

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



**PRESS CLIPPINGS**

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

**as at:**

Monday, 18 April 2011

Press clips are produced Monday through Friday.  
Any omission, comment or suggestion, please contact  
Martin Royston-Wright  
Ext 7217

### International News

Prosecution A Fate Better Than Death For Tyrants? / <i>National Public Radio</i>	Pages 3-6
UN War Crimes Tribunal Convicts Two Former Croatian Generals Over Atrocities / <i>UN News</i>	Pages 7-8
The ICC Has Given Ruto and Uhuru a New Rope With Which to Hang Themselves / <i>Daily Nation</i>	Pages 9-10
NGOs Identify Chaos Victims For Hague Cases / <i>The Standard</i>	Page 11
Rwanda Genocide: Erlinder v. Kagame in the Court of Public Opinion / <i>San Francisco Bay View</i>	Pages 12-14
Africa: International War Crimes - Whose Truth? Whose Justice? / <i>All Africa.Com</i>	Pages 15-18

## National Public Radio

Monday, 18 April 2011

### Prosecution A Fate Better Than Death For Tyrants?

By Alan Greenblatt



Issouf Sanogo/AFP/Getty Images

*Then-President Laurent Gbagbo of Ivory Coast and his chief of staff, Gen. Mathias Doue, attend a welcoming ceremony for Malian President Alpha Oumar Konare on Dec. 29, 2000, in Abidjan.*

For deposed dictators, the old promise of a comfortable exile spent in a foreign capital or some tropical country is no longer a likely end.

Instead, many face the threat of prosecution for perpetrating violence against their own people.

Not everyone is convinced that's an entirely good thing. The prospect of an international trial, some argue, can convince a tyrant he should hold on to power longer, leading to more violence in forcing his ouster.

"If they think they're going to lose everything, they won't leave," says Danielle Pletka, vice president for foreign and defense policy studies at the American Enterprise Institute, a conservative think tank. "It will be holding on to power or death."

Such arguments are raised nearly every time an autocrat nears his end. Many Egyptians celebrated Tuesday with the announcement that ousted President Hosni Mubarak and his sons would be detained and questioned about corruption and the alleged order to shoot protesters.

#### Trying Tyrants

**Ongoing:** Former Argentine dictators Jorge Videla and Reynaldo Bignone are on trial in that country for alleged crimes including stealing babies in the 1970s and 1980s.

**April 7:** Three Kenyan leaders appeared before the International Criminal Court to face charges related to post-election violence that left 1,200 people dead in 2007.

**March 11:** Arguments ended in the three-year trial of former Liberian President Charles Taylor at a U.N.-sponsored court in Sierra Leone. A verdict in the war crimes case may take months.

**2010:** A U.N.-backed Cambodian war crimes tribunal sentenced Kaing Guek Eav, a commander in the Khmer Rouge regime, to 35 years for war crimes.

**2009:** The ICC indicted its first sitting head of state, Sudanese President Omar al-Bashir, for war crimes. The ICC also opened its first trial, of Congolese warlord Thomas Lubanga, who was accused of using child soldiers.

**2006:** The genocide trial of former Serbian leader Slobodan Milosevic, held by the U.N.'s International Criminal Tribunal for the former Yugoslavia, ended after four years with his death in a prison cell.

**2003:** The U.N.-sponsored Special Court for Sierra Leone began trials of those accused of atrocities during that country's civil war.

But in other African countries, the prospect of prosecution has been received differently. Some observers believe that Libyan leader Moammar Gadhafi and Ivory Coast's Laurent Gbagbo might have been more willing to surrender power if offered a comfortable exile, rather than the promise of prosecution.

The fact, however, that deposed leaders have surrendered and gone on to face trial before venues such as the International Criminal Court in The Hague disproves the notion that fear of criminal charges means they will fight to the last soldier, says John Norris of the Center for American Progress, a progressive think tank.

"It has rarely played out that way," says Norris, who directs the center's peace-building initiative.

### **'Era Of Remembrance'**

War criminals have faced the prospect of prosecution at least since the Nuremberg trials that followed World War II. But the threat for sovereigns has stepped up in recent years.

The International Criminal Court was established by a treaty that went into effect in 2002. And the idea of bringing deposed leaders to justice is in keeping with the current "era of remembrance," as University of Virginia historian Alon Confino describes it.

