

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

**PRESS CLIPPINGS**

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

Friday, August 06, 2004

The press clips are produced Monday to Friday.  
If you are aware of omissions or have any comments or suggestions please contact  
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*at the Special Court...*

# Former CDF Director of War denied bail

By Odilia French

The former Civil Defence Forces (CDF) Director of War, Moinina Fofanah, who is standing trial at the Special Court on a seven-count charge, was yesterday refused bail after an application made by his Defence. In his ruling, designated Judge of the

Trial Chamber, Justice Benjamin Mutanga Itoe said that the accused if released could escape and pose threat to victims, witnesses... He said that the Defence did not furnish the Court with any legal, moral guarantee that the accused if granted bail would not pose any threat to the public. Justice Itoe

went on to say that the Defence in their submission sought an application for bail for Moinina Fofanah on the grounds that if he were granted bail, he would always appear in Court. He said the Defence went on further to submit that the accused has never travelled out of the country; is a deputy

Paramount Chief of his Chiefdom (Gbagbap Nogonbar Bullom) and has four wives and 18

children. The Defence also said that if the accused is granted bail, he will live in Gbagbap and should be given

a 7:00pm curfew, reporting to the Paramount Chief and should neither be involved in

*Contd. Page 2*

the 1<sup>st</sup> accused and letting the submitting... (the accused) had said.

## Former CDF Director of War denied bail

*From Front Page*

any political activities nor contact the Press. The Defence, the Judge said, also submitted that the accused would not pose any danger to the victims or witnesses, as he does not even know them. The Prosecution, Justice Itoe said,

in their response said that the Defence in their application did not sufficiently meet the pre-condition of granting bail. He said that they filed in a confidential report to the Trial Chamber, which disclosed that the accused has travelled to Libe-

ria and Guinea and that the accused was present in a meeting with the CDF, advising them not to provide information to the Special Court. Justice Itoe said the Prosecution responded further that the accused if released, would endanger public safety.

*Awoko*

*Friday August 06, 2004*

# SPECIAL COURT ALAGBA RESIGNS

DAKAR (IRIN) - Robin Vincent, the man who set up Sierra Leone's international war crimes tribunal, has said he will stand down in the autumn but UN Secretary General Kofi Annan and several governments have begged him to reconsider, a court spokesman told IRIN on Wednesday.

Vincent, a British court administrator, was appointed two years ago by the United Nations and has presided over the construction of the Special Court, which was built from scratch to try those that bear the greatest responsibility for atrocities committed during Sierra Leone's brutal 10-year civil war.

Vincent's resignation comes at a time when the court is waiting for its bud-

**SEE BACK PAGE**

Sierra Leone Times

Friday August 6, 2004

Salone Times

Friday August 6, 2004

get for the final year of its three-year mandate to be approved and is examining ways to fund proceedings if they run past 2005.

A Western diplomat in the capital Freetown told Ivin Vincent had felt frustrated.

"I think he felt he wasn't getting the support he needed from some quarters," the diplomat said. "It's no secret that he was finding it difficult to run the court given the uncertainty of not having guaranteed finances."

Special Court spokesman Peter Andersen said Vincent had signalled his intention to leave during a senior staff meeting in July, saying he would go in three months time.

"He's been prevailed upon by the Secretary General, the Sierra Leonean government, the British government and others, who have all asked him to reconsider," Andersen added.

The Western diplomat said he was hopeful Vincent would change his mind.

Sierra Leone's Special Court went into the history books as then first international war crimes tribunal to sit U.N. appointed international judges alongside local judges at a court in the country where the atrocities took place. It aimed to deliver justice cheaper and faster than tribunals for Rwanda and Bosnia and quickly indicted 11 people.

But funding has remained a key frustration. Just 33 of the 191 UN member countries had provided funds for Special Court, and pledges made for the court's third year had had to be brought forward to cover the second year of operations.

Court officials say the budget for the Special Court's final year is in the region of \$28 million, bringing the total cost for its three-year mandate to \$30 million—some \$40 million less than is needed to run the Rwanda war crimes tribunal for just one year.

Concord Times

Friday, August 06, 2004

## Local News

# Special Court registrar announces resignation

Robin Vincent, the man who set up Sierra Leone's international war crimes tribunal, has said he will stand down in the autumn but UN Secretary General Kofi Annan and several governments have begged him to reconsider, a court spokesman told IRIN on Wednesday.

Vincent's resignation comes at a time when the court is waiting for its budget for the final year of its three-year mandate to be approved and is examining ways to fund proceedings if they run past 2005.

"I think he felt he wasn't getting the support he needed from some quarters," a Western diplomat in Freetown told IRIN. "It's no secret that he was finding it difficult to run the court given the uncertainty of not having guaranteed finances."

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Trials of government militia leaders from the Civil Defence Forces began in Freetown in June but then adjourned so that the leaders of the rebel group Revolutionary United Front could appear in the dock in July.

The third group of indictees from the Armed Forces Revolutionary Council, a military junta that ruled Sierra Leone from May 1997 to March 1998, is still awaiting trial because judges need to be recruited for the second chamber.

