

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



A cargo ship contributing to 'global warming'. Photo credit: Atiq Shaik

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

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Press clips are produced Monday through Friday.
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The Whereabouts of reasons in judgments and ruling of courts

Written by Sonkita Conteh Esq

Introduction

A recent judgment of the high court of Sierra Leone has compelled me to write this piece. In any given year, several hundred actions are commenced in the high court on issues ranging from title to land to breaches of various kinds of contracts. In the majority of cases these matters are not concluded in the same year or even the subsequent year and in some very notorious cases, it was only the death of one or both of the parties or the irrecoverable misplacement of files that brought matters to an end.

While one understands that the decade-long civil war virtually destroyed justice mechanisms in the country, one must also bear in mind that another decade has almost elapsed since the official end of the war and perceptions of the justice sector among ordinary individuals are still dispiriting notwithstanding huge levels of investments in the sector. The purpose of this article is not to bemoan the excessive

delay in concluding matters in court, which in itself deserves a lot of attention, but rather to spotlight a somewhat distressing trend which seems to be gathering pace in the judiciary- the conspicuous absence of reason in judgments and rulings. While this may not be the practice of every judge or magistrate, its occurrence is becoming a tad too frequent to not provoke a response.

The doctrine of binding precedent

I still recall, sometimes fondly, my first year law classes at the university, full of the usual fresh student keenness and appetite to soak up every detail that came from the lecturer no matter how trivial. One of my more enjoyable subjects was 'introduction to law' and a fascinating topic which I thoroughly liked was 'the doctrine of binding precedents'. I was taught that precedent was one of the most powerful tools available to a lawyer and that in analysing a judgment or ruling I had to look for the 'ratio decidendi' or put simply the reason for the decision- i.e. the rationale of that particular judgment. I was assured by my tutor that the 'ratio' would always be there, sometimes more than one, and that it would be impossible to have a doctrine of binding precedents in the absence of a ratio. However, my tutor was wrong many times over as I have come to find out that in very many cases, judges and magistrates do not give reasons for their decisions.

Ratio-less judgments and rulings

A major challenge faced by the judiciary, I have been told, is that there are too many cases and too few courts to deal with them. As a result judges and magistrates are inundated with cases and are unable to speedily dispose of them. While this may be a valid point, the reality tells a different story and the actual culprit may well be poor case and time management practices within the judiciary. I completely agree that many matters which are submitted for adjudication

can be satisfactorily dealt with through alternative dispute resolution mechanisms and endorse any move towards realising this. However, assuming that an overloaded caseload is a major problem, this is still no reason or excuse for judges and magistrates to deliver vacant judgments or rulings on any matter that is before them. These vacant judgments or rulings do not contain any rationale, are bereft even of the slightest reference to laws, rules, regulations or legal principles, containing only in some instances a restatement of the facts of the case and an abrupt conclusion. There is absolutely no 'ratio' in them.

A particular high court summary judgment delivered a couple of days ago against a non-governmental organisation necessitated my putting pen to paper. After stating who was present and by which method the application was made, the judgment proceeded as follows: '...having considered the submissions made by both counsel and authorities cited, I hereby order as follows...'. The honourable judge then went on to award various sums of money totalling nearly Forty Million Leones (about \$10,000). Not even half a reason was advanced by the judge for the awards and orders made and oddly enough there was no mention even cursorily of any statute, case law, legal principle or rules of procedure pursuant to which the orders were made.

There was no sense of how the judge applied the law to the facts of the case and then came to a conclusion - she just jumped to a conclusion. Another earlier judgment I saw from a magistrates' court simply stated, "I believe the plaintiff and her witnesses" "I don't believe the defendant and his witnesses", I therefore find for the plaintiff'. A point of concern is that magistrates and judges continue to deliver these vacuous judgments and rulings even in very substantial matters causing severe, sometimes irreparable damage to litigants and leaving lawyers with the headache of formulating appeals against virtually nothing. Perhaps the common saying that 'the law is in the bosom of the judge' is being interpreted too literally by our judges. If the law is indeed there, it should come out in judgments and rulings and not just remain in the judge's bosom as there is not much use for it there. Judgments and rulings must at all times be reasoned, no matter how minor the issue may be. It is in very poor taste for anyone to make a decision without reason, much less a judge.

