

**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

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Press clips are produced Monday through Friday.
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The Brooklyn Rail

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The Strange Case of Charles Taylor

by Nicholas Jahr

Every day, shortly before 9:30, the curtain goes up—automated venetian blinds rising behind what must be bulletproof glass—and the players take the stage. The accused enters from the left, accompanied by two guards, sits down with his back to the audience, and awaits his judges. We watch through a long, rectangular window set into the back wall, a widescreen view of the cramped confines of the courtroom. There’s no shout, no bang of the gavel, only the plush voice of Rachel Irura, the court manager, almost whispering through the headset in your ear: “All rise.”



Charles Taylor waving farewell as he stepped on the plane leaving Liberia in 2003. Photo by permission of Pewee Flomoku.

The Special Court for Sierra Leone is no longer in session, but over the course of seven months in 2009 and early 2010, the star was Charles Taylor. Most of the time the house was empty. Every other high profile suspect the Court intended to prosecute died (two of them in its custody) or disappeared. The Court itself is a curious animal, a hybrid which exists by virtue of a treaty between Sierra Leone and the U.N. While the Court is based in Freetown, Sierra Leone’s capital, Taylor’s case was considered so volatile he was shipped off to the Hague. His near-mythic proportions dissipate in the rented courtroom.

Taylor, the former elected president of Liberia (1997 – 2003). Taylor, the West’s nightmare vision of an African leader, like some figure out of colonial propaganda. Taylor, the warlord, the big man, a figure from Conrad. Taylor, the cannibal. Taylor, whose National Patriotic Front of Liberia (N.P.F.L.) celebrated Christmas 1989 by invading the country (it was a gift that kept on giving; 14 years of sporadic warfare followed). Taylor, “papay” to a generation of child soldiers. Taylor, leader of the N.P.F.L., which Liberia’s Truth and Reconciliation Commission held responsible for just under 40 percent of the human rights violations it documented, far more than any other faction in the conflict. Taylor, whose opponents, once he was elected president, were often detained, sometimes tortured, and lucky if they didn’t die under suspicious circumstances (if you can call being picked up by security forces and found beheaded in the

charred remains of your car suspicious). Taylor, who assiduously plundered Liberia's natural resources for more than a decade to arm his soldiers and enrich his supporters.

Taylor was tried for none of this.

Instead he was put on trial for his involvement with the Revolutionary United Front (R.U.F.), Sierra Leone's infamous rebel group just next door. The R.U.F.'s claim to world-historical fame was their apparent lack of any ideology beyond amputating the hands and arms of civilians who got in their way.

On this particular day, Taylor and his attorney are reviewing the testimony of TF1-367, an anonymous witness who was a bodyguard for Foday Sankoh, the leader of the R.U.F. Sure, Taylor provided Sankoh with a guesthouse from August 1991 to May 1992 (four years before his indictment starts). But no, there wasn't "just a street" between that house and Taylor's; they were several blocks apart. And even if Taylor met with Sankoh at his house, he wouldn't have walked outside with him to the "veranda," it didn't even have a veranda, and even if it did, the witness wouldn't have been able to see them from the parking lot where he was waiting with the car.

If Taylor is willing to be so candid about his early dealings with Sankoh, then he must, must be telling the truth about everything else, however large or small.

The judges weren't convinced. In the end Taylor was found guilty of five counts of war crimes, five counts of crimes against humanity, and one "other violation of international law"—the use of child soldiers. Taylor now enjoys the dubious distinction of being the only elected president to have been indicted, tried, and convicted by an international tribunal (Milosevic died before his case ended). His trial raises fundamental questions about the impartiality of international law and the simplistic equation of peace and justice. Neither is so easily disentangled from the compromises of geopolitics.

By the time the judges retired to deliberate, they'd been privy to the testimony of 91 witnesses for the prosecution, another 20 for the defense, and more than 1,500 exhibits, over the course of a trial that lasted nearly five years. Above all else, the trial must, must be seen as fair. And so day after day, week after week, Taylor talked.

"My name is Dankpannah Dr. Charles Ghankay Taylor, the 21st President of the Republic of Liberia." Taylor's first words on the witness stand, seemingly a statement of the simplest facts, already hinted at his country's tortured past.