*Credit: IRIN News*

# Issa Sesay leaked Kabbah's overthrow

Issa Sesay, Special Court indictee and former Revolutionary United Front commander has been named in the Sierra Leone High Court to have leaked the coup plot that would have led to the overthrow of President Kabbah early last year. According to the Abdulai Tarawallie, evidence of Daniel alias Master Sergeant Musa Junisa, Prosecution that they are plotting the overthrow of Witness 18 at the President Kabbah and on-going treason trial of Lance that Johnny Paul Corporal Daniel Koroma, presently a Sandy and fifteen fugitive, to be the head of state. others, one of the accused persons. PW 18 Junisa in his



statement to the police said that when Master Sergeant had revealed his mission, Issa Sesay had later informed him exactly what was

*Cont. page 3*



*Issa Sesay: informer?*

## Issa Sesay leaked Kabbah's overthrow

*From page 1*  
being planned.  
Junisa admitted offering his cell phone to Sesay so that they could alert the authorities. PW 18 explained that they used the phone to call up Ambassador Oluyemi Adeniji, the then Special Representative of the UN Secretary General in Sierra

Leone, informing his about the planned coup plot. The witness also stated that Adeniji replied over the phone that Issa Sesay should inform the police and keep a close look on the movement of the alleged plotters. Junisa said that since that day police authorities were alerted.

*The News*

*Friday August 6th, 2004*



## Debate Over al Qaeda's Connection to West Africa's Diamond Trade Takes New Turns

allAfrica.com

INTERVIEW

August 5, 2004

Posted to the web August 5, 2004

Washington, DC

*The arrest of a Tanzanian fugitive in Pakistan last week, release of the 9-11 Commission report in Washington and a forthcoming finding by a war crimes tribunal in Sierra Leone have rekindled the debate over what role, if any, west African diamonds played in financing the September 11, 2001 terrorist attacks in the United States.*

*Ahmed Khalfan Ghailani, a Tanzanian accused of masterminding the 1998 bombings of American embassies in Nairobi and Dar es Salaam, who was arrested by Pakistan security forces along with more than a dozen other al Qaeda suspects, has been identified as a linchpin of an al Qaeda diamond trading operation in Liberia and neighboring Sierra Leone. Washington Post correspondent **Douglas Farah**, in a recently published 225-page book entitled "Blood from Stones: The Secret Financial Network of Terror," provides a detailed description of al Qaeda's activity in West Africa. Corroborative accounts have been published by the London-based nongovernmental organization Global Witness and by the Special Court for Sierra Leone, established by the United Nations to investigate crimes against humanity committed during Sierra Leone's brutal civil war in the 1990s.*

*According to Farah, American intelligence agencies overlooked the connection between diamond trading and al Qaeda and the central role played in harboring and profiting from the illicit dealing by Liberian President Charles Taylor, who was forced into exile in Nigeria last year under a deal brokered by the U.S. government. Farah's findings have been hotly disputed by the CIA and FBI, and their viewpoint was reflected in the recently release report of the National Commission on Terrorist Attacks Upon the United States, also known as the 9-11 Commission. "We have seen no persuasive evidence that al Qaeda funded itself by trading in African conflict diamonds," the report states (page 171).*

*But a confidential investigation by the Sierra Leone Special Court further bolsters the view that that the alliance between Taylor and al Qaeda was substantial, according to an article in Wednesday's Boston Globe by Washington correspondent Bryan Bender. "Al Qaeda allegedly paid Taylor for protection and then joined him in the African diamond trade, raising millions of dollars for terrorist activities, according to UN war crimes documents," Bender wrote. Citing the Special Court's investigation and U.S. intelligence official, Bender said a planned raid a few weeks after September 11, 2001 by U.S. Special Forces aimed at capturing Ghailani and an associate in Liberia was called off for unexplained reasons. One explanation raised by Bender's sources was Taylor's reported longstanding relations with the CIA.*

*Farah, who currently serves as senior fellow at the National Strategy Information Center, discussed with AllAfrica's Eunice Ajambo the 9-11 Commission findings, the interaction between Al Qaeda and West Africa's diamond trade, and his view of the role U.S. intelligence has played. Excerpts:*

**What is your reaction to the single sentence in the 9-11 Commission report that dismisses African diamonds as a source of al Qaeda funding?**

If you look at the footnotes of that particular citation, it's all FBI and CIA reports with the exception of an interview they quote with Allan White from the Special Court in Sierra Leone. I find it disturbing because they had access to the Belgium police report, which I have on my website, which they were given. The Special Court also wrote a special brief to them and the intelligence indicating al Qaeda's presence. The book, the Global Witness Report - none of those are cited as having been used at all in making their determination.

I think the 9-11 Commission was under a great deal of pressure to make hurried judgments. In my limited communication with them, they told me that they could not get to the bottom of the dispute. If you read my book, I have a lot of discussion of why the CIA tried to discredit the story, and the great lengths that they went to do so, despite the fact that they did not succeed, and the fact that more evidence continues to emerge [that] the story is actually correct. But there is a great hostility towards the story from the intelligence community, and all the commission did was take the intelligence community reports and use them as their basis for making their assertions.

I was really disappointed because several people talked to them after their initial staff report came out that contained that sentence. They do not seem to have listened to anybody, and they certainly didn't acknowledge [in their footnotes] that there was any other information out there.

**The 9-11 Commission also stated "to date, we have not been able to determine the origin of the money used for the 9-11 attacks?" How do you respond to that?**

The proof of the telephone contacts to Afghanistan on September 10th and the prior communications from the Belgium police who traced the phone call from the satellite phone used by Aziz Nassour and Samih Osailly [two al Qaeda operatives whose activities in west Africa are detailed in Farah's book] is not hearsay evidence. They made numerous calls and it's documented. I have the phone bills for them, and more importantly, the police got them out of the official records. I do not think it's something you can easily dismiss. Neither are the bank records from Artesia Bank that show \$20m flowing and being unaccounted for, and all the other indications that other people came up with.

To just say, "we do not know where the money came from," seems a little bit disingenuous. My sense is that the report on how things went was largely based on official documents given to them by the intelligence community. And the intelligence community had a vested interest in trying to discredit this story. The panel, I think, just did not have the time or inclination to really investigate this. It wasn't really the focus of what they were doing. So it took the word of the CIA and the FBI, and used it, and unfortunately they are wrong.