Quality of legal practice

Vacuous judgments are a threat to the principle of binding precedents in the practice of law in Sierra Leone especially when they emanate from superior courts. Strangely, legal practitioners do not seem to be up in arms against these vacant judgments. Often, those who are on the wrong end of the stick just put their faith or what is left of it in the appeals process and hope to secure a reversal. This is often dependent on whether their clients have the stomach (translate time and resources) for such a process. In most cases after such judgments or rulings, execution normally follows very quickly and an appeal becomes a mere academic exercise. Those lawyers who happen to be the beneficiaries of such judgments or rulings tend not to question them at all. For them, they have obtained a result for their clients, at least for the present, no matter how imperfect or objectionable it might be. One very pleased beneficiary with a wicked sense of humour, in a slight distortion of Crompton J in *R v Leatham 1861* remarked that 'it matters not how it is written, even if there is no reason, it is still a judgment'. I think it does matter how a judgment or ruling is written and legal practitioners need to be united on this one at least for the sake of good legal practice or the potentially bad image this might paint of the country's legal system internationally.

Global legal village

Globalisation has connected societies at various levels and improved communication has guaranteed access to information across countries and continents

at unprecedented scales. In 1992, the free access to law movement took shape with the aim of providing free online access to legal information (including case law and statute) across several common law countries. Today, the legal information institute is a collection of exciting projects that collect legal materials globally aggregated by country and continent. The existence of such projects now means that judicial decisions of countries are no longer restricted to their territories but can now be scrutinised by a global audience. Perceptions of a country and its systems may be positively or negatively influenced by the quality of information (legal, economic or political) that flows from it. Sierra Leone is still in the process of rebuilding its institutions and its image and every sector within the state has to make a contribution towards this end. The judiciary particularly has to be mindful of the quality of information (in the form of judgments and rulings) that emanate from it as its integrity both locally and internationally depends on it. This caution comes in the wake of plans to establish a Sierra Leone Legal Information Institute which would make judgments and rulings of courts as well as other types of legal information available online, free of charge.

Need for training

Perhaps, one key factor for these vacuous judgments and rulings could be the absence of a training institute for judges and magistrates. Judges and magistrates are appointed without any formal induction training and in a country where continuous legal education is non-existent assuring constant quality is problematic. In contrast, Ghana has had judicial education since 1965 and the institution has evolved over time to respond to prevailing judicial needs. The Judicial Training Institute of Ghana provides initial training for new magistrates and judges as well as continuing judicial education to keep them abreast with legal developments. It is no surprise therefore that case law from Ghana is highly regarded in many countries including Sierra Leone. Plans for a judicial training institute for Sierra Leone are, I am told, far advanced. It is hoped that this will come to fruition sooner rather than later as there is clearly a desperate need for judicial training and maybe a fully functional judicial training institute might encourage the legal profession to introduce some form of continuing legal development training for its members.

Conclusion

Judicial decisions constitute one of the sources of law. The doctrine of binding precedent will collapse if 'law' is omitted from judicial decisions. Judges are meant to judge by reference to a standard - the law, and if a judicial decision, no matter how minor, contains no ratio or reference to law, it cannot be properly called a judgment or ruling. In addition to establishing a training institute to build the capacity of judges and magistrates, promotion within the judiciary should be dependent among others on how properly a judge or magistrate writes judgments. Understandably, there is an appeals process, but many of these vacuous judgments and rulings are not appealed against maybe because of litigation fatigue and therefore stand unchallenged. If an appeal is lodged against such judgments and rulings, they should be automatically set aside and a judge who persistently writes vacuous judgments and rulings should be open to impeachment on the basis of being unable to perform the functions of the office of a judge. As Sierra Leone joins the free access to law movement through the establishment of the Sierra Leone Legal Information Institute, the judiciary needs to be mindful of the impression it wants to create for the outside world. While Sierra Leone may not have the most efficient judicial system on the continent, judges can, by delivering well reasoned judgments and rulings, help refashion a good impression of Sierra Leone's judiciary - as a work in progress.