"Ghankay" is from Gola, one of Liberia's many indigenous languages, and means "one who is strong." Taylor picked up the doctorate after he was elected president, while visiting Taiwan, a gift from the Chinese Culture University for granting the country diplomatic recognition.

He first claimed the title "Dankpannah" back in 1997, when he married Jewel Howard (now a senator in Liberia, and the chair of Taylor's National Patriotic Party). Nobody had heard the honorific until it was used in their wedding vows, which raised some eyebrows. Despite its indigenous ring, its origins are unclear. It suggests Taylor was recognized as the leader of the Poro, the initiation societies of Liberia's bush, except historically the Poro didn't have a single leader, certainly not before the mid-20th century, when the Americo-Liberian elite began trying to centralize control over the tradition. On cross-examination, the prosecution argued Taylor wasn't even the rightful possessor of the title.

More telling is what Taylor left out of the equation: His full given name is Charles McArthur Taylor, a fact he himself mentioned in passing the following day. That makes him sound more like one of the aforementioned Americo-Liberians, a descendant of the freed slaves who "founded" Liberia. Which is to say that after being dumped on its shores by—depending on who you read—benevolent abolitionists or nervous slaveowners, or both, they spent a century desperately consolidating their control over the country

through bribery, diplomacy, and sheer force. By dropping “McArthur,” Taylor downplayed his Americo-Liberian origins (in his telling, his father was Americo-Liberian, his mother Gola), and played up the image of the African leader under interrogation.

But Taylor has always lived up to his name, tailoring his persona to his audience. As he himself put it that first day on the stand, “I could fit in any camp.”

Taylor had been an opposition leader in the U.S. who grabbed headlines after he led a sit-in at Liberia’s U.N. mission. President William Tolbert flew Taylor home to meet face-to-face just in time to see the president overthrown. In April 1980, a handful of non-commissioned officers—Master Sergeant Samuel Doe and soon-to-be General Thomas Quiwonkpa foremost among them—strolled into the executive mansion, made their way up to the eighth floor, and gunned Tolbert down. A century of Americo-Liberian rule ended overnight.

The Americo-Liberian elite had long cultivated a close alliance with the U.S. government. Over time, Liberia had become home to a 1,000-acre C.I.A. listening station, a 1,600-acre Voice of America relay that sent 75 broadcasts a day across the continent, and one of six “Omega” tracking stations vital for navigating planes and ships around the globe. The U.S. military enjoyed unlimited access to Robertsfield Airport, from which it flew a dozen flights every month to Cold War hot spots like Angola. All this for the low, low price of \$100,000 a year. Liberia was an indispensable American asset.

Master Sergeant Doe, in the end, was not. Tensions between Doe and Quiwonkpa festered. Taylor’s wife was Quiwonkpa’s cousin, a tie with which he wrangled a position as head of the General Services Administration, putting him in charge of procurement for the entire government. Taylor was in the inner circle, and by 1983, Quiwonkpa and his supporters were talking about overthrowing his comrade-in-arms.

After a botched hit on one of Doe’s generals, Quiwonkpa went to ground. Accused of embezzling almost a million dollars, Taylor took off for the U.S., where he was eventually arrested, pending extradition. He spent the next 15 months in Massachusetts’s Plymouth County House of Correction.

“How did you get out of jail, Mr. Taylor, without a Monopoly-type get-out-of-jail card?” asked Taylor’s attorney, Courtenay Griffiths. You can’t tell if his voice is dripping with sarcasm or if it’s just his English diction. “How did you manage it?” Taylor testified that he was visited in prison by another Quiwonkpa ally, who told him the General was planning a coup and had the support of the C.I.A.

About a month before his escape, Taylor says that “one of the prison guards in a supervisory position” told him “that I will be leaving the prison.” One night, after lockdown, the guard opened Taylor’s cell and walked him over to the minimum security wing. The bars on one of the windows had already been cut. Taylor and two other men went over the wall. A car was waiting outside.

Once he was out, Taylor went everywhere you might expect an escaped fugitive in a foreign country to go. His first stop was his half-sister’s place in New York. He stayed there for “about two or three weeks,” and then drove to Washington, D.C. to visit a friend for a few days. “From there,” he said, “I drive all the way to Atlanta, Georgia, board a plane, fly to Texas, spend time...with some family friends down there for about another month.” Then he headed south, to Mexico, and flew from there to West Africa. “How did you get into Mexico?” Griffiths asked. “We drove right across the U.S. border.”

