

**SPECIAL COURT FOR SIERRA LEONE**  
PRESS AND PUBLIC AFFAIRS OFFICE

**PRESS CLIPPINGS**

**Enclosed are clippings of the latest local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office as of:**

Tuesday, March 29, 2005

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## Sierra Leone Welcomes Arrest Of Charles Taylor Associate On Gun Running Charges

By Cindy Shiner  
Washington  
22 March 2005

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The Special Court for Sierra Leone has welcomed the arrest of an associate of former Liberian President Charles Taylor in the Netherlands.

The Special Court Leone says Dutch authorities have charged Gus van Kouwenhoven with war crimes and gun smuggling in violation of a United Nations arms embargo on Liberia.

The UN-backed Special Court said it had provided extensive assistance to Dutch investigators in the case. The court said it did not have evidence to find that Mr. Kouwenhoven was among those bearing "greatest responsibility" for international crimes in Sierra Leone so the court could not indict him. However, the court said enough evidence was found to charge Mr. Kouwenhoven with war crimes and arms trafficking. Mr. Kouwenhoven ran a hotel in Liberia as well as a timber company.

"Charles Taylor called the company that Gus was general manager of his 'pepper bush.' In West Africa this basically means something that is very, very important to you and it provided a lot of money for Taylor and for his exploits in Sierra Leone and really kept him alive and in power in the region," said Alex Yearsley of Global Witness, the London-based private organization that investigates links between resource exploitation and human rights abuses. "

It was a huge amount of money, up to nearly about 100 million dollars a year that Taylor was able to take from the timber trade," said Mr. Yearsley. He told Africa Division reporter Cindy Shiner that Mr. Kouwenhoven sold timber mainly to markets in France and China. Timber sanctions were eventually imposed on Liberia.

Mr. Yearsley said the international community must pay closer attention to issues such as illegal logging. "If law enforcement and intelligence agencies were to begin to really look at some of the economic incentives and drivers behind some of these devastating conflicts then we would really see far less of these operators being able to exist with impunity and to be able to still come into London and Paris and Antwerp and sell their wares," he said.

"It really must end. We must have the end of impunity for these people that seem to walk around with total freedom."

Former President Taylor fled Liberia in August 2003 and is living in exile in Nigeria.

Print

*AScribe Newswire March 24, 2005 Thursday*

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March 24, 2005 Thursday

## Judges From Around Globe Gather at Stanford to Weigh Impact of International Courts

STANFORD, Calif., March 24 [AScribe Newswire] -- International courts and tribunals are playing an increasingly important role in the evolution of international law and the emergence of an international legal system, said judges at a global jurisprudence conference held at Stanford on March 18. Despite their growing role, however, international courts still face significant challenges in carrying out their missions.

International criminal tribunals, for instance, walk a delicate line between rendering justice and fostering reconciliation in war crimes cases, which makes sentencing far different than it is for crimes in national courts, according to Zambian Judge Florence Ndepele Mwachande Mumba of the Appeals Chamber of the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

"How many years can you give to make up for those who lost their families, their property...for some of the worst rape cases, where the women [because of the stigma] say they should have been killed rather than left to live?" said Mumba. The unprecedented conference brought together 11 judges from eight international tribunals to discuss their courts' evolving roles in shaping the rule of law in an interconnected world.

On the one hand, Mumba says, judges must send a message that rape, genocide, and attempting to "obliterate" an entire people's existence cannot be condoned by the international community. Yet judges cannot succumb to retribution or the "wheels of vengeance," she says.

South African Judge Navanethem Pillay of the International Criminal Court added, "International courts do not have any enforcement mechanisms ... In domestic jurisdictions, you have the police, the media ... In civil society, it would be unthinkable if the police did not prosecute serious crimes." But international criminal tribunals must depend on states to volunteer to provide the cooperation they depend on to be able to function, she says.

Throughout the day, judges agreed that even as international courts face challenges, they are crucial to preventing human rights abuses and shaping modern justice.