Radio Netherlands Worldwide

Wednesday, 27 October 2010

South African court sets trial date on Campbell's diamond 'gift'

By Thijs Bouwknecht



A South African court Wednesday set a trial date for a former Nelson Mandela charity official who held diamonds at the centre of the war crimes trial of ex-Liberian president Charles Taylor.

Jeremy Ractliffe, a former trustee of Nelson Mandela

Children's Fund, is charged with the contravention of Diamonds Act, for the possession of rough diamonds which he said he received from supermodel Naomi Campbell.

His trial was set for two days, beginning 2 March 2011. He appeared in the Alexandra Magistrates court in Johannesburg for the preliminary hearing Wednesday, wearing a suit and looking frail.

"We have decided to go ahead with the prosecution, we believe this is a serious case," said Mthunzi Mhanga, spokesman for the National Prosecutions Authority.

Ractliffe handed over the diamonds to the local authorities after Campbell's testimony in before the Special Court for Sierra Leone (SCSL) in Leidschendam - a small city near The Hague in the Netherlands - where she confessed to receiving a gift of "dirty-looking stones" she assumed were from Taylor in 1997.

Campbell said she handed the stones to Ractliffe.

"Our case has got nothing to do with the case happening in The Hague. This is a local case related to possession of rough diamonds," said Mhanga.

"The Hague case will have no bearing on our case. We intend to present the diamonds in court as evidence," he added.

Taylor, Liberia's president from 1997 to 2003, stands trial on 11 counts of war crimes and crimes against humanity for his alleged role in the 1991-2001 civil war in neighbouring Sierra Leone that claimed some 120,000 lives.

Voice of America

Thursday, 28 October 2010

Guinea Announces New Run-off Election Date

Journalist Mamadou Dian Balde says this time around the two candidates, Cellou Daliel Diallo and Alpha Conde will accept the new date

James Butty



Photo: AFP

People walk in front of posters for the presidential elections and instructions on the voting card, Conakry, 25 Jun 2010

Guinea's government has announced that the country's long-delayed presidential run-off election will take place on November 7.

A government official made the announcement Wednesday night on television.

Guinea's second round vote had been postponed four times since July because of political disputes, logistical problems, and election-related street violence.

Mamadou Dian Balde, editor-in-chief of the *Independent* and *Democrat* newspapers in the Guinean capital, Conakry, said he believes this time around the two candidates, former Prime Minister Cellou Daliel Diallo and longtime opposition leader Alpha Conde will accept the new date.

"General Sekouba Konate has announced that the second part of the presidential election will take place on November 7. That is official. I think that the two candidates Alpha Conde and Cellou Daliel Diallo will agree with this new date," he said.



AFP

Supporters of Cellou Dalein Diallo, the leader of the opposition Guinean Union of Democratic Forces, and presidential candidate attend a meeting with their leaders at the cultural palace in Abidjan, Ivory Coast, 09 May 2010

Earlier this week, the electoral commission proposed October 31 (this Sunday) for the election, but that

date was not ratified by Guinea's acting president General Sekouba Konate.

Balde said candidate Diallo objected to the October 31 date because of the violence days earlier that he said had been carried out against his supporters.

Balde said although the violence had since stopped, many Guineans are concerned it will resume after the results of the election have been announced.

"The violence has been stopped since yesterday (Tuesday), but people are afraid because they think that after the election, the results will be a problem, and people think that there will be violence again," Balde said.

Balde said the political tension in Guinea has been high, especially between the Malinke and Fulah ethnic groups.

"People want to go to election, but since one month, the Malinke people and Fulah people are not on good terms now because of this electoral campaign. So that's why the situation had been deteriorating," he said.

He said Guinea's new electoral commission chief General Siaka Toumani Sangare, has assured the government and the Guinean people that his commission is ready to have a free and fair election despite many logistical problems.

Balde expressed uncertainty that Guinean security forces can keep the peace on election day.