Stable countries sometimes apologize for historic crimes such as slavery and genocide against indigenous peoples, while nations emerging from periods of violence now routinely establish truth and reconciliation commissions to create official records of human-rights abuses perpetrated by former governments.



Fred Ernst/AFP/Getty Images

*Former Yugoslavia President Slobodan Milosevic is pictured at the U.N. War Crimes Tribunal in The Hague, Netherlands, on Feb, 15, 2002.*

Trials of war criminals can be "one of several tools" the international community or an individual state can use, says Richard Dicker, director of the Human Rights Watch international justice program, including truth commissions and the release of secret documents.

But trials, Dicker says, not only hold individuals to account but help establish that atrocities such as mass slaughter of civilians or rape are held unacceptable.

"Trials and criminal justice are an important statement of values," he says. "Bringing those people to trial is a way of honoring the victims of these crimes, as well as inserting the rule of law in what are undoubtedly some of the worst circumstances."

### **Justice Transcending Boundaries**

Dicker says that one aspect of a society re-establishing itself after a period of upheaval is the attempt to weed out the worst actors, whether it's keeping a former president from playing a disruptive role during the transition or removing individuals from the military or security forces who are associated with serious abuses.

### **Comfortable Exile**

Not every deposed dictator is brought to trial. Many flee to comfortable exiles, often being accused of raiding the nation's treasury as a final act.

Former President Zine El Abidine Ben Ali, who fled Tunisia in January, has been living in a palace in Saudi Arabia — following the trail of ousted leaders Nawaz Sharif of Pakistan and Idi Amin of Uganda.

Haitian President Jean-Claude "Baby Doc" Duvalier fled for exile along the French Riviera in 1986. Upon his return to Haiti in January, he was quickly brought up on corruption charges.

And when Ferdinand Marcos died in exile in Hawaii, after being ousted from the Philippines, President George H.W. Bush released a statement saying that by leaving when he did, Marcos "permitted the peaceful transition to popular, democratic rule."

"The militia guys are more conscious than ever of the ICC, of the fact that they may end up facing repercussions for their actions on the ground," says Norris, the former executive director of the Enough Project, an advocacy group that works against genocide and war crimes. "If you look back over the past 20 years, we've had a profound change in how the international community views international justice, and the fact that sovereigns can't do just anything to their people because of international borders."

But critics still worry that it becomes harder to ease someone from power peacefully when he is threatened with criminal charges.

"People want justice and closure, but on the other hand they're willing to trade that to get rid of the guy now," says AEI's Pletka.

Gbagbo might have been more likely to surrender had the ICC not been publicly talking about its plans for prosecuting him for weeks before his capture Monday in a bunker, says John Campbell, a senior fellow for Africa policy studies at the Council on Foreign Relations. Those weeks were filled with political violence and the murder of hundreds of Ivorians.



Jerry Lampen/Getty Images

*Former Liberian President Charles Taylor waits for the start of the prosecution's closing arguments during his trial at the U.N. Special Court for Sierra Leone in Leidschendam on Feb. 8.*

"Once the question of prosecution came up, the notion of a posh retirement on the Riviera goes out the window," Campbell says.

Dicker, the Human Rights Watch attorney, says that it's difficult to know the factors that lead some dictators decide to leave their capitals, while others fight to the bitter end. He notes that Charles Taylor, Liberia's former president, may have found his recently concluded trial uncomfortable but ultimately a more agreeable fate than the violent killing of Samuel Doe, his predecessor.

"I don't think there's a record to really show, my gosh, criminal charges only stiffens the spines of these rulers," Dicker says, "and binds them to fighting to the death."

# United Nations News

Friday, 15 April 2011

## UN war crimes tribunal convicts two former Croatian generals over atrocities



*ICTY courtroom*

Two former top Croatian generals were today convicted and sentenced to lengthy jail terms by a United Nations war crimes tribunal over atrocities carried out against ethnic Serb civilians during a military offensive in the Balkan conflicts of the 1990s.

But a third ex-general was acquitted by judges at the International Criminal Tribunal for the former Yugoslavia (ICTY) on charges relating to his role in the same offensive, known as Operation Storm, in the Krajina region of Croatia in mid-1995.