Meanwhile, back in Liberia, Quiwonkpa’s coup attempt ended with him being dragged through the streets, tortured, and executed. The State Department signed off on the election Doe blatantly rigged, and military aid kept on flowing. Whether Taylor was a C.I.A. asset (in January of this year, the Boston Globe reported that newly released documents confirmed he had been a source for U.S. intelligence, only to almost immediately issue a stunning retraction of the story) or simply in search of a new patron, he eventually made his way to Libya.

By the time he arrived, Gaddafi had gone from talking trash to blowing up a West Berlin nightclub, and the U.S. bombed Tripoli and Benghazi in retaliation (the more things change...). Now the Libyan ruler saw a chance to hit his enemy in its backyard and destabilize an American client. His al-Mataba al Thuriya al-Alamiya (World Revolutionary Headquarters) was luring wannabe revolutionaries from all over the continent. It was in Libya that the prosecution says Taylor and Foday Sankoh agreed on their bloody quid pro quo. Taylor insists he never even met Sankoh at the time.

If he'd remained a prisoner in Massachusetts, he might never have met him at all.

His face doesn't twitch; he never bangs the desk or shouts at the judges or even raises his voice. There are no insults or hunger strikes or demands that the judges respect his authority. For the five-and-a-half hours a day he's on the stand, Taylor sits with his forearms resting on the desk in front of him, his elbows just off the table, leaning slightly forward in his chair. His posture is disciplined, and so is his performance.

Courtenay Griffiths, his attorney, is Queen's Counsel in the U.K., which basically means he gets paid more than all but a select few barristers. Much of Taylor's testimony consists of Griffiths reading one document or another into the record, occasionally pausing to elicit Taylor's commentary. Griffiths plays the master to Taylor's recalcitrant student: "Were you seeking brownie points, Mr. Taylor?" "So are you being hypocritical in suggesting this?" "But, Mr. Taylor, was there any truth in those allegations?" He answers these questions as you'd imagine he would. In asking them, Griffiths teases out the biases that inevitably surround a figure like Taylor and holds them up for examination, implicitly reminding the judges of just how hard it is to maintain the presumption of innocence.

Sometimes Griffiths will lob him a softball: "Mr. Taylor, did you think it was wise for you, David, to be adopting such a tone against Goliath?" Goliath was, first and foremost, the United States. In September 1999, then Assistant Secretary of State for African Affairs (and now U.N. ambassador) Susan Rice wrote to one of Taylor's advisers, former U.S. Army General Robert Yerks, calling for "eliminating monopolies" in Liberia on the price of rice and oil importing. Earlier in his presidency, Taylor had kicked Mobil out of the country, allegedly because they refused to abide by Liberian law; he'd also picked fights with Halliburton and Firestone. It was Mobil that really seemed to piss people off; months before Rice's letter, Yerks wrote to Taylor saying he was "quite surprised at the great importance they placed on this matter."

All this is covered in perhaps 35 minutes of testimony spread out over four days. In the first week or two of Taylor's testimony the prosecution makes a number of objections, only to be consistently rebuffed by the judges. As Taylor continues to hold forth uninterrupted day after day, week after week, it's hard to escape the sense that an implicit deal has been struck: the prosecutor won't object, Griffiths will appear to ride herd, and Taylor will say his piece. No one will be able to say he didn't have the chance to make his case; no one will be able to challenge the orderliness, the legitimacy of his prosecution.

Some time after midnight on January 6, 1999, Christopher Koker first heard the gunfire. The rebels had come to Freetown. They called it "Operation: Free the Leader," and the hardcore fighters made straight for the Pademba Road Prison in the heart of the city, where they believed Foday Sankoh was being held. There they staged a massive jailbreak, and Freetown staggered under a wave of reprisal killings of cops, judges, and journalists.

After his house was burned down, Koker and his family took shelter nearby along with several dozen other people. "There was nothing for us to eat," Koker recalled when I interviewed him in Freetown in March 2011. "There was nothing for the child," his infant son. So on January 15th, he ventured out to see if he could find food. Just as the rebels were being beaten back, Koker was caught and taken prisoner.

