

Pretoria News

Looking for justice, or escaping from it

oscar stuart

15 mars 2010

Pretoria News

© Copyright 2010 Independent Newspapers (UK) Limited. All rights reserved.

On February 27 Rwanda's ambassador to India, General Faustin Nyamwasa-**Kayumba**, arrived in South Africa, having fled from Kigali via Uganda.

Nyamwasa, a former army chief of staff, is wanted by President Paul Kagame's government, apparently on terrorism charges related to a recent series of grenade attacks. Kagame wants South Africa to send him back to face the music, but does not have an extradition treaty with South Africa. Nyamwasa reportedly applied for asylum.

Nyamwasa was already out of favour for questioning Kagame's decisions and had been packed off to New Delhi as a result. He was called back to Kigali from New Delhi about two weeks ago to attend a meeting of Rwanda's ambassadors. He was then questioned by intelligence agents about the grenade and decided to flee, one step ahead of the impending arrest which he sensed.

In South Africa he is supposedly staying with Colonel Patrick Karegeya, the former head of external security, who fled that country in 2008 and wound up here too. Rwanda also wanted Pretoria to send him back, sources said.

But, as in the plot of a good spy thriller, Kagame's government is not the only bunch who is after Nyamwasa.

The Spanish government also wants him - for war crimes, crimes against humanity and genocide - and has persuaded Interpol to issue a warrant for his arrest. These alleged crimes presumably relate to the Rwandan army's alleged massacre of Hutus, both inside Rwanda and in the eastern Democratic Republic of Congo, after the Hutu genocide against the minority Tutsis in 1994 and beyond. Interpol South Africa has apparently told the Spanish judge who issued the warrant against Nyamwasa that they were looking for him.

The Spanish case appears to be of the same sort as the charges brought by a French judge against members of Kagame's government for allegedly ordering the shooting down of a French aircraft carrying Rwanda's then President Juvenal Habyarimana, a Hutu, in 1994. That was the event which sparked the Hutu genocide against the Tutsis and which eventually brought Kagame to power.

It seems that by fleeing to South Africa, presumably because he deemed it about the only African country which might give him a fair judicial hearing for asylum, rather than simply handing him over to Kagame, Nyamwasa may have exposed himself to the Spanish prosecution.

It is as though he has chosen to sail a precarious course between not enough justice and too much justice, because, on the Rwandan charges, there is a strong suspicion Kagame is persecuting him because he, like many others close to Kagame, has become disaffected with Kagame's growing authoritarianism and was about to throw his weight behind the opposition in the August elections. But what would his defence be against extradition to Spain to face the war crimes charges?

One Spanish observer asked two questions: why does South Africa seem to be harbouring an enemy of its ally, Kagame? And why does it seem to be dragging its feet about handing over an alleged international war criminal?

Whether or not it is dragging its feet on either of those matters remains to be seen. It is likely rather that the complexity of the case is demanding a complex and time-consuming legal response. But, apart from the legalities, one can imagine that the South African government might regard the Spanish charges as examples of the growing body of what it regards as vexatious attempts at universal jurisdiction by Western powers over Africans.

Having only just managed to stomach the International Criminal Court's indictment of Sudanese President Omar al-Bashir, against an African Union summit resolution rejecting it, South Africa probably feels, politically, that it has to draw the line against such international actions launched by national courts.

So perhaps Nyamwasa will prove to have been shrewd in steering a bold, narrow course between too little justice and too much justice, in South Africa