**Several investigations by other organizations have found evidence that corroborated your findings linking al Qaeda to the West African diamond trade. Do you think the 9-11 commission will revisit the evidence provided by these organizations?**

I do not expect them to revisit the issue. There is a cultural resistance in the intelligence community to using any information that does not originate with themselves, and unfortunately in this case, they had no information. So the reaction to other information from me, from Global Witness, from the Special Court, from the Belgium police and from all the other players was that, 'We did not have it, and therefore it can't be true.' I am afraid what we have seen with the 9-11 commission report is pretty much the final word. I do not have any indication they'll be revisiting the issue at all.

**Why do you think U.S. policy makers ignored al Qaeda's Africa associations in the first place?**

The U.S. has not perceived itself to have a strategic interest in sub-Saharan Africa on the terrorism front until very recently. I think that what you are seeing now is a little bit more interest, but only moderately more interest. The policy for decades has been neglect of sub-Saharan Africa. There is no administration that has given much attention to African issues. Europe has also been extremely negligent, and what you have is a consequence of that negligence, and the lack of strategic thinking on the part of the U.S. and



others.

The development, not only in Liberia, [of] a functioning criminal state, is not a secret to anyone who has been to the region or who lives in the region. You have widespread corruption. You have vast areas of a country like the Democratic Republic of Congo where the state has no control. You have the Central African Republic, where government controls essentially only the capital. Mali, Chad, Niger [and] Nigeria all have very large areas where other armed groups outside of the state control the resources and life there. That whole scenario is part of the neglect by the outside world.

### **Why was Al Qaeda interested in West Africa?**

Diamonds were perfect for several reasons. They are easy to transport. They have extremely high value in a very small packet, they are easy to convert into cash, and the market is big enough that it does not react to small sales, such that if you sell a few carats of diamonds the whole diamond market does not go out of register. It was extremely convenient from that point of view.

But perhaps the most important thing that west Africa offered was Liberia under Charles Taylor. Liberia had become a criminal and terrorist Disneyland under his management, from which he was making a substantial sum of money. Taylor had allowed in Victor Bout, the largest illegal weapons merchant in the world. He had allowed in Leonid Menin, a very large Ukrainian drug trafficker. He allowed in South African and Balkan organized crime.

Liberia and the border into Sierra Leone that the RUF controlled offered terrorist and organized criminal structures a safe haven where they could enter and leave the country unmolested to carry out their business and have access to natural resources that were extremely important to them.

### **Alex Yearsley of Global Witness asserts that, "Taylor received CIA payments until January 2001." You write about dealings between the CIA and Ibrahim Bah, the Senegalese mastermind who coordinated the diamond trade with al Qaeda. Why would the CIA form this kind of partnership?**

It's a disturbing question. I do not have direct knowledge myself of the CIA dealings with Taylor. Taylor has told others and me that he has worked for the CIA over time. As part of the lack of interest in Africa, the recruitment of intelligence efforts has been very limited - especially after the diamond story. When they want to get a handle on it, who better than Ibrahim Bah, the person who had brought the al Qaeda people into Liberia and Sierra Leone to begin with? It's a symptom of a lack of moral principles in trying to get information. It's fairly clear that Ibrahim Bah and Charles Taylor, who have lived for many years by their wits and by not playing by the rules, probably provided very little information of any value to the intelligence.

### **You write that the diamond trade in Africa transcends ideological and religious differences. Could you please talk more about the business dealings between Israeli and Lebanese merchants in West Africa?**

One of the most alarming and shocking thing in my dealing with the diamond trade in west and central Africa was the willingness of Israelis and Arabs, who want to kill each other in their homelands, to do business with each other on the ground in Africa. I met Hezbollah diamond dealers who were selling to Israelis and Israelis who were selling to Hezbollah, knowing that Hezbollah was trying to kill Israelis in the Middle East, and Hezbollah knowing that the Israelis wanted to kill their family members back there.

I think it's one of the truly extraordinary demonstrations of the depth to which people will sink in their greed for diamonds. It's the epitome of the worst kind of greed and corruption of moral principles. They come with the desire to make money at any cost. What both the Arabs and Israelis told me was, 'Business is business. Here we do business. Back there is war and back there is not our problem.' If you look at the ties between Lebanese with ties to radical Islamists trying to buy weapons with Israelis to ship [elsewhere], it's a

web that is very complicated, very difficult to understand, and very hard to believe unless you see it and talk to people yourself.

### **What about Eastern Africa?**

Eastern Africa has long been - because of the Muslim population over there and al Qaeda's ties into that region, going back to the early part of the 1990s - a known quantity as far as al Qaeda goes. You had the embassy bombings in 1998, you had the U.S.S. Cole bombing in 2000 [in Yemen], and you had the 'Black Hawk Down' in Somalia, earlier than that, in which al Qaeda was also involved. So there was some understanding, although limited, of al Qaeda's operational capabilities and intent to move in the East African sphere. It was only after the 1998 embassy bombings that al Qaeda moves a large contingent its personnel - I think mostly for safe keeping, because they knew that the U.S. would be tracking them down - to West Africa. And that's where you see the West African connection being made.

### **What is the connection between Saudi Arabia, Africa and al Qaeda from your research experience?**

I am learning that the influence of the Saudi Arabian charities particularly, and their efforts to export the very austere, radical part of Islam known as Wahhabism, is spread much further in sub-Saharan Africa, especially in west Africa, than most people outside the region know or understand. If you look at the charities that operate there, if you look at the Wahhabi takeover of mosques in Mali, Niger, Mauritania et cetera, and the move to put millions of dollars into northern Nigeria.