"Guinean security forces don't like to keep peace because the violence of this week, they were there but witnesses said that the armed forces didn't do anything to keep the peace," Balde said.

Kenya Broadcasting Corporation

Wednesday, 27 October 2010

Court fails to stop ICC operations in Kenya

Written By:Dzuya Walter



A Mombasa court has ruled that it has no jurisdiction to interfere with investigations by the International Criminal Court (ICC) in a case where a businessman wants the court's operations in the country stopped.

Joseph Gathungu had moved to the High Court in Mombasa seeking orders to stop the ICC from investigating the 2008 post election violence.

Gathungu had argued that ICC prosecutor Luis Moreno Ocampo's activities of investigating and intended prosecutions were not provided for in the new constitution.

According to Gathungu allowing ICC to operate in the country amounts to surrender of sovereignty of Kenya to foreigners which was untenable.

In its ruling the court in Mombasa said hearing the matter would be in contempt of the international court adding that the court has no jurisdiction to interfere with ICC investigations on the post election violence.

ICC investigators have already visited post election violence hot spots which include Naivasha, Eldoret and Kisumu.

Reports indicate that the team had made good progress that could lead to the indictment of suspects by December as pledged by ICC chief prosecutor Luis Moreno Ocampo.

Ocampo is expected to visit the country next month to assess the progress made by the investigators.

Meanwhile, High Court judge Nicholas Ombija has granted temporal immunity to deputy town clerk Geoffrey Katsoleh against arrest over the 283 million shillings Nairobi City cemetery scam until November 9.

Katsoleh had last week moved to the High Court asking the court to stop the Attorney General and the anti corruption body, KACC from commencing any trial against him in relation with the cemetery scandal.

On Tuesday as Nairobi mayor Geoffrey Majiwa took to the dock in relation with the matter, the court was informed that KACC had not been able to arrest Katsoleh.

Senior principal magistrate Lucy Nyambura then issued summons against him to appear in court.

And sensing the possibility of the anti graft body going for him, Katsoleh through his lawyer George Kithy, managed to get orders barring the AG and KACC from arresting him until next month.

A report by the Controller and Auditor General released to Parliament implicated Nairobi City Council officers in overvaluing by 259 million shillings the 120-acre Mavoko cemetery land.

The audit report further says that the officers ignored valuation by the Ministry of Lands which quoted the price of the piece of land at 24 million shillings.

It was further claimed that the piece of land was not suitable for a cemetery.

14 people, among them former Local Government permanent secretary Sammy Kirui and former Nairobi Town Clerk John Gakuo have been charged with the scandal.

Voice of America

Wednesday, 27 October 2010

Sudan Governing Party Rules Out Cooperation with ICC

Peter Clottey



Photo: ASSOCIATED PRESS

Sudan's indicted President Omar Hassan Al-Bashir

A prominent member of Sudan's ruling National Congress Party (NCP) has said his party as well as the government in Khartoum will "never" cooperate with the Hague-based International Criminal Court (ICC).

Professor Ibrahim Ghandour, secretary for political affairs of the governing NCP praised what he says is Kenya's "strong efforts" of joining forces with the African Union to resist pressure from the (ICC) to arrest indicted Sudanese President Omar Hassan Al-Bashir.

"African people and African leaders see the ICC as (a) European and American court, although America is not part of it. But, it is being used as a probe in order to pass decisions against some African countries. This is why we highly praise the position of Kenya, the Kenya government and the Kenyan people," he said.

This came after an East African leaders summit was moved from Kenya to Ethiopia, a move that analysts say lessens the threat of arrest for Sudan's wanted President, Omar al-Bashir.

The leaders are expected to discuss upcoming referendums on southern Sudanese independence and the status of Sudan's oil-rich Abyei region.

Ethiopia is not a signatory to the ICC, meaning it does not have a legal obligation to arrest the Sudanese president, like Kenya.

Professor Ghandour said the Hague-based court seems not to be interested in justice, but rather to make political decisions against Africans.