Judges serving on the ICTY trial chamber found Ante Gotovina and Mladen Markac guilty of various crimes against humanity, including murder, persecutions, deportation and plunder. Both were acquitted of charges of inhumane acts (forcible transfer).

Mr. Gotovina, 55, who commanded the Split military district of the Croatian army from 1992 to 1996, was sentenced to 24 years in prison. Mr. Markac, 55, who served as the Assistant Interior Minister in charge of Special Police matters after 1994, was jailed for 18 years.

Ivan Cermak, 61, who commanded the Knin Garrison from August 1995, was acquitted of all charges, including murder, persecutions, deportation and the wanton destruction of cities, towns or villages.

The judges noted that Operation Storm took place within a wider armed conflict in the former Yugoslavia and followed years of Serb-Croat ethnic tensions in the Krajina region and crimes committed against Croats.

But Judge Alphons Orie, who presided over the trial, said that the case was not about the legality of resorting to and conducting war.

"This case was about whether Serb civilians in the Krajina were the targets of crimes and whether the accused should be held criminally liable for these crimes," he stressed.

The judges found that "a high number of crimes" were carried out during Operation Storm, which had the objective of permanently removing ethnic Serbs from the Krajina region by either force or threat of force.

At the end of July 1995 the then Croatian president Franjo Tudman met with high-ranking military officials – including Mr. Gotovina and Mr. Markac – to discuss Operation Storm, which began on 4 August.

Military forces and special police under the control or influence of Mr. Gotovina and Mr. Markac shelled a series of towns and villages, murdered several elderly residents of another village and burned or looted property belonging to ethnic Serb civilians.

The men created a climate of impunity and were aware of the involvement of subordinates in the commission of these crimes, but did nothing to stop them.

The judges found, however, that Mr. Cermak did not have effective control over army units outside of his own subordinates at the Knin garrison, and there was no reliable evidence that those subordinates committed crimes.

The joint trial of the three former generals was one of the ICTY's longest, beginning in March 2008 and concluding in September last year. The tribunal, which is based in The Hague, has concluded proceedings against 125 people and is still conducting proceedings against 34 others.

Daily Nation  
Sunday, 17 April 2011

## **The ICC has given Ruto and Uhuru a new rope with which to hang themselves**

By SAM CHEGE

The International Criminal Court has given Mr Uhuru Kenyatta and Mr William Ruto a new rope with which to hang themselves.

At their first formal appearance before the court a week and half ago, the presiding judge of the Pre-Trial Chamber II, Justice Ekaterina Trendafilova, twice warned all the six suspects that they risked being arrested if they continued making statements that could trigger violence back home.

The judge noted that while the order was not directed at anyone in particular, it was prompted by news reports from Kenya the court had been following.

Anyone reading news from Kenya lately can possibly guess whom the judge had in mind. Of the six suspects, Mr Kenyatta and Mr Ruto have been the most vocal and have lately criss-crossed the country holding rallies and giving venomous speeches, complete with unprintable vulgarities. The court order was most likely directed at them. Will they listen?

A better question to ask perhaps is, how long will it take before the two start doing exactly what the court has warned them not to?

Five things lead me to conclude that, as sure as night follows day, Mr Kenyatta and Mr Ruto will violate the latest court order and they could find themselves back at The Hague, this time as permanent residents.

First, the two have already violated one of the conditions imposed on them by Luis Moreno-Ocampo. When the ICC prosecutor disclosed the names of the six suspects back in December, he said that one of the conditions they had to observe to remain free was to cease any direct contact.

We know how long they observed that order. They have since held political rallies in broad daylight where images of the two together are beamed by the media to all and sundry.

Second, the supporting cast of politicians and hangers-on at their rallies across the country have often served as cheer-leaders urging them on in a shadow-boxing match with their imagined enemies.

You only need to listen to some of the speeches from these MPs and you will understand why Mr Ruto and Mr Kenyatta might find it irresistible to take the cue and up the ante whenever they take to the microphone. The temptation to play to

the gallery will continue to shadow them, and it will require great personal discipline to do otherwise.

Third, the court's order comes at a time when politicians are beginning to position themselves for the 2012 elections. It is absurd to expect the two to stay on the sidelines and not dive back into the political scene if they hope to stay politically relevant.

We can expect them to start campaigning and acting as if the ICC trials are a bad dream that will somehow go away. As they do so, it will be interesting to see whether their speeches will focus on policy and development issues, or whether they will continue using unprintable words directed at their opponents, the ICC process, and anyone else standing in their way. I fear I know the answer.