What Wahhabism preaches is that not only Christian and Jews are infidels and can be killed, but also Muslims who do not agree with them can be killed. So you have this very harsh, radical branch of Islam moving in and exercising a great deal of influence in sectors of west Africa in ways that are extremely dangerous to developing democracy and tolerant societies, and in areas where there already deep ethnic conflicts to which this kind of radicalism can [spread] into and breed.

### **The Center for Strategic and International Studies recently released a study of the rising U.S. stakes in Africa, specifically pinpointing the Muslim community in Africa as a major U.S. foreign policy concern. Do you agree?**

The U.S. is becoming aware of the potential threat posed, not by the Muslim community, but by the ability of radical Islam to take control of the Muslim communities and turn them into recruiting grounds for Jihadists and Wahhabists. It's very clear that the tradition of Islam in west Africa is extremely tolerant. In Liberia and Sierra Leone, I knew Moslems who had married Christians and Christians who had married Moslems, and there was not an issue. But what you'll see is a Muslim community, which is largely impoverished and has very little access to state resources, and which has very few ways of bettering their lives - when money flows in from outside with offers to help, they will take it. And with that help, will come radicalization of Islam in many parts of west Africa.

The United States is just starting to recognize that problem. The question is how you deal with that. We simply do not have the resources or the strategic thinking to begin to figure out ways to make moderate Islam more attractive, to put resources in teaching ways of democratic systems and to give the social services that states do not give.

### **What does al Qaeda look for in African countries to advance its interests?**

Al Qaeda looks for different things in different areas. It's clear that they would like to expand their pool of potential recruits in the Islamic communities wherever they find them. What sub-Saharan Africa offers them that other parts of the world don't are the abilities that they had in Liberia, to move into states that would protect them and operate with them for monetary reasons. Charles Taylor was not a Muslim. He is a Christian, and yet he was perfectly happy to deal with these people because they were willing to pay him.

If you look at failed states and what sociologists are now calling "gray areas" or stateless areas - areas across sub-Saharan Africa and other parts of the world where armed groups, rather than states control assets - that's where these people like to go because then they have a rest and recreation area. They have a recruiting pool, and they have a way to hide out, when they need safety.

**Is there a possibility of eradicating the financial networks supporting terrorism?**

To eradicate the terrorist financial structure is extremely difficult because the phenomenon of al Qaeda and radical Islam is not limited to a few people, where you could kill them and go back to the way things were. It's become a theology and ideology of widespread appeal among people who feel they have no way of improving their lives, and who feel they have nothing to loose by going into the Jihad against the west and against their religious enemies as defined by extremist Muslims. You can't get rid of the pool of talent and money that the Jihad can draw - not in the near term and probably never.

You have to think in ways of combating them, not just militarily but on the religious front, with moderate Islamic principles and with democratic principles, with meeting people's social needs, health needs and educational needs in ways that governments so far have been unwilling or unable to do, partly because of the endemic corruption in these states. Another thing that plays into the widespread dissolution, and that makes something disciplined and coherent like the theology and ideology [of] al Qaeda attractive to people is that they are stuck in countries that offer them nothing, and where the culture of the "big man" is so strong that they have no hope of ever improving their own lives.

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# UN proves Taylor aided Al Qaeda

The senior Al Qaeda operative captured in Pakistan last week met with former Liberian president Charles Taylor in the years before and after Sept. 11, 2001, and received refuge from the former US ally while planning further terrorist operations, according to US intelligence officials and United Nations investigators.

The officials and investigators also painted a picture of Liberia

under Taylor as a haven for Al Qaeda, and raised new questions about why the United States waited so long to support Taylor's ouster and continues to refrain from using its influence to bring him before a UN war crimes tribunal.

The Defense Department approved a special forces raid to capture Al Qaeda leaders under

*Continued page 3*



*Charles Taylor*

Taylor's protection in 2001, but called it off and never reactivated the plan, the US officials said in recent interviews, on condition of anonymity. Meanwhile, senior leaders of Al Qaeda continued to receive Taylor's protection.

On July 25, Ahmed Khalil Ghailani was arrested in eastern Pakistan along with more than a dozen other Qaeda operatives and is being held in connection with the 1998 bombings of two US embassies in Africa. But for at least three years beginning in the late 1990s, he lived in an army camp and hotels run by Taylor's government in Liberia. In addition, Taylor's forces harbored other suspected Al Qaeda leaders, including MIT-educated biologist Aafia Siddiqui, US officials and UN investigators said.

Al Qaeda allegedly paid Taylor for protection and then joined him in the African diamond trade, raising millions of dollars for terrorist activities, according to UN war crimes documents.

Taylor, who was deposed last year, is living in exile in Nigeria under a deal brokered by the United States. The US government has been under increasing pressure to help persuade Nigeria to turn Taylor over to the UN tribunal in Sierra Leone, which has indicted him for atrocities in various West African nations. But the United States, which officials have said used Taylor as a CIA informant and backed his Revolutionary United Front in the mid-1990s, has so far refused.

"It is clear that Al Qaeda had been in West Africa since September 1998 and maintained a continuous presence in the area through 2002," according to a new confidential report by the UN

The report was written by UN investigators preparing the case against Taylor.

State Department officials were not available for comment yesterday about the report or alleged links between Al Qaeda and Taylor, who took power in a 1997 civil war. The Bush administration froze Taylor's assets July 23. President Olusegun Obasanjo of Nigeria has called it a matter of national "honor" not to go back on its exile agreement with Taylor.

Neither the United States nor Nigeria has commented on Liberia's alleged Al Qaeda links under Taylor. Nevertheless, the UN investigation found that Ghailani, who was sent to Liberia in 1999 to help coordinate Al Qaeda investments in the diamond trade, met with Taylor, along with Al Qaeda leaders Fazli Abdullah Mohammed, Abdullah Ahmed Abdullah, and Sheikh Ahmed Salim Swedan. All three are wanted in the 1998 bombings of US embassies in Kenya and Tanzania and remain on the FBI's list of 22 most wanted terrorists.