The conference was organized by Stanford Law School faculty including Allen Weiner, Warren Christopher Professor of the Practice of International Law and Diplomacy at Stanford, and a former State Department lawyer and diplomat. "The proliferation of these courts is something everyone has noticed, but the odd thing about them is that there are no formal relationships or a hierarchy among them," Weiner said.

As the number of courts has increased, so have questions about their efficacy. Their roles are varied, from enforcing European Union regulatory law to trying war criminals. Weiner sees a compelling need for judges to begin a conversation about

their work "both with each other and national courts," if the world is to move toward a true international judicial system.

U.S. reconsidering the authority of international courts

The case of Jose Medellin, a Mexican national on death row in the United States for the rape and murder of two Houston teenagers, exemplifies the complexity of these tribunals' decisions.

In a case brought by Mexico before the International Court of Justice--the U.N.'s high court for resolving country-to-country conflict--the court said in 2004 that Medellin and 50 other Mexicans on death row were entitled to hearings to consider the impact of the fact that, at the time of their arrests, they were not told of their right to contact Mexican consular officials, required by the Vienna Convention on Consular Relations.

The Bush administration agreed on February 28 of this year to follow the ICJ decision by ordering state courts to grant the 51 Mexicans hearings to assess the impact of the lack of consular notification. Yet about a week later, it made an unexpected announcement: It was withdrawing from the Vienna Convention's optional protocol that gives the ICJ jurisdiction over disputes related to the treaty, including complaints related to those who have been illegally denied access to consul officials when jailed abroad.

At the Stanford conference, Judge Rosalyn Higgins, a U.K. judge on the International Court of Justice, stressed that ultimately, all the ICJ did was ask the United States to make sure prejudice had not occurred as a result of the breach of the treaty. "We did not in any stage say that the courts should set judgments aside... In the scheme of things, this modest suggestion has occasioned a great deal of difficulty."

Meanwhile, the U.S. Supreme Court is scheduled to hear oral arguments in the Medellin case--asking judges to enforce the 2004 ICJ decision--on March 28.

While some experts say the case may become moot because of President Bush's order to state courts to grant new hearings, the conference's judges and experts around the world are watching the situation closely because of the unique tension the case presents between different branches of government: Implementing treaties is a matter of interpreting the law, which falls into the judicial arena. Yet the operation of treaties affects foreign policy, where the executive branch has special responsibilities. The Medellin case consequently has significant potential to affect how the United States complies with future decisions of international tribunals.

Moving beyond Nuremberg

The history of international courts is deeply rooted in the 1946 Nuremberg Trial of Nazi war criminals. Yet Judge Geoffrey Robertson Q.C. of the United Kingdom said that today, "Prosecutors have to learn not to follow Nuremberg, not to charge for every crime. We can't have trials lasting five, eight, ten years." Robertson, who serves on the Appeals Chamber, Special Court for Sierra Leone, said prosecutors need to pick the crime for which they have the most evidence.

"We can't afford to pay a million dollars for each defendant," Robertson said, adding, "We can't afford to allow defendants to defend themselves" using the trial as a

soapbox to inspire other human rights abuses from followers.

Dr. Helen M. Stacy of the Center on Democracy, Development and the Rule of Law at the Stanford Institute for International Studies says the conference highlighted the complex issue for international criminal tribunals of prison conditions. The tribunals for Rwanda and the former Yugoslavia sit in Tanzania and The Hague respectively. Hence, defendants are not only held in countries far removed from where the violence took place, but in jails with conditions far better than jails at home--as a result of U.N. standards--and often with conditions better than civilians have in the war-torn countries. The result is a "bizarre effect" Stacy noted, and the conference's judges agreed the issue causes anger and frustration for victims.

Judge Juliane Kokott of Germany, an Advocate General at the Court of Justice of the European Communities, said that body offers a successful model of jurisdiction over states. The court, which sits in Luxemburg, deals with matters regulated by the European Union such as social, environmental, and patent law. Over the past decades, European jurisprudence has developed so that decisions of the European Court are given automatic and direct effect by the domestic courts of European countries.

