the fact that all its suspects were arrested "shows the potential and actual effectiveness of these international courts," which have no police force of their own and must rely on states and international organizations, said Dicker.

Stephen Rapp, the U.S. ambassador at large for war crimes issues, said the arrest of the likes of Karadzic and Mladic underscores that indicted suspects like Sudan's president, who is wanted for genocide in Darfur, now face the prospect of winding up in an international courtroom.

"It sends an enormous signal around the world as we look at similar crimes committed in other places that individuals who commit these crimes won't escape," Rapp said.

Former Cambodian head of State denies responsibility at UN-backed war crimes trial

Khieu Samphan appears before the Extraordinary Chambers in the Courts of Cambodia on 22 November 2011

A former Cambodian head of State during the rule of the notorious Khmer Rouge in the late 1970s told a United Nations-backed war crimes tribunal today that the genocide trial he is facing is based on guesses, generalizations and bias.

Khieu Samphan told the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Phnom Penh, where he is facing charges of genocide, crimes against humanity and grave breaches of the 1949 Geneva Conventions, that he was merely a nominal head of State with no real powers.

Mr. Samphan, 80, used his opening statement in the trial to deny any responsibility for the atrocities that took place under the Khmer Rouge, which ruled Cambodia from April 1975 to January 1979 and is thought to be responsible for the deaths of as many as two million people.

“From the beginning, the co-prosecutors have conducted guesswork and peremptory claims and generalizations in statements,” he said, saying they had relied on anonymous witnesses, books and newspapers to present their case.

“As far as I know, historians, chroniclers and journalists are not judges... They are entitled to be biased, partial, wrong and express opinions freely.”

He said he bore no responsibility for the evacuation of thousands of Cambodians from Phnom Penh in 1975, saying this took place before his arrival in the capital.

Mr. Samphan is one of three co-defendants in what is known as Case 002 at the ECCC, a mixed court which was set up under an agreement between the UN and the Cambodian Government. The others are Nuon Chea, the former second-in-command of the Khmer Rouge, and Ieng Sary, the former foreign minister and deputy prime minister.

Mr. Ieng told the ECCC today that he would not testify until the country's Supreme Court rules on a previous court ruling over a 1996 royal pardon and amnesty. Convicted of genocide while in absentia in 1979, he had been pardoned in 1996.