Mohammed and Swedan, like Ghailani, are of African descent. Pakistani authorities yesterday told the Associated Press that two "high-level" Al Qaeda operatives were captured in Punjab. The officials did not provide details on their identities, but said the two were of African origin.

Ghailani and Mohammed arrived in Liberia in March 1999 from the Ivory Coast, according to the UN report. They traveled to Monrovia as guests of Taylor and met with him at his Congo Town residence. Both stayed at the Hotel Boulevard in Monrovia.

Both men remained in Liberia for several years, staying at a military camp near the Sierra Leone border and in government-run hotels in Monrovia, according

to the investigation. The same connections are detailed in a Belgian police report on two men who now face trial in Belgium for smuggling diamonds from Sierra Leone. They allegedly had business ties to the Al Qaeda diamond buyers, including Mohammed.

The UN report outlined a series of alleged links between Al Qaeda leaders and Taylor's regime:

--Mohammed served as a driver in 2000 and 2001 for General Sam Bockarie, a senior Taylor commander.

--Mohammed Atef, then Al Qaeda's military commander, met in early 2000 with General Issa Sesay, another Taylor commander. Atef is believed to have been killed in the US-led invasion of Afghanistan in 2001.

--Siddiqui, the MIT-trained microbiologist who is also on the FBI's most-wanted list, arrived in Monrovia in June 2001 as a guest of one of Taylor's top lieutenants. She was there for a week, investigators said, to meet with Al Qaeda operatives -- including Ghailani -- to get a status report for her superiors in Pakistan on the terrorist group's gem trade.

The FBI posted Siddiqui's photo, along with Ghailani's and Mohammed's, in May as part of a list of individuals who may be planning attacks.

According to the UN investigation, a copy of which was obtained by the Globe, "the corrupt regime of President Charles Taylor of Liberia facilitated access for Al Qaeda operatives into Sierra Leone and Liberia in exchange for diamonds and weapons."

"Charles Taylor was in the back pocket of Al Qaeda," said a US intelligence official who corroborated the UN's main findings.

*Credit: The Boston Globe via*

Concord Times  
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08/05/2004 12:31:38

## UN pursues withdrawal in Sierra Leone

FREETOWN, Aug 5 (AFP) - The UN mission in Sierra Leone has withdrawn from the strategic diamond district of Kenema and has plans to be out of the capital Freetown in October, officials said Thursday.

"We are ensuring that there is a progressive and commensurate improvement in the capacity-building of the Sierra Leone police and the military forces," military spokesman Major Onyema Nwachuku told AFP.

"We have a national handing-over ceremony slated for October in Freetown, which will be a wrap-up ceremony to climax the full turnover of security to the local enforcement agencies."

Local police in the eastern town of Kenema, which was a hotspot for the fighting that raged from 1991-2001 in the tiny country, officially assumed control over the diamond-mining district on Wednesday.

Kenema is the latest strategic area to be reverted to local control, following the eastern Kono district last week and the northern area of Makeni and southern Bo district in the past several months.

The formal handovers are all part of the drawdown of UN forces as they prepare Sierra Leone to stand alone for the first time in more than a decade.

At its peak, UNAMSIL was the world's largest peacekeeping mission with 17,000 troops.

But after five years and countless extensions, most recently in March, the UN is preparing to wrap up its operations. A contingency force of 3,250 Ghanaian, Pakistani and Nigerian troops will be put in place come December to ensure security for at least six more months.

British rapid-response troops, known as IMATT, will also remain in Sierra Leone for an extended period of time.

There are roughly 10,000 peacekeepers still in Sierra Leone, many of whom are involved in the training of local law enforcement and security agencies including the newly-reconfigured national army.

Despite assurances from UN and Sierra Leone officials that there will be no security vacuum when UNAMSIL finally pulls stakes, citizens are wary about the challenges that will be confronting their as-yet untested law enforcement agencies.

Of particular concern is the border regions and the diamond-mining areas that have been a lure not only for Sierra Leone's own insurgents but also groups such as Hezbollah and al-Qaeda, documents collected by western intelligence agencies show.

"There are 36 crossing points existing in Kono district, linked with Guinea and Liberia, most of them unmanned and used by illegal migrants to enter the district," said Ansumana Lahai, a Freetown taxi driver who fled diamond-rich Kono for the capital at the height of the civil war.

"Do the police and army have the logistics to keep a watchful eye on people?"



## **Cote D Ivoire: More Bodies Lie in Korhogo Mass Graves - Diplomat**

### **UN Integrated Regional Information Networks**

NEWS

August 5, 2004

Posted to the web August 5, 2004

Abidjan

Many more bodies lie in the mass graves discovered near the rebel-held city of Korhogo in northern Cote d'Ivoire than the 99 revealed by a UN human rights team earlier this week, according a diplomat closely connected with the investigation.

The source told IRIN that the UN investigators counted a total of 99 complete bodies, which are thought to be the remains of people killed during clashes between rival factions of the rebel movement last month.

However, beneath these, lay the remains of other bodies in an advanced state of decomposition and it was impossible to say accurately how many bodies they represented, the source told IRIN.

And beneath this second layer of decomposed bodies, the UN investigation team discovered a third layer of corpses, he added, without giving further details.

The United Nations mission in Cote d'Ivoire, which is known by its French acronym ONUCI, said in a statement on Monday that "the commission of inquiry discovered and confirmed the existence of three mass graves containing at least 99 people. Some of these people were killed by bullets. According to several credible witnesses, others died from asphyxiation."

