

Comment: Justice Squandered

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Conviction in murdered journalist case leaves many questions unanswered.

On the evening of June 13, 2007, journalist Serge Maheshe, a rising star in the United Nations Radio Okapi network in the Democratic Republic of the Congo, DRC, was mysteriously killed in Bukavu, the capital of the South Kivu province.

A year later, and after an initial verdict was appealed, three men have been sentenced to death by a military tribunal, including one who was never part of the original trial.

Few feel that justice has been served and the trial has generated a flood of complaints.

"I condemn the practice of military jurisdictions which continue to judge civilians, in violation of international standards and the Congolese constitution," declared Louise Arbour, the UN's High Commissioner for Human Rights. She also criticised the "manifest lack of will of the legal military authorities to establish the truth", in the case.

Alan Doss, who heads the UN mission in the DRC, denounced the death sentences and the alleged serious irregularities in the trial.

"MONUC notes that many questions on the assassination of Serge Maheshe remain unanswered, and we request of Congolese justice to do all to shed light on this crime, taking into consideration the law of the country and the commonly allowed international justice standards," said Doss.

Reporters Without Borders, RWB, said it was relieved that two of Maheshe's fellow journalists, who had been implicated in the crime, were acquitted - but noted other problems.

"While being pleased about the acquittal of the two friends, we do regret the constant violations of the law that have been plaguing this trial," said RWB, along with its local partner organisation, Journalists In Danger.

The outcry appears to be justified.

According to critics, the tribunal disregarded some basics such as an autopsy and ballistic analysis, and did not follow through on leads that could have made for a very different result.

In the original trial, the tribunal focused on confessions of Freddy Bisimwa and Mastakila Rwezangabo, the accused murderers, who initially claimed that they were put up to the killing by two of Maheshe's friends, Alain Mulimbi and Serge Muhima, who were also charged.

Both Bisimwa and Rwezangobo later retracted their accusations and an appeals court in late May acquitted

Mulimbi and Muhima. The two were released after ten months in jail.

But while Maheshe's friends were cleared, the court sentenced Bisimwa and Rwezangabo to death and ordered each to pay 500,000 US dollars in compensation. The court went a step further and sentenced to death a third man, Bisimwa Sikitu, who was never part of the original trial or appeal.

There are many other problems as well.

The court did not allow lawyers to interview witnesses in detail, and did not provide defendants with materials translated into a language used by the accused.

The defendants, all civilians, were tried by a military court in violation of the Congolese constitution.

Problems with the investigation were never addressed, and the tribunal rejected an offer by the UN mission in the Congo to provide its expertise, claiming that the UN could not be objective because the victim worked for Radio Okapi.

Despite these problems, the most severe sentences were handed out.

A credible motive for the killing has never been offered; certain witnesses were not interviewed; and some leads, such as military suspects, were not pursued.

Moreover, threats made against human rights activists and defence lawyers were never investigated.

And there were delays in appointing defence attorneys, who ultimately were denied equal time to argue and present their defence.

While strong doubts remain as to the motive for the killing, the biggest problems in the trial were procedural.

If this case proved anything, it is the need for a credible judiciary in the DRC – one that is capable of resisting the pressure from outside forces.

Despite the frustrations felt by many who followed the trial, the problems were well documented due to the international attention on the case, and it has raised awareness of the serious problems that exist in the Congolese judicial system.

This awareness is a necessary step toward legal reforms.

But the case still may not be over. The defence has expressed a desire to appeal to a higher military court

- which could reject the outcome and send the case back to another military court, or try the case itself.

And Maheshe's family said it wants to find credible answers to the many questions that remain around Maheshe's death.

While the legal process may move on to another phase, emotions continue to swirl around this case.

For Anneke van Woudenberg of Human Rights Watch, the trial has left some bitterness. "The memory of Serge Maheshe, who fought all his life for the truth, cannot be soiled by this travesty of justice," she said.

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