Fourth, the two are no longer individuals facing the ICC alone. They have managed to frame their problem with the ICC as political rather than legal.

While most Kenyans can easily distinguish between lies and propaganda, others are unwilling to face the facts and have swallowed the lie and elevated the two to tribal chieftains. Tribal leaders do not retreat, even in the face of ICC warnings. They charge head on or risk losing their credibility.

Finally, watching the Ocampo Six, you get the feeling that while some of them understand the gravity of the charges facing them and have decided to keep quiet and engage the process legally, others have responded with abandon, recklessness, and sheer immaturity that does not help their cases at all. Perhaps it is the naivety of youth.

But you also get the disquieting feeling that you are watching a Greek tragedy unfold and the characters can never out-run their innate flaws and their fateful destiny.

It may be time for Mr Kenyatta's and Mr Ruto's families and their true friends to intervene and repeat the ICC order to them in slow motion. Perhaps that will save them a premature trip back to The Hague. And this time, they cannot blame their opponents.

*Dr Chege teaches at Kansas State University, US.*

**The Standard**  
Sunday, 17 April 2011

## **NGOs identify chaos victims for Hague cases**

By PETER ATSIAYA

National Council of NGOs has started a process of identifying victims of post-election violence to take part in trials facing the 'Ocampo Six' at The Hague.

National chairman Ken Wafula said they would identify victims who suffered in various categories to help them travel to the International Criminal Court at The Hague to have their interests represented during the trials.

"We would pick on victims who were raped, crippled, lost relatives or property and facilitate their travelling to The Hague," Mr Wafula said.

Speaking in Eldoret on Sunday, Wafula said they would identify lawyers to represent the victims' cases at the ICC.

He added that the victims' interests should not be ignored in the quest for justice at the ICC.

### **Victims' Major role**

He challenged ODM leadership to use the money they wanted to spend on hiring lawyers for their members on the Ocampo list to hire lawyers for the victims.

"Victims' cases would play a major role in assisting the judges in making decisions on the cases faces the Ocampo Six," he added.

The group has made a request to Dutch Ambassador Laetitia van den Assum to prevail upon her country to assist the victims in travelling logistics, he said.

"The Ambassador proposed the Dutch Government would consider assisting the victims attend court proceedings once the trials commence," he added.

Wafula asked the Government to assist the victims to get legal services from the lawyers for effective representation at The Hague.

### **Must be heard**

"If the Government has gone ahead to hire reputable lawyers for the suspects it should do the same to victims for their voices to be heard at The Hague," he added.

"The Government should treat those involved in cases at The Hague equally," he said.

Wafula argued that the proceedings at The Hague would be of great value if the voices of victims who are seeking justice are heard.

## San Francisco Bay View

Friday, 15 April 2011

<http://sfbayview.com/2011/rwanda-genocide-erlinder-v-kagame-in-the-court-of-public-opinion/>

### Rwanda Genocide: Erlinder v. Kagame in the court of public opinion

By Ann Garrison



*Rwandan President Paul Kagame*

Law professor and former National Lawyers Guild President Peter Erlinder's case against Rwandan President Paul Kagame and his official history of the Rwanda Genocide continues in the court of public opinion, with

Erlinder refusing to return to work at the International Criminal Tribunal on Rwanda for fear Kagame might have him assassinated. Erlinder has also published an 80-page analysis of documents which he says prove Kagame's culpability for the Rwanda Genocide and ensuing Congo Wars. KPFA News spoke to him on Saturday, April 9.

### Transcript

**KPFA Weekend News Anchor David Rosenberg:** April 6 was the 17th anniversary of events that triggered the massacres that the world came to know as the Rwanda Genocide. The history of the 1994 genocide and the ensuing war in Rwanda's resource rich neighbor, the Democratic Republic of Congo, are fiercely disputed by a growing number of scholars, journalists and human rights investigators and by Rwandan and Congolese opposition leaders, genocide survivors, exiles and refugees.

Victoire Ingabire Umuhiza, Rwanda's 43-year-old opposition leader and mother of three, remains in Rwanda's 1930 maximum security prison, charged with terrorism and disputing the official Rwanda Genocide history. And William Mitchell law professor and former National Lawyers Guild President Peter Erlinder has now published an 80-page footnoted and documented report in the DePaul University Law School's Journal for Social Justice in which he argues that Kagame and his Rwandan Patriotic Front regime bear responsibility for the Rwanda Genocide and Congo Wars.