"We repeat that this court has been established not for international justice because you cannot say that four of the veto holding states in the Security Council are not part of the ICC. And then the same Security Council refers dispute or case to the ICC in a decision which will look at it as a political decision that has nothing to do with justice."

The court has issued arrest warrants for Mr. Bashir on charges that he masterminded war crimes and genocide in Sudan's restive Darfur region.

On Tuesday, the International Criminal Court released a statement asking Kenyan officials to take all necessary measures to arrest Mr. Bashir and to turn him over for trial.

The ICC said Kenya has an obligation as an ICC member state to arrest the Sudanese leader.

But, NCP official Ghandour said Louis Moreno Ocampo, chief prosecutor of the Hague-based ICC has “not behaved as someone interested in justice.”

Bloomberg

Thursday, 28 October 2010

UN Hariri Tribunal Undeterred by Attack on Its Investigators in Lebanon

By Massoud A. Derhally

The United Nations tribunal investigating the killing of former Lebanese premier Rafiq Hariri said it is undeterred by an attack on its investigators at a clinic in a southern suburb of Beirut.

Two investigators and their interpreter were “violently attacked” yesterday morning by “a large group of people” when they went to meet a doctor at a private clinic, the Special Tribunal for Lebanon said in a statement late yesterday. The Lebanese army rescued the three staff members, and they received medical attention, according to a statement from the prosecutor’s office at the Hague-based court.

The attack “is a deplorable attempt to obstruct justice,” the tribunal said in the statement. “Those who carried out this attack must know that violence will not deter the Special Tribunal for Lebanon, a court of law, from fulfilling its mandate.”

Tensions have risen in the country in anticipation of an indictment by the UN tribunal, which may implicate members of the Shiite Hezbollah movement, a member of U.S.-backed Prime Minister Saad Hariri’s national unity government. That could lead to an outbreak of violence, according to some Lebanese politicians. Lebanon has seen repeated episodes of sectarian strife since a 15-year civil war ended in 1990.

Hariri supports the inquiry, while Hezbollah says the court was set up unconstitutionally, is politicized and biased, and should be abolished.

A crowd of women charged the clinic and attacked the investigators, Iman Sharara, the doctor at the clinic, told local Lebanese television channels.

The visit was handled “in accordance with legal safeguards,” had been approved by the Lebanese authorities, and investigators were accompanied by members of the judicial police and the army, the court said.

Several items belonging to the tribunal staff were stolen during the attack and Lebanese authorities are investigating, it said. Hezbollah has said it had nothing to do with the incident.

To contact the reporter on this story: Massoud A. Derhally in Beirut, Lebanon, at mderhally@bloomberg.net.

Commonwealth chief admonished by ICC over 'war crimes' remarks

Court rebukes Kamalesh Sharma for appearing to question duty of states to arrest those charged over human rights abuses



Kamalesh Sharma, the Commonwealth secretary general, is at the centre of an apparently deepening rift with the ICC. Photograph: Akira Suemori/AP

The Commonwealth secretary general has been censured by the international criminal court after appearing to question the duty of states to hand over war crimes suspects, the Guardian has learned.

A letter sent by the ICC, and seen by this newspaper, reveals a deepening rift within the Commonwealth secretariat over its approach to human rights, after the secretary general, Kamalesh Sharma, argued that the court did not have a duty to speak out over abuses by member states.

The disagreement began in August when Sudan's president, Omar al-Bashir, indicted by the court for genocide and crimes against humanity, caused uproar by visiting Kenya. As an ICC signatory, Kenya had an obligation to arrest Bashir, and its failure to do so drew criticism from both the court and European governments.

The Kenyan government argued that arresting him could have an averse effect on the Sudanese peace process. Officials also said Kenya had a duty to the African Union, which instructed its members to defy the ICC and not apprehend Sudan's president.

Sharma waded into the row in September, when he gave an interview to Daily Nation newspaper in Nairobi appearing to side with the Kenyan government.

"Every member state signatory to the Rome statute [establishing the ICC] has to weigh its obligations according to the commitments it has made to other organisations as well," he said in an article entitled "Club boss says Kenya in order over al-Bashir".