But the source said the figure of 99 represented just those bodies that the UN investigators "were able to count."

Asked about a report by the UN World Food Programme (WFP) last Friday that the UN investigators had actually found four mass graves containing about 150 bodies, he dismissed it.

Several residents in Korhogo, a city 650 km north of the commercial capital Abidjan, told IRIN that they believed up to 500 died in heavy fighting in the city between supporters of rebel leader Guillaume Soro and his exiled rival Ibrahim Coulibaly, who is widely known as "IB," and in a manhunt for suspected IB supporters afterwards.

The rebel New Forces movement said straight after the event that the clashes began with an assassination attempt on Soro, who was in Korhogo at the time, and that only 22 people died. It has reserved comment on the UN statement implying that casualties were much higher until the investigation team's full report is published.

Diplomats said the revelations about mass graves in Korhogo were likely to prove as embarrassing for the rebels as a UN investigation into the government's violent repression of an opposition demonstration in Abidjan in March, which revealed that at least 120 people had been killed by the security forces, many of

them innocent civilians. The government said only 37 died.

RADDHO, a Dakar-based human rights organisations, reacted to news of the mass graves in Korhogo by calling for an international war crimes tribunal to be set up in Cote d'Ivoire, modelled on Sierra Leone's Special Court, which is presently trying those deemed to bear the greatest responsibility for atrocities committed during that country's 1991-2001 civil war.

Indeed, RADDHO suggested that the remit of the Sierra Leone court should simply be extended to include war crimes committed in Cote d'Ivoire since President Laurent Gbagbo came to power in 2000.

RADDHO (The African Assembly for the Defence of Human Rights) said: "The culture of masscare and barbarism is taking root in both the north and south of Cote d'Ivoire in a way that is similar to what took place in Rwanda."

Meanwhile, reports from France suggested that IB might soon be on his way back to Cote d'Ivoire to challenge Soro's leadership of the rebel movement in a more direct and personal manner.

IB, a former master sargent in the Ivorian army, who helped mastermind a successful coup in 1999, has been living in France for the past year. He and 11 other men were arrested by the French authorities on August 23 2003 on suspicion of planning to destabilise Cote d'Ivoire with the help of mercenaries.

IB and most of the others were released three weeks later, but the Ivorian rebel hero was banned from leaving France and returning to his home in Burkina Faso while investigations continued.

However, Radio France Internationale reported on Thursday that a Paris court had lifted the travel ban earlier this week.

Meanwhile, Ivorians are waiting for Gbagbo to take the first steps towards reconvening Cote d'Ivoire's broad-based government of national reconciliation for the first time in four months, following a West African summit in Accra last week aimed at putting the country's derailed peace process back on track.

In New York, UN Secretary General Kofi Annan said he expected the cabinet, which includes nine rebel ministers and representatives of the main parliamentary opposition parties, to meet with the president on Monday.

The rebel movement and the opposition parties withdrew their 26 ministers from the government in March in protest at Gbagbo's heavy-handed repression of the banned opposition demonstration on 25 March.

At the Accra summit, which was attended by Annan, the Ivorian factions agreed to resurrect the coalition government and legislate a series of political reforms to clear the way for the start of a long delayed disarmament programme on 15 October.

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# Special Features

## That Supreme Court Decision On The Attorney General's Appointment - Setting A Bad Constitutional Precedent!

By J. B. Jenkins-Johnston Esq., Legal Practitioner

Some two (2) weeks after the former Attorney-General and Minister of Justice was sworn in, I wrote an article in the local press which I captioned "The Attorney General Must Face Parliament". I now reproduce the whole of that article for the benefit of those who did not read it at the time.

### ARTICLE REPRODUCED

#### "The Attorney General Must Face Parliament!"

By J. B. Jenkins-Johnston Esq., Legal Practitioner. Since my colleague and brother EKE AHMED HALLOWAY was sworn in as Attorney-General and Minister of Justice a fortnight ago, there has been a lot of argument about whether or not he should have appeared before the Appointments Committee of Parliament for approval before taking the oath. Some of those arguments were quite bitter and acrimonious, others were fair and objective, while others yet were subjective and driven by self-interest. I have given a lot of thought to all the views I have heard, and read the relevant parts of the Constitution several times over, and this piece is the result of my endeavours.

**Section 64 (1) of the Constitution Act No. 6 of 1991 provides:** "...There shall be an Attorney-General and Minister of Justice who shall be the Principal Legal Adviser to the Government AND A MINISTER..." (emphasis mine.)

**Section 56 (1) of the Constitution provides that:** "...There shall be, in addition to the Office of Vice-President, such other offices of Ministers and Deputy Ministers as may be established by the President: Provided that no member of Parliament shall be appointed a Minister or Deputy Minister."

**Section 56 (2) Provides that:** "...A person shall not be appointed a Minister or Deputy Minister unless - (a) He is qualified to be elected as a Member of Parliament and

(b) He has not contested and lost as a candidate in the General Election immediately preceding his nomination for appointment; and (c) His nomination is approved by Parliament."

It has been argued that because the office of Attorney-General and Minister of Justice is specifically created by the Constitution itself at Section 64 (1) above quoted, the appointment of the Attorney-General takes immediate effect, and he need not seek the approval of Parliament as provided for in Section 56 (2), while all the other Ministers must seek the approval of Parliament. Let us examine this argument.

The first point I think we should examine carefully is the addition of the words "...and a Minister..." at the end of Section 64 (1). What do they mean, what is their import and why are they placed there?

Just out of interest and in my search for an answer, I looked at the old 1978 Constitution, and found that at Section 38 (1) there was this provision:

"...There shall be an Attorney-General and Minister of Justice who shall be a Minister of State and the Principal Legal Adviser to the Government..."