Last year Kagame arrested and imprisoned Erlinder in Rwanda after he had traveled there to defend Ingabire, and last week the International Criminal Tribunal on Rwanda came close to sanctioning him for refusing to return to Arusha, Tanzania, to defend another client. Erlinder had said that he would not return because Kagame's

Rwandan Patriotic Front agents might well assassinate, kidnap or disappear him if he did. The court did not acknowledge Erlinder's claim that his life would be in danger in Arusha, but they did excuse him after his doctor reported that he suffers from post-traumatic stress syndrome as a consequence of his arrest and imprisonment in Rwanda last year.

KPFA's Ann Garrison spoke to Professor Erlinder by phone from his office at William Mitchell College of Law, in St. Paul, Minneapolis:



*On June 14, 2010, 17 days into his ordeal in the notorious Kigali prison known as "1930," Peter Erlinder prepares a response while prosecutor Jean Bosco Mutangana argues that he should be denied bail. The American law professor is dressed in the pink Rwandan prison uniform.*

**Ann Garrison:** Peter Erlinder, this story is still obscure to many KPFA listeners. Could you explain why Paul Kagame, the president of Rwanda, would conceivably want to assassinate, kidnap or disappear you?

**Peter Erlinder:** Well, during my work at the U.N. Tribunal, I had an opportunity to have access to the previously secret United Nations files that were kept by U.N. personnel in Rwanda during the time that's known as the genocide. And those documents tell a completely different story than the story the world has heard about what happened in Rwanda during that time.

Also I was able to link that to U.S. documents from the State Department, the CIA and the Pentagon and the documents from other countries. And I used those documents to defend my client and he and other military officers were acquitted of the charge of conspiracy to commit genocide, which means there was no plan on the part of the previous government and military.

**Ann Garrison:** And do the documents that you've assembled demonstrate that President Kagame and the Rwandan Patriotic Front regime are most responsible for the mass slaughter of 1994, which came to be the principle justification of the Kagame regime?

**Peter Erlinder:** Yeah, what the documents show is that the RPF were the dominant military power in Rwanda. They were responsible for assassinating the Rwandan and Burundian presidents, which touched off the mass violence. They were in a position to stop the mass violence and didn't do so because of their desire to win the war. And then once they did seize power, continued carrying out violence against civilians.

**Ann Garrison:** And what do those documents that you've assembled say about the ensuing Congo War?

out an invasion of the eastern Congo along with Uganda and then essentially to control the eastern Congo, which they do to this day. And that was accomplished because of ongoing support from the Pentagon, and then, unfortunately, it becomes clear that this support was covered up as the ICTR began to develop.

**Ann Garrison:** Links to Professor Erlinder's report on the Rwanda Genocide and Congo War can be found on the websites of the San Francisco Bay View and AfrobeatRadio.net. For Pacifica, KPFA and AfrobeatRadio, I'm Ann Garrison.

*San Francisco writer Ann Garrison writes for the San Francisco Bay View, Global Research, Colored Opinions, Black Star News, the Newslite EA (East Africa) and her own blog, Ann Garrison, and produces for AfrobeatRadio on WBAI-NYC, Weekend News on KPFA and her own YouTube Channel, AnnieGetYourGang. She can be reached at [ann@afrobeatradio.com](mailto:ann@afrobeatradio.com). This story first appeared on her blog.*

All Africa.Com  
Friday, 15 April 2011

## **Africa: International War Crimes - Whose Truth? Whose Justice?**

Jeanne M. Woods

### Opinion

The international criminal justice project is gaining momentum but 'do we even agree on what kind of justice we are asking for?' asks Jeanne M. Woods. 'If Africa is ever to determine its own destiny, Africa must build its own institutions, tailored to its own history and realities, as slow and as painful a process as this might be.'

The theme of this conference essentially calls into question many of the truisms associated with the project of building an international criminal justice regime. Such an inquiry is urgent in light of the momentum that the international criminal justice project has gained since the creation of the Yugoslav and Rwandan Tribunal, the International Criminal Court for Sierra Leone and the ratification of the Rome Treaty creating the International Criminal Court (ICC).

