

# **THE SIERRA LEONE INSTITUTE OF INTERNATIONAL LAW**

## **REPORT WORKSHOP ON INTERNATIONAL HUMANITARIAN LAW 27-29 OCTOBER 2010**

### **VENUE: METHODIST CENTRE, MISSION ROAD BO CITY**

The workshop was opened at approximately 10 a.m. by Ambassador Allieu Ibrahim Kanu, Executive Director (Pro Bono) of the Institute. Ambassador Kanu informed the Participants that the workshop is being held to raise awareness in the understanding of and the urgent need to implement international Humanitarian Law to fight the impunity on heinous crimes that prick the conscience of the International community.

He informed the participants that the workshop will attempt to breach the gap in the foundational knowledge and practice of international humanitarian and International Criminal Law in Sierra Leone.

After informing the participants of the purpose of workshop, Ambassador Kanu introduced the Chairman for the three days that is Mr. Abdul Rahim Kamara of Manifesto 99. The Chairman made his opening remarks and thanked the Institute for organizing the timely workshop. He urged the Institute to seriously consider replicating the workshop in Makeni Northern Provinces of Sierra Leone so that opportunity could be afforded to traditional leaders in the North to participate.

After his introductory remarks, the chair called on the first presenter, Mr. Sulaiman Banja Tejan-Sie who presented a paper on "WHAT IS INTERNATIONAL HUMANITARIAN LAW" he went through the historical development of the Law of Armed conflict, culminating with the adoption of the 1994 Geneva Conventions and the 1977 Additional Protocols. He also discussed the types of armed conflicts. He also discussed instruments having a regional and international character having relevance for international humanitarian law. His discourse also touched on what is International law and the corpus of law forming part of International Humanitarian Law. Where international humanitarian Law is to be found and its trigger mechanism was discussed. A copy of Mr. Banja Tejan-Sie is annexed to this report. This paper engendered active comments and questions from the participants. The comments and questions ran through the morning session and the beginning of the afternoon session. The second session of day one of the workshop started at approximately 3pm. The session started with a presentation by Alhaji Amadu Deen Tejan-Sie on the Topic: "IMPLEMENTING INTERNATIONAL HUMANITARIAN LAW". The distinguished Lawyer and former Ambassador prefaced his presentation with a discourse on the evolution of IHL, in Europe after the Second World War. He discussed the rules that emerged from the Jurisprudence of the Nuremberg Tribunal. He stated that IHL is binding on states as well as individuals. The speakers outlined the role of the state the Red Cross and Red Crescent, Civil Society inter alia in the implementation of IHL.

At the end of Ambassador Amadu Deen Tejan-Sie statement, questions and comments were invited from the participants. Again a host of questions and comments were made at the end the participants wanted to contrive the questions and comments segment but the Chairman urged the participants that because of time constraints we had to close the workshop for the day. This was about 6p.m in the evening. The next day's session, Thursday 28<sup>th</sup> October, 2010 commenced at approximately 10a.m after the participants have had the breakfast provided for them. The

session opened with prayers both in the Mohmedan and Christian religions. At the end of the prayers, the workshop was called to order by the chair, Mr. Kamara Ambassador Kanu's presentation was on the topic: "PUNISHING VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW". Before delivering his paper, a statement was read on behalf of the Vice-President of the Institute, Justice Bankole-Thompson, a former Judge of the Special Court for Sierra Leone. At the end of the delivery the Vice-Presidents message, questions and comments were aired on issued that arose from the message. The questions and comments range on such issues like, Universal Jurisdiction, the relevance of International Humanitarian Law and whether IHL is law at all. The chair and other presenters discussed the questions and commented on issues raised by the participants.