"It is a much more complex matter than saying that you have one obligation created by one institution," he continued.

The remarks provoked a letter to Sharma from Christian Wenaweser, the president of the ICC assembly of states parties, the court's legislative and oversight body. The 1 October letter reminded Sharma of the standing of an ICC arrest warrant in international law, backed by treaty and a UN security council resolution.

"What was alarming to me was that [Sharma's] comments seemed to indicate he agreed with the view expressed by the Kenyan officials that the obligation to the African Union overrides the obligation to fully co-operate with the ICC," said Wenaweser.

Sharma sent a response five days later reaffirming the Commonwealth's commitment to "upholding the rule of law".

In a statement, Eduardo del Buey, his spokesman, said: "With respect to Kenya's obligations to the ICC, the Commonwealth believes member states should respect and adhere to all aspects of international treaties they sign. This is unequivocal."

Del Buey added that Sharma had not been misquoted, but had simply been "recapitulating the position advanced by some in Kenya, and not the Commonwealth's".

Many in the secretary general's own organisation believe he is too quick to side with member state governments at the expense of human rights.

In a document leaked to the Guardian earlier this month, Sharma told his staff: "The secretariat has no explicitly defined mandate to speak publicly on human rights. The expectation is that the secretary general will exercise his good offices as appropriate for the complaint and not that he will pronounce on them."

The argument angered some on the secretariat who believed it contradicted a statute agreed by heads of governments in 1995 calling for the "immediate public expression by the secretary general of the Commonwealth's collective disapproval" of human rights abuses.

Del Buey said: "The Commonwealth secretariat works on human rights under the radar screen, unlike human rights groups that use the media to try to create change. We produce results, even if we don't claim credit for it."

Naharnet

Tuesday, 26 October 2010

Aoun: STL's Objective is Undermining Stability, Not Maintaining Justice



Free Patriotic Movement leader MP Michel Aoun on Tuesday noted that "the objective of the Special Tribunal for Lebanon is undermining stability rather than maintaining justice," adding that "the evidence is that many heads of state had died here (in Lebanon) before" with the United States remaining idle about their cases.

After the weekly meeting of the Change and Reform parliamentary bloc held in Rabiye, Aoun stressed that "the issue of the Judicial Council is clear, and everyone knows that the

murder of ex-PM Rafik Hariri had been referred to the Judicial Council since the beginning."

He clarified that "Opposition ministers have not set a deadline for resolving the false witnesses issue."

On the other hand, Aoun urged the Lebanese judiciary to speed up the issuance of verdicts against the perpetrators of an ambush against an army patrol in the Bekaa town of Majdal Anjar on Thursday, which had left an officer and a sergeant dead.

As Aoun condemned the "attacks" against Tourism Minister Fadi Abboud, he congratulated Telecom Minister Charbel Nahas "and our allies in the International Telecommunication Union for unveiling Israel's spying on the telecom sector."

The FPM leader called on the government to follow up on the issue.

He also asked the government to "publish the contracts with Sukleen (waste disposal company), so that we know what they contain."

"The defect that has been ongoing since 1993 at the Finance Ministry requires us to defend the public rights because debts have been increasing. We demand ultimate transparency in financial auditing and we won't accept any compromise," Aoun stressed.

United Nations News
Wednesday, 27 October 2010

UN-backed Cambodia tribunal vital in global fight against impunity, Ban says

The United Nations-backed tribunal in Cambodia dealing with mass killings and other crimes committed under the Khmer Rouge three decades ago is crucial in the world's fight against impunity, Secretary-General Ban Ki-moon said in the South-East Asian nation today.



Secretary-General Ban Ki-moon addresses Extraordinary Chambers in the Courts of Cambodia (ECCC)

The United Nations-backed tribunal in Cambodia dealing with mass killings and other crimes committed under the Khmer Rouge three decades ago is crucial in the world's fight against impunity, Secretary-General Ban Ki-moon said in the South-East Asian nation today.

As many as 2.2 million people are believed to have died during the 1975-79 rule of the Khmer Rouge, which was then followed by a protracted period of civil war in the impoverished country.