The problem is whether the project of universal impartial justice is even conceivable in a hegemonic world order undergoing a neoliberal globalisation process. Arguably, such a project would not have been undertaken without globalisation. And yet, do we even agree on what kind of justice we are asking for? Is it retributive or restorative? Compatible with or irreconcilable with peacemaking? Which approaches will most further the goal of human dignity? And - most importantly - who gets to decide?

In April we celebrate the 17th anniversary of the first democratic elections in South Africa, ending a system of racial oppression that was declared a crime against humanity by the international community.[1] The process that ultimately ended apartheid included internationally brokered negotiations[2] and constitutionally-entrenched amnesties for politically motivated crimes[3] promoted by the United Nations itself.

Thus, a system of institutionalised forced labor, forced removals, denationalisation, disenfranchisement, torture, massacres, disappearances, impoverishment, international terrorism, assassinations, and military destabilisation, was ended in a process that saw only token prosecutions. And it has been hailed as a 'miracle.'[4]

Justice in South Africa was defined as 'truth': Full disclosure of the relevant facts. Truth was enlisted as part of the state-building process in a country whose stability was deemed critical to global capital.

While South Africa's sovereignty was protected, however, sovereignty in other states undergoing civil wars has been superseded by international mechanisms. We should not be under the illusion that such mechanisms are apolitical. These institutions are established in the context of political compromise, where neither opposing side in a civil war has won an outright military and where key figures of the old regime share power, as F.W De Klerk did in South Africa.

What then, can be the role of human rights discourse where glaring disparities of power and wealth persist after political transformation? Can the discourse be deemed fair and impartial? Even the post-WWII tribunals that launched the international criminal justice project were tainted by racism, as the Allies refused to persecute Italian forces for war crimes committed against civilian populations in Ethiopia, including widespread use of mustard gas.[5]

Prosecutions were not pursued in Namibia or Zimbabwe, other white minority settler regimes, nor in Mozambique, Angola, or Guinea-Bissau, former Portuguese colonies liberated in the post-post colonial period.

So while I must say that I was, and remain, highly critical of the Truth and Reconciliation Commission (TRC) process in South Africa,[6] shouldn't we at least be asking ourselves whether there are any lessons to be learned from this model for the rest of Africa?

While African states were the most supportive bloc for the establishment of an International Criminal Court, much controversy has been generated by the prosecutor's exclusive focus on conflicts in African countries. True, some of these were technically self-referrals, but in a civil war context, isn't a 'self-referral' outcome-determinative, or at a minimum victors' justice? What are the implications for Africa of the empowerment of a permanent judicial criminal mechanism in the political context of neo-liberal globalisation?

Africa has been the subject of two prior globalisations: The trans-Atlantic slave trade from the 15th-19th centuries, and the global economic expansion dating from approximately 1870-1914 - the first Scramble for Africa. Neo-liberal globalisation means the following:

- The further erosion of the already emaciated states' power to protect and provide for the welfare of their people. State authority has been forcibly transferred to

- 1) International financial institutions and their most powerful Member States;
- 2) Transnational corporations;
- 3) International investors and banks;
- 4) A variety of non-state actors, including private contractors, international NGOs, rebel groups, militias, and mercenaries.

- Neo-liberal globalisation means a new Scramble for Africa's wealth and resources. This involves traditional booty such as diamonds and gold, old and new strategic and economic minerals. The Scramble has recently been intensified by the discovery of oil and gas deposits across the Continent, fueling conflicts of incredible brutality.[7]

- Globalisation means for Africa a process of economic and political destabilisation that invites foreign military intervention under the guise of the failed state doctrine, the war on terror, and, perhaps, enforcement of the arrest warrants of the International Criminal Court.

Is the Nuremberg paradigm of individual accountability the only, or the best, route to post-conflict justice? To what extent does the liberal paradigm of individual responsibility - whether under a reconciliation or prosecution model - obscure systemic, structural crimes like apartheid, occupation, colonialism, or the neo-liberal global trade regime? Indeed, might it be said that the Rome Statute itself reflects a form of victors' justice in the crimes it chose to codify?

Why isn't production of weapons of mass destruction, including nuclear weapons, a crime against humanity under the Statute? What about arms trafficking to conflict areas? Trade in conflict minerals? Recruitment of former child soldiers by private contractors, a subject currently being debated in Britain?