In his presentation, Ambassador Kanu opined that the purpose of IHL is to protect victims of armed conflict and to ensure that those engaged in it behave in conformity with the laws of war. He made a distinction between those most responsible and those who bear the greatest responsibility for serious violations of IHL. He spoke of the establishment of the Ad Hoc Tribunals to try and punish those who violate IHL. He discussed the ICTY, ICTR, the Special Court for Sierra Leone and the permanent ICC as courts and their Judicial and Administrative functions. He wound up his remarks with a brief statement on the functions of Management Committee of the Special Court for Sierra Leone. Ambassador Kanu's paper engendered a very lively debate on the issues he raised and the participants urged the chairman to continue the discussions but time was not in our favour. The second session of Day two began at about 3:10p.m with the presentation of Mr. Francis Gabbidon. His topic: "ADDITIONAL PROTOCOLS OF 1949". He stated that the protocols were adopted to breach the lacuna found in the Conventions. He opined that the conventions did not meet all aspects of IHL. He went through the convention, especially common Articles 3 which brings into the realm of IHL. International Human Rights Law. He went through Protocols 1 and 2 and went through the basic rules of war that should be complied with in all conflicts. At the end of Mr. Gabbidons presentation, questions and comments were made by participants. This again engendered a very lively discussion and amply demonstrated the enthusiasm of the participants. The next presenter was Mr. Melron Nico-Wilson who presented a paper on "THE ROLE OF LAWYERS, JUDGES AND CIVIL SOCIETY IN FURTHRANCE OF IHL". He opined that lawyers have a role to play, especially as there is a dearth of foundational knowledge of IHL in Sierra Leone. He urged the authorities at the University of Sierra Leone to include and the curriculum the teaching of IHL in the armed forces. He appealed to Ambassador, a member of the department of law to campaign for the inclusion of IHL in the curriculum of the University, Mr. Sulaiman Banja Tejan-Sie Esq. informed the participants that the Institute is seriously thinking of running course on IHL and International Human Right Law. This he said is dependent on the availability of resources. Mr. Abdul Rahim Kamara of Manifesto 99 intervened by thanking Mr. Nicol-Wilson for his brilliant presentation and for recognizing the role of civil society in the furtherance of IHL in Sierra Leone. Other interventions were made by the Coalition for justice and Accountability (COJA) among others. The participants thanked the Institute for conducting this workshop which according to them is long overdue and asked that it be related in the provinces of the country. The second day ended with a call for the domestication of all of Sierra Leone's obligations under International Law, especially the 1998 Rome Statute. The third day, 29<sup>th</sup> October 2010 began with the presentation of Dr. Nana Busia of the United Nations Development Programme. His topic was "INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW SIMILARITIES AND DIFFERENCES". He opined that the treatment of states and individuals must be consistent with IHL and HRL. He went through what he called classical International law which as now given way to Modern International Law. He expressed the view

that the treatment of people both in times of war and peace time must be consistent with specific rules of International Law. The differences between IHL and HRL can be traced with reference to etymology, Scope and enforcement of IHL. He said IHL has a long history dating as far back as the reign of Alexander the great. Professor Bello and African Jurist traced IHL to the era of Belligerent empire building as a result of which emerged groups propagating the doctrines of Natural Law and Natural Rights of Man. He gave an historical incursion into IHL and emphasized the role played by Switzerland and the International Red Cross. He opined that some aspects of IHL come out as Jus Gogeus from which no derogation is permitted. He gave examples of rape and torture. The prohibition of such is peremptory. He refused to common Article 3 as an expression of norms and values of non-international armed conflict. He spoke of the pronouncement of rape by the ICTR as tantamount to genocide. He mentioned the land case of Akayesu as an innovation in IHL. He said individuals are criminally responsible for violations of IHL in times of conflict.

He raised an interesting point on HRL which he said is not a creation of European Civilisation. He said HRL could be found in traditional African Customs be it Temne, Mende or Ashanti. He said the issue of human dignity has been part of Traditional African Custom. He said Europe experience hr own social change and so is Africa. Dr. Busia's discourse was well received by the participants and engendered a very lively discussion. The last speaker on day 3 of the workshop was Ms. Claire Hanciles whose topic was "INTERNATIONAL CRIMINAL TRIBUNALS". In her presentation, she discussed the historical development of Tribunals, their legal basis and importance in ending impunity for serious violations of IHL. After her presentation, questions and comments were made by the participants. The workshop ended at 1500 p.m. by which time the participants adopted a communiqué which was presented to the Attorney-General's Office and the Ministry of Foreign Affairs for action.