Under an agreement signed by the UN and the Government, the Extraordinary Chambers in the Courts of Cambodia (ECCC) was set up as an independent court using a mixture of Cambodian staff and judges and foreign personnel. It is designated to try those deemed most responsible for crimes and serious violations of Cambodian and international law between 17 April 1975 and 6 January 1979.

"You are helping the people of Cambodia continue the process of reconciliation and build a peaceful and prosperous future," the Secretary-General told the Court today.

"Your work is vital in the world's fight against impunity."

He said that it is nearly impossible to describe what took place in Cambodia in the 1970s, underlining the need for accountability for the "shocking" crimes.

"As a young person at the time, I was horrified" by the sheer scale of the killings and the incomprehensible inhumanity, Mr. Ban said.

He acknowledged that, as with all UN-assisted criminal tribunals, it is impossible to try all offenders.

"Nevertheless, putting the senior Khmer Rouge leaders on trial, even 30 years after, is itself a powerful message, a message that impunity will not be tolerated " neither by the people of Cambodia and their Government, nor by the United Nations and the international community."

The Secretary-General pointed to some key accomplishments the ECCC has made so far.

In its first verdict handed down in July, the Court found Kaing Guek Eav guilty of war crimes and crimes against humanity. Also known as Duch, the head of a notorious detention camp run by the Khmer Rouge

was given a 35-year prison term.

"This victory is significant " not only for the many thousands of people who died or were imprisoned in Toul Sleng prison, but also for survivors everywhere," Mr. Ban, who will visit the Genocide Museum at the prison site, said. "They can see justice being done."

He noted that Cambodians want to see justice done, with 31,000 people having attended Duch's trial, with many more having watched from afar.

In September, the ECCC indicted the four most senior members of the Democratic Kampuchea regime who are still alive for crimes against humanity, genocide, and grave breaches of the Geneva Conventions, as well as for violations of the 1956 Cambodian penal code, including murder, torture and religious persecution.

"Let us send a power signal to anyone, anywhere, who might commit such crimes in the future," the Secretary-General said.

Earlier today in the capital, Phnom Penh, he discussed the need for the Government's full cooperation and respect for the Court and its independence with Prime Minister Hun Sen, stressing that this is vital to enable the body to enjoy international support and to leave a strong legacy in Cambodia.

The ECCC, he stressed, was set up to be fully independent and that even the Secretary-General should not seek to influence its decisions in any way.

Human rights were also a focus of their talks, with Mr. Ban expressing appreciation for the Cambodian Government's cooperation with all human rights mechanisms. He also emphasized the importance of creating political space for public debate, including on human rights.

The Secretary-General underlined the essential public advocacy role of the UN Office for the High Commissioner for Human Rights (OHCHR), stressing the notable role and value of its Phnom Penh office.

Other issues discussed between the two men today included the important role the UN has played since 1993 in the area of elections in Cambodia, the situation in Myanmar and the partnership between the world body and the Association of Southeast Asian Nations (ASEAN).

Mr. Ban is in the region for a four-nation trip that started in Thailand and will also take him to Viet Nam and China.

Source: UN News

Agence France Presse

Wednesday, 27 October 2010

French court rejects request to free Rwandan rebel leader

PARIS — A French appeals court on Wednesday rejected a request by Rwandan rebel leader and war crimes suspect Callixte Mbarushimana that he be released from detention.

French authorities arrested Mbarushimana, 47, earlier this month on a warrant issued in September by the International Criminal Court (ICC) in The Hague.

The ICC said Mbarushimana faces five charges of crimes against humanity and six war crimes charges for murders, rapes, torture and destruction of property in eastern DR Congo in 2009.

He has lived in Paris as a leader-in-exile of the Rwandan Hutu rebel group the Democratic Forces for the Liberation of Rwanda (FDLR), having received refugee status in France in 2003.

The Paris court rejected his request following an argument by the prosecution that he could leave the country.

The crimes were allegedly committed during a series of "widespread and systematic attacks" by FDLR fighters against civilians in the Nord Kivu and Sud Kivu provinces, according to ICC prosecutors.

