



# Sleeping with their enemy?

You may want to check out your neighbours after reading this

South Africa has an interesting track record of shielding dubious regimes and leaders. One of our government's questionable protégés and guests is the former president of Madagascar, Marc Ravalomanana. Recently he has found himself on ever thinning ice, after having been accused of crimes against humanity.

The file, to which *Leadership* has full access and from which we were allowed to quote, is thick as two telephone books

On 7 February 2009, thousands of Malagasy made their way to Antaninarenina Square, in the heart of the capital of Antananarivo. They wanted to show the world they had had enough of Ravalomanana and his – in their eyes – totalitarian, social unjust and corrupt reign.

What began as a peaceful march turned into a bloodbath when the Presidential Guard suddenly opened fire. Dozens lost their lives and nearly 200 people were injured in the process.

Ravalomanana – at the time in charge of the Presidential Guard – fled the island following the massacre, after which opposition leader Andry Rajoelina declared himself Madagascar's new leader.

The former dairy tycoon Ravalomanana subsequently was offered asylum in South Africa – where he has been living ever since. It

was understood the ex-leader spent most of the past years in Ballito, KwaZulu-Natal, where he apparently has family.

**Convicted to life**

Recent media reports, however, suggest that he currently resides in the Sheraton Hotel in Pretoria. The South African Department



Screenshots from the video footage show the dead civilians, following the shooting

of International Relations and Co-operation (DIRCO) apparently accommodated him here in January, when plans to return home were aborted. Meanwhile, back in Antananarivo, many survivors are still digesting the memories of the events. They feel it is time for Ravalomanana to pay for the bloodshed; while a Malagasy court has convicted him in absentia to life in prison and hard labour, the 2010 verdict was never put into practice.

South Africa sided with its protégé in this regard. In a short response, DIRCO Minister Maite Nkoana-Mashabane noted the ruling did not make a difference: "The reality is that the current president (Rajoelina) was not democratically elected."

Determined to see their ex-leader behind bars regardless, 50-odd survivors – the Association of Martyrs of Antaninarenina Square – have asked the South African prosecuting authorities to investigate Ravalomanana for crimes against humanity.

By doing so, they are tapping into the Implementation of The Rome Statute of the International Criminal Court (ICC) Act. This piece of legislation is South Africa's recognition of the court in The Hague. In addition, it forces us to investigate suspects of crimes against humanity who are permanently or temporary residing in the Rainbow Nation, including heads of state and former leaders. In case of a positive verdict, we are obligated to prosecute them.

The first step toward an investigation has been made: in April, the Director of Public Prosecutions was given an extensive dossier regarding the case.

**Thick as two telephone books**

The file, to which *Leadership* has full access and from which we were allowed to quote, is thick as two telephone books and comprises

detailed affidavits of survivors, graphic pictures of victims, media accounts, reports by human rights organisations on the shooting, and both amateur and professional video recordings of the events.

One of the tapes shows how, on 7 February 2009, thousands of cheering, singing people fill the streets leading to Antaninarenina Square and the Presidential Palace. The camera lens locks on to two smiling boys, their index and middle finger in a 'V'. Because Victory is what they are after.

In the background, police officers in military clothing and armed with rifles watch how protestors form a human chain to keep the crowd together.

The atmosphere seems calm. Unlike many South African demonstrations, this march does not feature wielding sticks, poles and burning tyres.

The next scene is shot from Rainilaiarivony Street, near the Presidential Palace. Flanked by journalists and police officers, half a dozen unarmed male protesters walk away from the crowd, toward the palace. While there does not seem a need for it, law enforcement officers and soldiers are forming a pre-emptive cordon to inhibit demonstrators from potentially following them.

At the palace, the 'breakaway men' – protestors' representatives – are met by government officials





One of the many innocent children injured in the massacre

wearing red-white-green sashes. The men merge, walk away and start talking.

#### Shot in the back

Upon return from their discussions, the group splits. The protestors' envoy returns to the crowd. As this happens, police officers and soldiers of the cordon inexplicably run off, after which cheering civilians stride toward the palace.

Then the shooting starts. The camera captures how bullets from the palace hit those who are trying to escape. Many are shot in the back. Dozens drop to their knees, more are trampled. Over half a minute later, a deafening silence sets in – which is subsequently shattered by hollow cries.

Before running away from behind a concrete pole, the cameraman aims his lens at a teenage boy with a profusely bleeding leg.

The further from the palace, the worse the chaos becomes. The tarmac is littered with shoes and bloodstains. People are carrying victims and dragging lifeless bodies; the wounded are shoved in cars and ambulances. Two people pull up an injured man. The victim's face and shirt are drenched in blood. He looks into the camera with wide-open, fear-filled eyes.

#### Three bursts of gunfire

Apart from the footage, the dossier's backbone is a collection of sworn affidavits.

"The crowd was peaceful. There were cordons to prevent disruptive elements from destroying the peaceful nature of the demonstration," testifies Arnaud Rajaonarivelo, who had his lower right leg amputated after being shot in the knee.

"The crowd was preceded by evangelists. People sang gospel songs and followed the instructions. They sat on the ground along Rainilaiarivony Street and kept singing," the 33-year-old continues. "At one point, I saw how soldiers and police started running. They were no longer in front of the crowd. Then there was an explosion and three bursts of gunfire. I was hit by the first one."