Is the ICC's legitimacy, and hence its efficacy, irreparably undermined as long as nationals of powerful States remain off-limits to the Court's jurisdiction, while the elite, undemocratic, and highly politicised Security Council can haul in non-parties to the Rome Statute?

Although the US is not a party to the Rome Statute, the legal advisor to the United States Department of State led a delegation to the ICC Review Conference in Kampala. Reportedly the Obama Administration is considering a request from Prosecutor Luis Ocampo to deploy AFRICOM - the US military command for Africa - to 'assist' in the enforcement of ICC warrants.[8] As Harold Koh reportedly stated, the US, while still unwilling to become a party to the Rome Treaty, would cooperate with the ICC when it is in the interest of the US to do so.[9]

AFRICOM's genesis can be traced to a December 2000 CIA report in which analysts speculated about the future supply of African oil. In his May 2001 report on US energy policy, former vice-president Richard Cheney highlighted the new significance of African oil for US markets.[10] Eight months later, the Institute for Advanced Strategic and Political Studies (IASPS), a neoconservative think-tank based in Israel, held a symposium in Washington, D.C. entitled 'African Oil: A Priority for U.S. National Security and African Development.' Speakers included US diplomatic and intelligence officials, members of Congress, and energy industry executives. The symposium spawned a working group, the African Oil Policy Initiative Group (AOPIG), which issued recommendations for US policy.

Asserting a convergence of US energy security interests and African economic development goals, the group proposed an 'historic, strategic alignment with West Africa,' with the Gulf of Guinea emerging as a 'vital U.S. interest.' The goal is a US-West Africa relationship defined by: 1) a focus on US military engagement in sub-Saharan Africa; 2) large scale US capital investment in regional oil and gas infrastructure projects; 3) creation of a US-Africa free trade agreement; and 4) conditioning debt forgiveness upon free market reforms in critical sectors.[12]

In 2002, the Bush Administration's National Security Strategy, in which the doctrine of preemptive military action was announced, asserted that Africa's 'disease, war, and desperate poverty' threatens a U.S. strategic priority: 'combating global terror.'[13] A senior Defense Department official reportedly commented in 2003 that 'a key mission for U.S. forces (in Africa) would be to ensure that Nigeria's oil fields ... are secure.'[14] In 2004 a Congressionally-appointed panel proposed a 'conceptual shift to a strategic view of Africa.'[15] The Administration's 2006 National Security Strategy identifies Africa as 'a high priority' and - in a resurrection of the doctrine of terra nullius - 'recognizes that [U.S.] security depends upon ... strengthening fragile and failing states and bring[ing] ungoverned areas under the control of effective democracies.'[16] In February 2007, President Bush announced the formation of AFRICOM,[17] a new unified combatant command to 'protect U.S. national security objectives in Africa and its surrounding waters,'[18] and to promote 'peace ... development, health, education, democracy, and economic growth in Africa.'[19]

Will AFRICOM further peace and justice in Africa? Far-away proceedings in The Hague, or an expensive show-trial in Sierra-Leone? Is impunity the only alternative?

If Africa is ever to determine its own destiny, Africa must build its own institutions, tailored to its own history and realities, as slow and as painful a process as this might be. There are some efforts underway under the authority of the African Union, ECOWAS, and other fledgling institutions. These institutions and independent entities must be strengthened. Moreover, vigorous conflict resolution will require the legal and political empowerment of minority sub-State groups so that they have a stake in peace.

Some of these measures might include:

- Equitable resource distribution;

- Reconsideration of the Cairo Declaration;
- Consideration of the value of international legal personality for sub-State groups subject to their willingness to lay down arms;
- Experimenting with various forms of autonomy;
- Elevation of respect for language rights.

At the same time, Africa's friends in the West must continue to fight for the right of Africa to control and use its own resources for the well-being and advancement of her people, and for the building of Afro-centric institutions that use Africa's rich history and traditions to solve Africa's problems.

**BROUGHT TO YOU BY PAMBAZUKA NEWS**

*This paper was presented at the International War Crimes Conference in London, UK, 3-6 March 2011.*

*Professor Jeanne M. Woods is the Henry F. Bonura, Jr. Distinguished Professor of Law at Loyola College of Law, New Orleans, USA.*