They said there were reasonable grounds to believe Mbarushimana "personally and intentionally contributed" to plotting "widespread and systematic attacks against the civilian population in order to create a humanitarian catastrophe" which could be exploited for political gain.

Some Hutu rebels who are members of the FDLR are accused of having participated in the 1994 genocide in Rwanda, which witnessed the killings of 800,000 Tutsis and moderate Hutus.

Hirondelle News Agency

Tuesday, 26 October 2010

Bagaragaza transferred to Sweden

Genocide-convict Michel Bagaragaza, who was sentenced to eight years in jail a year ago by the International Criminal Tribunal for Rwanda (ICTR), for the role he played in the 1994 Tutsi genocide, has been secretly transferred from Arusha to Sweden.

"The Registrar took care of his transfer on July 19, 2010, following a confidential decision taken on June 28, by ICTR President, designating Sweden as the State where the convict should execute the remainder of his sentence, "ICTR spokesman Roland Amoussouga revealed to Hirondelle News agency on Tuesday.

He added, "Michel Bagaragaza was transferred to a prison located hundreds kilometers from Stockholm", the Swedish capital.

The ICTR gave Bagaragaza, former head of the Rwandan Tea Authority, the custodial sentence on November 5, 2009, after pleading guilty for his role in the 1994 genocide.

He is the first ICTR convict to be sent to Sweden, a country which has signed with the UN an Agreement on the enforcement of sentences. Before his transfer, the convict was held in Arusha in an isolated area from other inmates.

Bagaragaza had special reasons to fear for his security. He had testified against several prominent personalities of the previous regime who were charged by the ICTR, notably Protais Zigiranyirazo.

However, his testimony as a "key witness" of the prosecution in Zigiranyirazo's case did not, at the end, convince the judges. Habyarimana's brother-in-law was acquitted on appeal in November 2009.

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Prosecutors May Charge Hotel Rwanda Operator

The man who inspired the film Hotel Rwanda is facing possible prosecution in his home country on charges that he supports a regional rebel group.

Rwanda's top prosecutor said Wednesday that Paul Rusesabagina sent money to the Democratic Forces for the Liberation of Rwanda — a Hutu rebel group founded by those who carried out the 1994 Rwandan genocide.

The prosecutor said the government has evidence Rusesabagina acted with jailed opposition figure Victoire Ingabire to help finance the rebels.

In an interview from Brussels, Rusesabagina told VOA Wednesday that he has not sent money to Rwanda for at least seven years. He said the Rwandan government is conducting a smear campaign against him.

Rusesabagina saved hundreds of Rwandan lives by sheltering them in his hotel during the genocide. His story was portrayed in the film Hotel Rwanda with actor Don Cheadle playing Rusesabagina.

Rusesabagina has been a critic of Rwandan President Paul Kagame, and recently denounced the jailing of Ingabire. Rwandan officials accuse Ingabire of conspiring to form a terrorist group.

Hutu extremists killed an estimated 800,000 ethnic Tutsis and moderate Hutus during the 1994 genocide.

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ICRC convenes on laws of war

Members of the international community are called on to respect international humanitarian law when considering war crimes, the ICRC said from Geneva.

Cristina Pellandini, the lead adviser on international humanitarian law for the International Committee of the Red Cross, said world governments need to respect their international obligations when prosecuting and examining grave breaches of the laws of war.

"We also encourage states, when enacting criminal legislation for war crimes, to take into account all of their obligations requiring them to ensure respect for international humanitarian law," she said in a statement.

Washington is under fire for the military tribunals set up to prosecute alleged Taliban and al-Qaida supporters. Other governments face similar scrutiny for extrajudicial measures and for tolerating atrocities in the territory.

The ICRC is leading a meeting Wednesday in Geneva that address international humanitarian law. Delegates from more than 100 countries are in attendance, the organization said.

"We will encourage discussion of an approach enabling states to effectively punish all war crimes, and to find complementary support from the international tribunals, particularly the International Criminal Court," Pellandini said in her statement.