The court's success is notable given the trend of increased globalization, where sovereignty will continue to evolve and relations between domestic and international courts and institutions will grow more interdependent. The close cooperation of the European Court of Justice with states, and its ability to curtail their power is one example of an "international case law approach that may one day reign over statutes and treaties," Kokott said.

At the conference's end, Judge Theodor Meron of the United States, president of the International Criminal Tribunal for the former Yugoslavia, said the international courts' impact on advancing international law is unquestionable. Look at "the unprecedented return of refugees to Bosnia, unlike Palestine," he said. "Experts tell me this could not have happened without the ICTY."

"It is clear," Meron said, "there is a great deal of hard work ahead so that international criminal law becomes a tool of deterrence, not only a tool of punishment. It is sometimes said we must forgo justice to preserve peace. I believe...each is necessary to the preservation of the other."

The conference was sponsored by Stanford Law School and the Stanford Rule of Law Program; the Center on Democracy, Development, and the Rule of Law; the Stanford Law Review; and Santa Clara University School of Law and Institute of International and Comparative Law.

*The Independent (London), March 29, 2005*

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**March 29, 2005, Tuesday**

WE HAVE FINALLY BEGUN TO CARE ABOUT CHILD SOLDIERS

JENNY KUPER

Throughout human history, children have been the unrecorded, and often unlamented, victims of warfare. They have been traumatised and abused, both as conscripted soldiers and as civilians caught up in the devastation wreaked by war. But now, finally, attention is being paid to their unmerited suffering.

Last week, for example, revealed a number of instances, both here and abroad, of this welcome new concern. The Deepcut inquiry, for example, by the Adult Learning Inspectorate, released a scathing report on UK armed forces' training establishments. That report followed hard on the heels of a highly critical report by the Commons Defence Select Committee which also described an army culture that was secretive and paid insufficient attention to the welfare of young recruits. The committee called for the establishment of an independent military complaints commission that could investigate bullying.

Abroad, an internal United Nation report was published which described a pattern of rape and sexual abuse perpetrated by UN peacekeepers in countries where, ironically, they were sent to restore order, including the Democratic Republic of the Congo, East Timor, Cambodia, Bosnia, Sierra Leone and Haiti. Many of the victims of this abuse are children, sometimes orphans, who are exchanging sex for small amounts of food, money, or jobs.

And, on Friday, a conference in the Hague brought together the chief prosecutor for the new International Criminal Court (ICC); the deputy prosecutor for the International Criminal Tribunal for the former Yugoslavia, and the prosecutor for the Special Court for Sierra Leone (SCSL). The topic of this conference was - astonishingly - International Criminal Accountability and the Rights of Children.

One factor that has helped tip the balance towards recognising the abuse of children in war, both as soldiers and non-combatants, has been changing social values. For example, while it was once acceptable to treat young British recruits and soldiers extremely harshly - and indeed in the First World War scores of soldiers under 18 were shot at dawn for falling asleep on duty or running away - this is no longer the case. At least the Ministry of Defence has made some progress.

Another factor, that is both a cause and a result of the shift in society's attitudes towards children, was the adoption, in 1989, of the UN Convention on the Rights of the Child (CRC). This quite comprehensive set of international rules relating to children outlines their various economic, social, cultural, civil and political entitlements - both in times of peace and in armed conflict.

The CRC has been almost universally ratified, the only non-ratifying countries at this

point being Somalia (which has not had a functioning government for most of the lifetime of the CRC), and the US (which is a very long story). Interestingly, the CRC defines a child, broadly, as anyone aged under 18 - and a substantial proportion of the world's population (and indeed the majority population in some countries) falls into this category.

Largely as a result of initiatives taken under the umbrella of the 1989 CRC, the UN has begun to take notice of children in armed conflict. The Security Council now has an annual day of discussion on this issue - and it has recently taken the hitherto unimaginable step of naming countries that use child soldiers and proposing measures both to sanction those countries and to put in place a monitoring system to track the situation of children involved in various armed conflicts, whether as civilians or combatants.