Does this help us at all?

In my view both provisions are really saying the same things, that is to say, that the Attorney-General and Minister of Justice is wearing two (2) hats.

(a) the first being that of Principal Legal Adviser to Government;

(b) the second being that of a Minister.

Going back to the argument, I would submit that if Section 64 (1) had stopped at the word "Government", then there would have been no question that Section 56 (2) is applicable to the Attorney-General but as the Section stands, the words "...and a Minister..." can only mean that the Attorney-General and Minister of Justice is subject to all the other conditions and stipulations prescribed in the Constitution applicable to any person holding the position of "Minister".

I would further submit that the Constitution cannot be read in bits or by Sections in isolation but must be read as a whole, and when read as a whole the position becomes

even clearer. For example, I would submit that Section 56 (as a whole) applies to all Ministers, including the Attorney-General and Minister of Justice, so that leaving aside 56 (2) for the moment, can it be argued that Sections 56 (3), (4), (5) and (6) do not apply to the Attorney-General? Certainly Not!

**Section 56 (3) provides that**

"...A Minister or a Deputy Minister shall not, while he continues in office, hold any other office of profit or emolument whether by way of allowances or otherwise, whether private or public, and either directly or indirectly: Provides that the Vice President, the Ministers and the Deputy Ministers shall be entitled to such remuneration allowance gratuities pensions and other incidents of office as may be prescribed by Parliament..."

Can anyone argue that this provision does not apply to the Attorney-General?

**Section 56 (4) provides that**

"...Subject to the provisions of Section 53 of this Constitution, the Ministers and Deputy Ministers shall hold office at the President's discretion..."

Can anyone argue that this does not apply to the Attorney-General? Certainly Not!

**Section 56 (5) provides that**

"...Subject to the provisions of Subsection (6) the Vice-President and the other Ministers under the direction of the President shall be responsible for such departments of State or other business of the Government as the President may assign to them..."

Can anyone argue that this does not apply to the Attorney-General? I sincerely hope not.

Then there is Section 57. It provides that

"...A Minister or Deputy Minister shall not enter upon the duties of his office unless he has taken and subscribed to the oath for the due execution of his duties as set out in the Third Schedule..."

Was it not the oath prescribed in the Third Schedule that Mr. Halloway took and subscribed to? So if Section 57 applies to him, how can it be said that Section 56 does not, when both Section deal generally with "Ministers". I think that by now the significance of the three words "...and a Minister..." at the end of Section 64 (1) must be obvious, as in my view they are the words which bring the Attorney-General and Minister of Justice into line with all the other Ministers.

While trying to work out this little interesting point in my head, I asked myself the question:

...is it at all conceivable that the Constitution intended the Attorney-General and Minister of Justice to be different from the other Ministers? I am certain that there was no such intention, as indeed I was a member of the Peter Tucker Constitutional Review Commission which drew up the 1991 Constitution. I am also certain that the intention was that all Ministers nominated by the President should be approved by Parliament (who are the representatives of the people,) and this is intended to be a vital check and balance on the executive over of the President which was missing from the 1978 One-Party Constitution. I submit that this vital power in the hands of Parliament must be strictly and scrupulously preserved and maintained in every aspect. There is no justifiable reason why the Attorney-General and Minister of Justice should be isolated from the microscope of Parliament, when all the other Ministers are subjected to it. If we start tampering with the Constitution to make exceptions for one particular office where do we draw the line? Would this not be a rather dangerous precedent for the future?

It is my considered view that the Constitution is a sacred document and we must not play around with it. We must always endeavour to interpret it (if and when there is a doubt about any of its provisions) in a way that will reflect our respect for the rule of law, the democratic nature of our Constitution and maximum transparency in everything our Government does. How do you achieve transparency by isolating a very Senior Government Minister from the Scrutiny of Parliament? After all, we are not in Animal Farm where "all Ministers are equal, but some ministers are more equal than others" (Parody the adaptation.)

My concluding submission is that the Attorney-General and Minister of Justice is clearly subject to the whole of Section 56 of the Constitution and must face Parliament for approval like every other Minister in keeping with the letter and spirit of the Constitution. I would further submit that the Swearing-in of the Attorney-General and Minister of Justice before being approved by Parliament WAS UNCONSTITUTIONAL and a serious mistake which must BE CORRECTED FORTHWITH.

I would further submit that the Attorney-General and Minister of Justice should not enter upon the duties of his office until he has been approved by Parliament after which he must take and subscribe to the oath again. I would further submit that the Attorney-General and Minister of Justice being the PRINCIPAL LEGAL ADVISER TO GOVERNMENT and MINISTER OF JUSTICE should be the last person to be even remotely involved in transgressions against the Constitutions, his being the duty to ENSURE THE CONSTITUTIONALITY of everything Government does. I would further submit that having regard to the several breaches of the

Constitution which happened after the 1996 Election (e.g. Jonathan's Appointment), but which many were willing to forgive because of the exigencies of the war, this time around it is absolutely necessary for the President and his Government to start off on the right foot and to do and to be seen to be doing things properly, correctly, transparently and in accordance with the Constitution and the Law generally.

I do not think the people of Sierra Leone are willing at this time to accept flimsy excuses or explanations for blatant breaches of the Constitution, and so I say, Mr. Attorney-General and Minister of Justice, Go and Face Parliament boldly and get your nomination properly approved, and save yourself embarrassment and humiliating challenges in Court. To His Excellency the President I say, it is part of the measure of a great man to accept and acknowledge when a mistake has been made and to correct it as quickly as possible. It is better to err on the side of caution, Mr. President!