The second burst was fired at people rescuing the first casualties. He says: "I could hear, around me, the noise of bullets hitting the asphalt. There were bodies on the ground."

States 25-year-old Daniel Rabetsitonta: "At the beginning of the negotiations, I was

at the forefront of the crowd. I then became aware of the military's violent behaviour and gestures, and noticed they were loading their Kalashnikovs. I then moved back.

"There was an explosion followed by bursts of gunfire. The bursts of gunfire were fired from the palace, the Treasury and the Ministry of Finance," his affidavit reveals, adding how a bullet grazed his neck and hit a girl standing in front of him. "She died instantly."

Rabetsitonta himself was shot in the back: "A bullet exited my body after going through my lung. As I turned round to watch what was happening, I saw many people die."

Forty-six-year-old Marcial Rakotonirina was sitting behind the police cordon when the shooting started. "We had no intention of attacking the palace. The protest was peaceful," the father of six testifies. "Suddenly, the soldiers started to run. Then there were bursts of gunfire," he continues, describing how he ran toward a communal park. "A bullet went through my left hand and hit a boy. He died on the spot."

#### Bodies into dumpsters

According to official statistics, the gunfire claimed 43 lives and injured 170 people. The death toll is possibly higher: various affidavits mention soldiers removing bodies from the streets before the Red Cross could reach them. Other testimonies recall how attacks on civilians continued well into the night.

"During my convalescence, I saw from my room how heavily armed soldiers in armoured vehicles ... using machine guns ... shot at the people who were guarding the department buildings," Rabetsitonta describes.

Chantal Rabemananjara's affidavit confirms his statements: "The night that followed, there were shots and bursts of gunfire fired by the soldiers (at protestors guarding the department buildings). These people were not armed."

### Attacks against civilians

Crimes against humanity, according to the ICC, are acts as part of a widespread or systematic attack directed against any civilian population. They include murder; extermination; enslavement; deportation or forcible transfer; imprisonment; torture; rape; sexual slavery; enforced prostitution; persecution based on political, racial, national, ethnic, cultural, religious or gender grounds; enforced disappearance; apartheid; and other inhumane acts of a similar character intentionally causing suffering and bodily or mental injury.



A cameraman aims his lens at the carnage around him. Dead people littered the streets



From his hospital bed at night, Rajaonarivelo, too, saw guards attacking civilians: "The soldiers then put the bodies into dumpsters and took them God knows where. Then they cleaned up the blood that covered the street."

Why has it taken Rabetsitonta, Rakotonirina, Rabemananjara, Rajaonarivelo and others three years to knock on South Africa's doors? After all, Ravalomanana has lived here for more than three years.

The legislation that allows for the investigation and prosecution of suspects of crimes against humanity, including heads of state, has existed even longer.

#### Zim torture case

According to Cape Town-based David Erleigh, the Martyrs' legal representative, the ICC conviction of former Liberian president Charles Taylor and the 'Zimbabwe Torture Case' of May 2012 play a significant role.

"The North Gauteng High Court has ruled that the South African Prosecutory authorities are obliged to investigate Zimbabwean officials accused of torture and crimes against humanity in Zimbabwe.

"This ruling is a statement that South Africa no longer is a safe haven for people accused of crimes against humanity. It was a statement to my clients that they have a chance. The prosecuting authority is obliged to investigate. It is, very simply, the law," he explains. ▲

\*The witnesses' names have been changed to protect their safety

Miriam Mannak

## The usual suspects

Ravalomanana is not the only ex-leader who enjoys South Africa's benefit of the doubt. Our government has faced regular criticism over how it has dealt with dubious leaders and regimes:



#### Robert Mugabe

South Africa's approach toward Zimbabwe's leader – accused of inciting political violence, torture, and disappearance of opponents – has been classified as too soft and unjustifiably protective. The National Prosecuting Authority faced criticism after 'possibly wanting to appeal' the Zimbabwe torture case judgment. With the ruling, South Africa – in terms of international law – has to investigate 17 Zimbabwean suspects of crimes against humanity.



#### Mswati III

The Swazi king is living the dream. For his 44th birthday, he gave himself a jet and threw party worth R3-million, paid for by the state. In the meantime, mismanagement of funds has pushed Swaziland, one of the world's poorest nations, into economic disintegration. This and the fact that the world's last absolute Monarch 'deregistered' the country's only labour union did not deter South Africa from lending Mswati III R2.5-billion.



#### Charles Taylor

In 2003, the former Liberian dictator – while visiting Ghana – was charged with the use of child soldiers, enslavement, murder, rape, and other war crimes. Backed by ex-president Thabo Mbeki, Ghana refused to detain Taylor. In March this year, the ICC sentenced the warlord to 50 years in prison. The ANC did not issue a statement.



#### Omar Hassan Ahmad Al-Bashir

In 2009, the ICC issued an arrest warrant for the Sudanese president for committing crimes against humanity, including genocide in Darfur. The African Union (AU) threw aside the arrest warrant. President Jacob Zuma and Maite Nkoana-Mashabane, present at the AU meeting when this controversial decision was made, did not object to the judgment.

Graphics: Brent Meder