The international criminal tribunals also are no longer lagging behind. The ICC has selected, as the subject of its first investigations, two armed conflicts that are characterised by massive violations committed against children: those in Northern Uganda and in the DRC. At the recent conference in The Hague, Luis Moreno-Ocampo, the chief prosecutor, emphasised that in his current cases child soldiers are a big issue. He also talked about the measures the ICC is taking to encourage the participation of child witnesses and to protect them before, during and after giving evidence.

David Crane, the SCSL prosecutor, was even more unequivocal. He asserted that one of the guiding principles of his work has been: "If you go after women and children, you will pay the price." And, indeed, he has put this principle into practice in **Sierra Leone** and been responsible for some ground-breaking cases against those who seemed, not very long ago, to be completely beyond the reach of international - or indeed national - law.

It is encouraging to find that the endless meetings in international organisations such as the UN do sometimes bear fruit. And that their justified concerns are finding their way to some of the most remote regions of the world and to some of the most forgotten victims of violence.

*The writer's book **Military Training and Children in Armed Conflict: Law, Policy and Practice** is published this month by Martinus Nijhoff*

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Alone in the dock

MATP

Steven Freeland

Canberra's ability to help Schapelle Corby is severely limited, argues Steven Freeland

LATER today, a man awaiting trial in Australia on charges of rape and aggravated burglary is expected to give evidence in the trial of Schapelle Corby in Indonesia.

It is alleged that, while in jail, John Ford overheard a conversation between two people to the effect that Corby was the innocent victim in a failed drugs transfer between Brisbane and Sydney airports. While Ford's evidence is hearsay only, if it were accepted by the Denpasar District Court it would cast serious doubt on the charges against Corby, which relate to the alleged importation of more than 4kg of cannabis into Bali last October.

If Corby is found guilty, she may face the harshest sentence -- the death penalty. Prime Minister John Howard has publicly stated his concerns regarding some aspects of her trial and Foreign Affairs Minister Alexander Downer had planned to meet Corby's lawyers earlier this month. The release of Ford to give evidence in Indonesia was possible only with the assistance of the Attorney-General's Department.

These events, as well as developments in several other high-profile criminal cases overseas, have raised the question of how Australia might seek to exert some influence over legal proceedings in another country.

In contrast to concerns raised here about the harshness of the sentence that may face Corby, the recent 30-month prison sentence imposed on Abu Bakar Bashir by a Jakarta Court for "committing an evil conspiracy" in relation to the Bali bombings has understandably drawn strong criticism from both sides of federal politics as being inadequate. The Government has lodged a formal protest with its Indonesian counterparts and has urged the prosecutors to take every effort to appeal against the leniency of the decision.

On the other side of the world, Australian Peter Halloran, a former Victorian policeman and more recently war crimes investigator for the Special Court for Sierra Leone, has been sentenced to 18 months' prison after being convicted of indecently assaulting a 13-year-old girl.

Despite his ill-health, the Sierra Leonean court initially refused Halloran bail pending his appeal and he was put in Freetown's notorious Pademba Road prison.

Doubts have been expressed about the fairness of the trial, particularly in light of the conflicting evidence that was presented, and Victorian Premier Steve Bracks has



asked the federal Government to provide whatever assistance it can to expedite his appeal.

Each case does give rise to concern, particularly given their respective political connotations. The prosecution of Corby involves what is allegedly the largest attempted importation of drugs into the Bali area. Even as Ford testifies, questions remain as to the failure of the authorities to test other vital evidence. In the circumstances, the strident calls by the prosecutor for the death penalty appear to be as much about law and order issues as they are about any notion of justice.

In the case of Bashir, his acquittal on six of the seven charges he faced has been deemed a blow to the war on terrorism. His conviction and sentence have upset his supporters -- who believe his was a political trial initiated only because of pressure from the US and Australia -- and those who believe that his culpability for the tragedy at Bali and for other acts of terror was clear.

For Halloran, the situation is even more complicated. Having been involved in the prosecution of Sierra Leoneans for their actions during the brutal civil war in that country since November 1996, he now finds himself incarcerated in the same prison as some of those he helped to convict.

