

English translation, interview of Dr. Jeff Handmaker, senior lecturer, ISS on the military trial in Suriname, ABC Radio Paramaribo, "Actueel", 28 January 2013

Interviewer (I): We are speaking with Jeff Handmaker, International Commission of Jurists, speaking on the telephone from The Netherlands Mr. Handmaker, good morning

Handmaker (H): Good morning

I: What is your position by the ICJ, the International Commission of Jurists?

H: I am an academic and a lawyer, a British lawyer and I am an advisor to the International Commission of Jurists. I was asked by the ICJ to carry out a mission in Suriname since although I was British I spoke Dutch.

I: How is it that you speak Dutch?

H: I've lived for some time in The Netherlands. I'm senior lecturer at the International Institute of Social Studies here in The Netherlands. It is an Institute of the Erasmus University.

I: Mr Handmaker, why is it that the International Commission of Jurists has an interest in the 8 December criminal trial (in Suriname)? I can imagine that the ICJ is busy with trials from around the world.

H: Yes, that is the case. The International Commission of Jurists is one of the oldest human rights organisations. It is based in Geneva, Switzerland. One of its main activities is to promote and support the independence and impartiality of the judiciary. In connection with this, and on the basis of its many years of experience in these cases, it has produced a "Trial Observation Manual", and this Manual, a sort of handbook for such trials, is standard reference material for organisations that also want to know that a trial is independent and impartial.

I: I see in the press release that the Secretary General (of the ICJ), Wilder Tayler, has concern about the trial in Suriname. Does he follow this trial intensively?

H: He follows multiple trials from around the world. He has of course asked me what I think about it, about the situation in Suriname and I have shared what limited knowledge I have about the current situation in Suriname with him, not least what I have been able to follow in the Suriname media, including *Starnieuws*. On the basis of this, it was clear that there was a need to pay closer attention to this case, and we concluded that it was a good idea to issue a press release. He (Tayler) was of the view that that was a good idea.

I: And why now?

H: Why now? It has been some time since the Military Tribunal has heard the case, last year (i.e. May 2012). It is clear that there is much confusion from both sides. Because of a lack of clarity and endless suspensions of the trial, it is unclear what

the status of the suspension is. The idea was that, in a relatively short period of time, the public prosecutor would issue an opinion on the legal status of the Amnesty Law. From what I have been able to gather, this has not happened, and the Tribunal has not issued any further statement, or an indication *when* this might happen. From what I can also understand, the Constitutional Court has also not come into existence and so the situation remains unclear. And therefore, Wilder Tayler, the Secretary General, found that it was necessary to issue a press release.

- I: But, do you, or the ICJ expect that the Military Tribunal should produce a public statement in this matter? Surely they never do this?
- H: Actually it has made a number of statements in connection with this case, and especially in the past it has made statements. Since nothing has taken place, and since much confusion has arisen, we find that the Military Tribunal should fulfil its role. It, of course, remains to be seen whether this will in fact happen. But, through the uncertainty about what will take place is there much confusion that has been created over what now *should* happen. This is why we found, not that the Military Tribunal should decide one way or the other, but that the trial should simply proceed.
- I: What the press release indicated is that it was in the interests of the accused, but also the relatives of the victims, that the trial proceed. Why?
- H: Everyone has the right to a fair process, through as I indicated earlier, an independent and impartial legal authority. The accused have a right to clear their name, and the victims (and their families) have a right to a remedy, the right to know what exactly has happened, and perhaps also reparations. Suriname has, in general, an obligation to hold individuals accountable where there is evidence of international crimes. So, on the one hand there is an *obligation* on the part of Suriname to proceed with this trial, and on the other hand there are *rights* on the part of the accused and the victims (families) that the trial proceed as quickly as possible. Justice delayed is justice denied.
- I: In the press release, I understand that the International Commission of Jurists has questions regarding the legitimacy of the Amnesty Law?
- H: Yes, there are a number of questions to be asked. The Amnesty Law was introduced by the parliament, following a number of opinions expressed. It came into existence. But, the question is whether this law is consistent with the constitutional principles in Suriname and whether it is consistent with international law. And there the Military Tribunal has not explored the matter so deeply, as our report made very clear. And so the legality of the Amnesty Law is still not clear. This was not thoroughly investigated by the Military Tribunal. And yet, the Tribunal is in a position to determine the legality of the Amnesty Law. As I mentioned, through the suspension of the trial, there has been confusion created on the part of the lawyers for both sides; on the side of the accused as well as families of the victims concerning the legality (of the Amnesty Law). And thus, there is still uncertainty whether it is legal or not.

I: And what is your view?

H: What I find is that all legal arguments must be taken into consideration. The obligations that Suriname has concerning the Inter-American Human Rights system, the obligations of Suriname concerning UN Treaties; these must all be taken into consideration by the legal authority, in this case the Military Tribunal, in considering whether the Amnesty Law is legal or not. And up until now this has not happened. I shall not give my opinion whether it is legal or not. The point is that there are a number of questions that have not been answered.

I: When you send out a press release, do you get reactions?

H: There has been much attention in the media, in the Suriname media and of course in the Dutch media since a number of Surinamers live in The Netherlands. But, I don't expect a reaction from the Military Tribunal or the public prosecutor. This is not our goal. Our goal is to express our concern over the delays in this trial. And therefore on this basis we have issued our press release.

I: So, you are not in a position to send a letter to the Military Tribunal?

H: That is not our role. Our role is not to influence the Tribunal, but to ensure – so far as possible – that the trial is fair, according to international law. While it is the view of the ICJ that the Amnesty Law is in several respects inconsistent with international law; this must be taken into consideration and decided by the Tribunal itself.

I: Mr. Handmaker, have you, in your work, observed similar cases in other countries?

H: I have, in Zimbabwe, played a role in investigating the position of the legal system and judiciary (this was some time ago), and in South Africa, as well as in other countries, including in the Middle East. It is not as if the situation in Suriname is unique as such. What I do find unique is how much support there is among the public in Suriname for the legal system and judiciary. And this I find to be a positive sign. I also find it to be a positive sign that the Suriname government has not interfered in these sort of missions. It has not blocked our mission. There is room for a fair trial. This is what I believed then, and what I still believe now. But that trial must take place.

I: How long can ... the International Commission of Jurists has said that the delays in this trial are unacceptable. But how long can people wait?

H: There is no "formula" for what is too late, or too quick. Of course, a process that takes place too quickly is also not in the interests of justice. It must be handled carefully. But, this is a case that has been running since 1982, in the first place, and in the second place since 2007 – the formal case – which is a very long time for the accused, as well as the families of the victims to wait for a definitive judgement.

I: But are their rules?

H: What did you ask?

I: Are their rules regarding delays?

H: Not in terms of 2 years, or 3 years or 5 years, no. This is determined on the basis of each situation and in this case 5 years is a long time for no judgement to have been issued (by the Tribunal), only to issue procedural delays.

I: Do you think that, now that the press release has been issued, that there perhaps will be light at the end of the tunnel?

H: I do hope that our opinion will be taken seriously, but of course I expect nothing. As I mentioned, our role is not to interfere with the legal process. To the contrary. We are independent and have no opinion about what the court should, or should not decide. We do, however, feel that the trial must proceed.

I: Fine. Mr. Jeff Handmaker, many thanks for this interview. Do you consult the Suriname media every day?

H: Not every day, no. I am a lecturer so I have many other commitments here at the university, but I do follow matters as closely as possible and I am very much impressed by the quality of the journalism in Suriname. That I can certainly say.

I: Thank you very much once again for this interview.

H: My pleasure.

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