J. B. JENKINS-JOHNSTON

At the time I wrote the above article we were merely having a debate with various people (Lawyers and non-Lawyers alike) giving their views on the matter. Subsequently the Sierra Leone Bar Association after due deliberation, decided to take the matter to the Supreme Court because of the provision in the Constitution at Section 124 (1) (a) which states that, ".....The Supreme Court shall, save as otherwise provided in Section 122 of this Constitution, have original jurisdiction, to the exclusion of all other Courts -

(a) in all matters relating to the enforcement or interpretation of any provision of this Constitution;..."

Even though the whole process took far longer than anyone would have thought, (given the importance of the matter,) yet we still believed, hoped and even prayed that we would have a solid, well-written, well-reasoned judgement from the highest Court in the land that would send a clear message to all concerned, that NO-ONE WILL BE ALLOWED TO PLAY AROUND WITH OUR CONSTITUTION!

ALAS, we were to be sorely disappointed! I have read the judgement of the Supreme Court delivered on the 30th January 2004 four (4) times over, in a desperate attempt to try to understand what the Supreme Court said, and to reconcile it with what they were supposed to be doing, i.e. "interpreting the Constitution" (particularly Section 56 and 64 thereof.) It has been totally impossible for me to do so. In my very respectful submission The Learned Justices of the Supreme Court COMPLETELY FAILED TO PROPERLY IDENTIFY AND TO DEAL OBJECTIVELY WITH THE REAL CRUX OF THE MATTER, thereby leading themselves to an erroneous conclusion, and in the process setting an extremely bad constitutional precedent for the future!

In my article previously published and quoted above, I did say, "...The first point I think we should examine carefully is the addition of the words "...and a Minister..." at the end of Section 64 (1). What do they mean, what is their import and why are they placed there?..."

Independent Observer  
Friday, August 6, 2004

# Setting A Bad Constitutional Precedent!

From Page 3

(It is to be noted that, (to echo what Mr. Donald Macaulay say in his article,)

".....Five Cardinal principal of interpretation and Construction were forcefully set out by the Learned Chief Justice and the esteemed Court and they set out the Law correctly but whether wittingly or unwittingly, they were unfortunately neither seriously considered nor even applied in the reasoning of the Judgement..... Throughout the entire Judgement the words ".....and a Minister" were never discussed nor referred to. They were conveniently ignored, forgotten or rejected....."

In my further respectful submission, once the Supreme Court had ".....conveniently ignored, forgotten or rejected....." those three (3) key words ".....AND A MINISTER....." in Section 64 (1), they were bound to arrive at the wrong conclusion, which is exactly what happened. As I see it, the business of the Supreme Court was to construe and/or interpret Sections 56, 57, 58, 60 (1) and 64 (1) and (2) of the Constitution, and not to determine whether Section 64 (1) is to be construed subject to the provisions of Section 56 (1) and (2). In any event, it cannot be said that the Court properly construed Section 64 (1).

When the key words which tie in the Section with Section 56, ".....and a Minister....." were not even considered. In trying to unravel the mystery of this Supreme Court decision, I took due notice that the side caption in the margin alongside Section 56 which tells you what the Section is dealing with states quite clearly "MINISTERS AND DEPUTY MINISTERS OF GOVERNMENT". Since it is common ground that the Attorney-General and Minister of Justice is THE PRINCIPAL LEGAL ADVISER TO THE GOVERNMENT AND ALSO A MINISTER OF GOVERNMENT, it is impossible to begin to understand how the Supreme Court could come to the hair-raising conclusion that,

"..... My straightforward answer to the first question is that the appointment to the office of the Attorney-General and Minister of Justice referred to in Section 64 (1) and (2) of the Constitution is not subject to the provisions of Section 56 (2) of the Constitution, when it is Section 56 that deals with ALL MINISTERS AND DEPUTY MINISTERS without exception, including making provision for their remuneration, allowances, gratuities pensions and other incidents of office."

It is even more alarming that the Supreme Court in their attempt to justify the blatant breach of the Constitution in swearing-in the Attorney-General without obtaining the approval of Parliament, also came to the extremely dangerous conclusion that

"..... As a matter of Law the Attorney-General and Minister of Justice need not be a registered voter or a citizen of the Republic of Sierra Leone unlike the other Ministers or Deputy Ministers nominated and appointed under the provisions of Section 56 where the nominee must first be on the register of voters in order to qualify to be appointed as a Minister or Deputy Minister....."

THIS IS TRULY FANTASTIC!

Which law are they talking about? The Constitution of Sierra Leone? I don't think so, because if the law referred to is the Constitution of Sierra Leone I submit most forcefully that it makes no such provision, and supports no such contention, expressly or impliedly, directly or indirectly. If it were so, the implications are too awful to contemplate. I submit that the conclusion of the Supreme Court above quoted is profoundly wrong, dangerous and has done great harm to our Constitution. It is only to be hoped that a future Supreme Court with a different panel, will have the opportunity to sweep away this terrible decision, this bad precedent from our Law Reports, so that succeeding generations will not find it there and wonder what exactly was wrong with all of us at this time of our history.

I also hope that a future Supreme Court will sweep away this decision for one other very good reason. In his article Mr.

Donald Macaulay talks about ".....an attitude of indifference sub-ordinating objectiveness to Personal considerations resulting in negative attributes....."

I wish to put it differently. I hope that this decision will be swept away in future by another Panel of Supreme Court Justices.

(a) To remove the unfortunate impression that has been created among the populace in general that our Courts will away bend towards the view which they perceive to be in support of the wishes of the Government of the day.

(b) To restore the good name of the Judiciary, and to win back the confidence of the populace in general which we have all but lost.

MAY GOD HELP US ALL!

J. B. JENKINS-JOHNSTON  
23/02/2004