The work of the UN-backed Special Court, though important, has raised many emotions within Sierra Leone and there are those who will find great delight that one of its officers is now a criminal under Sierra Leonean law.

As worrying as these concerns may be, there is little Australia can do to interfere in the domestic legal processes of Indonesia or Sierra Leone, even though each of these cases obviously affects Australian interests.

A fundamental precept of international law is the "sovereign equality" of countries, meaning that one country cannot impose its legal standards or procedures upon the legal system operating in another country. It could not be otherwise or there would be no certainty as to the prevailing laws in any place.

Of course, there are some international legal norms that are relevant to a fair trial. The International Criminal Court, for example, has established processes to ensure that these rights are protected even for those accused of the most heinous crimes.

In 2001, Germany obtained a decision from the International Court of Justice that the process by which two German nationals were convicted for murder by a court in Arizona was in breach of international law, since they had not been informed of their rights to consular access at the time of their arrest (the two Germans were executed anyway).

An assertion by Australia that any overseas trial involving its nationals has breached international law would require a political decision to institute proceedings in the International Court of Justice. This is not a realistic possibility, even assuming that the jurisdictional roadblocks that would hamper this move could be overcome.

Yet it is clear that Canberra must take an interest in criminal trials that involve Australians in other countries.

The concerns raised by the Corby, Bashir and Halloran cases are genuine and

important. Every Australian is entitled to a fair trial and all necessary diplomatic means should be used to ensure that this is what takes place.

*Steven Freeland is senior lecturer in international law at the University of Western Sydney and a visiting professional at the International Criminal Court at The Hague.*



## Prosecute Both UPDF, LRA War Criminals

**The Monitor** (Kampala)

OPINION

March 29, 2005

Posted to the web March 28, 2005

By Pascal K. Kambale

Every kid of a certain age from my hometown of Butembo, eastern Democratic Republic of Congo (DRC), will remember forever that sunny afternoon of April 1979. Tens of trucks and cars had just crossed the border from neighboring Uganda, forming a long line.

It was the longest line of nice Mercedes, jeeps, and heavy trucks ever seen on the roads of the little town. The men, women, and children who emerged from the cars looked even more unfamiliar to us than the strange machines they had arrived in. They spoke neither French, nor Lukonjo, the Ugandan version of local Kinande. They were "refugiés," we were told, a word nobody could predict would be part of the region's daily vocabulary in the years to come.

Ugandan dictator Idi Amin Dada had just been ousted from power in Kampala and we learned that these refugees were members of his government, his various repressive agencies, and their families.

This explained the extraordinary wealth they exhibited during their stay. In a matter of weeks, the Ugandan shillings they used in great quantities almost replaced local currency.

The wealth displayed by Idi Amin's cronies had a profound impact on young people in Butembo. Many, hoping to collect their share of gold and dollars, crossed the border to join the "rebel movement" - another phrase we would soon get familiar with - launched in Uganda by Yoweri Museveni following Amin's fall. Bwambale Kakolele, from my hometown, is one such ex-NRA/UPDF combatant. He came back to Congo to play a central role in the launching of the Ugandan-backed Rally for Congolese Democracy - Liberation Movement (RCD-ML). Some of the crimes under investigation at the International Criminal Court (ICC) were committed in RCD-ML controlled territory.

As a human rights lawyer who grew up in that little Uganda-Congo border town and witnessed the radical transformation it underwent over the past decades of trans-border criminal activities by an increasing number of actors, I appreciate with some sense of historical vindication the ICC investigation of crimes committed in both countries. The ICC investigations could provide a good opportunity to deal with one of the most important causes of instability: impunity for serious crimes.

Perpetrators of the most serious human rights crimes in the DRC and Uganda need to be brought to justice to signify a break with the brutal past and strengthen respect for the rule of law. In this way, accountability is a key ingredient of a durable peace.

But for communities like Eastern Congo or Northern Uganda to recover from so many years of devastation, much more than just investigation by an international tribunal is needed.

