



Pegasus Scholarship to Rwanda, 2007

Elisabeth Lees, called to the Bar in 2002

Member of the Chambers of Christopher Kinch Q.C. (23 Essex Street), has practised in the Cayman Islands for eighteen months and was awarded a Pegasus Scholarship in 2006, with which she undertook a three-month internship at the

International Criminal Tribunal for Rwanda (ICTR).

Rwanda, the land of a thousand hills, endured a genocide in 1994 during which over 800,000 people were killed in three months, this was three times the rate of killings in Nazi Germany.

The International Criminal Tribunal for Rwanda (ICTR) was established for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda between 1st January 1994 and 31st December 1994.¹

I was fortunate enough to spend September to December 2007 as an intern at the ICTR which is based in Arusha, Tanzania at the foot of Mount Kilimanjaro and Mount Meru. I had been granted a Pegasus Scholarship by Inner Temple (one of the four Inns of Court in London, to which a barrister must belong), which funded my flight and living expenses for the three-month internship. I had been an intern at the ICTR in 2003 and in September 2007, with a few years of practice behind me, was keen to return.

I had asked to work with the Office of the Prosecution and I was assigned to the 'Butare' Team. This is a trial involving six accused, which began in 2001. It therefore seems to be the longest running trial in history. (The International Criminal Tribunal for the Former Yugoslavia's (ICTY) record is four years, which was the length of the Milošević Trial.) Each of the six accused was allegedly involved in massacres in the Commune of Butare, one of twenty Communes of which Rwanda is comprised. The first female accused, Pauline Nyiramasuhuko, a government minister in 1994 stands trial with her son, Shalom Ntahaboli. Other accused are the two consecutive Prefets of the Commune and two *Bourgmestres* (responsible for Prefectures, into which Butare is divided).

A rather daunting case, I was assigned specific legal areas to research and analyse. The ICTR and the ICTY share an Appeals Chamber. There is also an Archbold on International Criminal Law, although it does not have the status of its English counterpart. National Jurisdictions can be referred to but usually only if one can establish a pattern through different Jurisdictions, which would indicate a common practice. It is an interesting and evolving area of law and part of the legacy of the ICTR will be the principles it has generated, such as the establishment of rape as a Crime against Humanity.

Escaping the overcrowded intern office to sit in the court room, one realises the huge scale of the operation, the task force ranges from French and English Court Reporters, video technicians and members of the registry to some twenty lawyers from various

jurisdictions and the three Judges. Three booths house the Kinyrwandan, English and French interpreters and there is a large public viewing area separated by a glass wall. The other legacy left by the Tribunal will be that of the ability of people from all over the world to work together - some eighty-five nationalities are represented. An anthropologist speaking at the ICTR symposium commented that “if the Tribunal’s role is to re-valorise humanity one needs to convey that it existed and progressed because of diverse, creative individuals, co-operating and adapting in a difficult context. Because that, in itself, is *an affirmation of humanity*”.²

Five detainees before the ICTR are currently awaiting decisions on whether they will be transferred to Rwanda for their trials. Similar issues, such as whether a fair trial would be possible, are raised as in the case of four Rwandan defendants who are the subject of extradition proceedings in London (one of whom is represented by Lord Gifford who spoke at the recent Human Rights Watch lecture!).

Funding has been provided by the European Union for Capacity Building of the Rwandan legal system and I was also tasked to organise a two-week training course, covering both theory and advocacy for Rwandan Prosecutors. Various trial attorneys and appeals counsel lectured on the course, which was aimed at sharing the experiences of the ICTR with the Rwandan Prosecutors. The highlight was a mock trial in the Rwandan Supreme Court, where a Senior Trial Attorney and I prosecuted another ICTR lawyer for crimes against humanity, which the participants thoroughly enjoyed.

Whilst in Rwanda, I visited the genocide site at Murambi, a school where, by April 20th 1994, almost 40000 mostly Tutsi civilians had taken refuge. They were hacked to death over a two day period before caterpillars were brought in to bury the bodies in mass graves. The skeletons were recovered and some preserved in lime are laid out on tables. One can often see the breaks in skulls, caused by machetes. This is a disturbing sight but sites such as this serve as an inescapable visual reminder, particularly to the international community, of the devastation, which is the reality of genocide.

On a lighter note I also undertook a six-hour journey through the beautiful green countryside of Rwanda to Nungwe forest, where one can view groups of Colubus monkeys and their tiny white babies at work and play in the trees. Another unforgettable experience if you are lucky enough to be in this luscious country is to visit the mountain gorillas, a trek where one comes face to face with a x kilogram silverback. This is the area where Diane Fossey undertook her work and the film *Gorillas in the Mist* gives a taste of the scene, which truly takes your breath away.

Life in Arusha also has great opportunities for exploration. The safaris at Ngorogoro Crater, Serengeti and Lake Manyara are some of the best in the world. Its just a two hour drive to Tarangire National Park, where for less than 100US\$ a person you can drive around for twenty-four hours and stay at an incredible tented camp on a hill overlooking a river where elephants come to drink, a three-course dinner and breakfast are included! The white beaches of Zanzibar and diving opportunities such as Mnemba where giant turtles swim past are just a forty-five minute plane ride away! The hike up Kilimanjaro (at 6,000 feet the largest mountain in Africa) is challenging but the scenery is fantastic.

I had great support with helping out at an orphanage from friends in Arusha and England. We were able to provide an outside roofed area with tables and benches, as well as a new kitchen. Fifteen ICTR staff members and the children at the orphanage painted all the bedrooms one Saturday, which was organised chaos.

(www.hurumachildren.blogspot.com has more information and photos).

The Mandate for both the ICTR and the ICTY is to complete by the end of 2008, which would make Butare a seven-year trial, but it seems unlikely that verdicts will have been rendered by then. Other opportunities in international criminal law include the International Criminal Court and hybrid courts (courts with both international and domestic judges and applying a mixture of domestic and international law) such as the Special Tribunal for Lebanon and courts in Kosovo, Bosnia, Sierra Leone, Cambodia and East Timor.