There needs to be a comprehensive "post-conflict package" comprising a combination of measures, including reparations for victims, collective rehabilitation, a truth telling process, national prosecutions, and traditional remedies. Contrary to previous "ad hoc" international tribunals like the one for Rwanda seated at Arusha, Tanzania, the ICC has provisions enabling it to give reparations to victims both on an individual and on a collective basis.

A smart combination of what the ICC is able to deliver together with a range of other measures is needed. This will require the assistance of international donors.

As in Congo yesterday, in Uganda today the prospect of international justice is raising suspicions. Prosecution is being seen as the threat to the current peace negotiations with the LRA.

I have heard this argument many times, most recently in Sierra Leone where I worked for the United Nations as a human rights monitor, as well as in my own country. Many Sierra Leonean and International workers feared that pursuing justice would jeopardize the fragile Lome peace agreement between the Government of President Tijan Kabbah and Corporal Foday Sankoh's Revolutionary United Front (RUF). But when it became clear that a Sierra Leone Special Court was being established with the help of the U.N., the effect on RUF rebels and other armed combatants was immediate. Instead of the resumption of combat many had predicted, we started receiving signals from Sankoh's commanders offering to testify in exchange for immunity.

Uganda is not Sierra Leone, obviously. What happened in Sierra Leone may or may not happen in Uganda. Precisely because nobody knows for sure, there is a need for a national debate about the components of justice necessary as part of a northern Uganda "post-conflict package."

The debate also must include the reality of the "impunity gap" that will result from the ICC prosecuting only LRA crimes. Many crimes in the north were committed by the UPDF, but fall outside the temporal jurisdiction of the ICC.

Those crimes need to be addressed in some other forum if justice is to be perceived as done fairly. The ICC has stated that it will investigate UPDF abuses falling within its mandate. Even if the prosecutor decides that the crimes are not of sufficient weight to justify indictment, the information can be passed to the Ugandan authorities who should be pressed into holding the army accountable at national level.

The ICC needs to build its legitimacy with the Congolese and the Ugandan communities. They have a longer way to go in Uganda than in DRC. The announcement in January 2004 that Ugandan President Yoweri Museveni had referred the situation in Northern Uganda to the ICC caught almost everybody by surprise.

Delegates to the 2002 Inter-Congolese Dialogue (convened in an effort to bring an end to the war in DRC) debated at length various mechanisms for accountability in the post-war period. Decisions were taken to establish a truth telling commission and exclude war crimes, crimes against humanity and genocide from an Amnesty Bill the details of which are currently being debated at Parliament. The ICC has thus been viewed in Congo as the logical next step in the efforts to put an end to impunity.

Nothing similar happened in Uganda. After the dramatic failure of operation Iron Fist in 2002-3, President Museveni and the advocates for a military solution to the war were under intense pressure to engage in peace negotiations with the rebels. Bringing the LRA to justice was not part of the debate. As a consequence, the ICC investigation was greeted with suspicion by those supporters of peace in northern Uganda. This suspicion was

enhanced by the low profile the ICC maintained in its first year in Uganda.

Our Ugandan colleagues, known for their strong sense of justice, found themselves fearing that the ICC investigation was being manipulated by the Ugandan President and could undermine the peace process and the popular amnesty law.

Unfortunately, there is an information vacuum that needs to be filled by the Court itself.

The ICC Prosecutor should open a dialogue with communities as his counterpart at the Sierra Leone Special Court did.

He should have been out there in Gulu, Kitgum and Pader, discussing with local leaders and individual victims, hearing their objections, responding to their concerns, and addressing any doubt about his independence vis-à-vis the government and the UPDF.

He needs to clarify his mandate, correct misconceptions and explain what he can and cannot do. We urge the prosecutor to communicate with the individuals and communities most affected to make justice accessible to those who have suffered the most.

But let us not repeat past mistakes. Let us not help reinforce impunity through bashing the ICC. Let prosecutions, national and international, together with a post-conflict package, help put an end to impunity.

*The writer, a Congolese human rights lawyer, is counsel with the International Justice Program of Human Rights Watch in Washington, DC.*

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