His captors marched him through a desolate landscape of burned churches and charred police stations; by one estimate, 80 percent of the latter were torched during the invasion. As the rebels debated whether or not to kill him, Koker was spotted by a former colleague, the wife of a rebel commander. She ordered them to spare his life. “I was between life and death,” he says. “You could die at any second.”

The rebels began their retreat from Freetown with Koker and others in tow, burning and slaughtering their way back up country. The chaos was so intense that for some time it was unclear who had actually staged the attack. Almost a year before the invasion, a faction of the Sierra Leone Army calling itself the Armed Forces Revolutionary Council had staged a coup (they were deposed after only eight months in power). While R.U.F. commanders opportunistically took credit for the Freetown invasion, Sierra Leone’s Truth & Reconciliation Commission held the A.F.R.C. “primarily responsible.” None of the R.U.F. leaders tried by the Special Court were found guilty for the invasion.

After months in captivity, Koker was brought to Lunsar, then held by the R.U.F. There he claims he saw a rebel take a machete and amputate the hands of 36 people accused of attempting to escape. “When they chop [off] somebody’s hand, you see it jumping, jumping on the ground,” he remembers. “These things will haunt me until I die.”

In his book on the conflict, Lansana Gberie speculates that Foday Sankoh might have picked up the idea in the Congo when he served there as a peacekeeper in the 1960s; mass amputations had been a favorite tactic of Belgian King Leopold’s enforcers. Whatever the tactic’s origins, it proved a powerful method of intimidation for the R.U.F. in the run-up to the 1996 elections. After the end of the war, 1,100 people would register as amputees with the government’s reparations program (many more died of their wounds).

In early June, Koker and his captors arrived in Makeni. He’d made the 88-mile trek in the same plastic sandals he’d been wearing when he left his home.

Four days later, Koker claims the rebel camp was visited by a helicopter bearing the emblem of the Red Cross. The chopper, Koker heard, had been sent by Charles Taylor, and it came loaded to bear with guns and ammunition. A week later, it returned with another shipment. If Koker’s story is true (I was unable to independently confirm his account, and his description of the helicopters differs from those described during the trial), while Foday Sankoh was in Lome negotiating an end to the fighting, Taylor was resupplying the R.U.F.. According to Koker, R.U.F. members spoke reverently of the Liberian president: “Taylor was their God.”

Christopher Koker never testified before the Special Court.

“The government did not do a single thing for me,” says Koker, adding, “I was vexed.” When he returned home, he found his family destitute. “T.R.C.? I don’t want to hear about it. Special Court? I don’t want to hear about it,” he says. “It is painful. All of these commanders, some of them have gone back into the army, who were killing people indiscriminately. Some very ruthless ones,” he repeats it, rolling his “r” for emphasis: “Ruthless ones.”

Bernadette French works with the Campaign for Good Governance, one of Sierra Leone’s oldest human rights N.G.O.s. The Campaign has supported the Court’s work and collaborated with its outreach efforts. On one trip up country to screen footage from the trials, some in the audience were shocked at the lifestyle enjoyed by the accused, who sat comfortably wearing suits in air-conditioned rooms and ate three meals a day. Bernadette French remembers explaining that “He’s living in affluence, as you call it, but his freedom has been taken away,” only to be told “Of what use is my own freedom to me now? I’m hungry, I can’t feed my children. Of what use is my freedom to me?”

Freetown is strewn across the hills rising up from Sierra Leone’s coast, the city literally stratified like sediment, layers of poverty and wealth piled atop each other. It’s made for the tracking shot, the long pan,

the God's eye zoom of the third-world city. Once upon a time, it was known as the Athens of West Africa. Over a decade after the rebels' last terrifying gasp, it's hard to tell what's the result of the war and what's the result of decades of atrocious mismanagement, corruption, and underdevelopment.

When Pierre Prosper arrived in June of 2000, nobody was sure the war was over. He'd been an attorney for one of the international tribunals and was now working for the State Department as an assistant to David Scheffer, the first Ambassador at Large for War Crimes Issues, and then-U.N. ambassador Richard Holbrooke. He smuggled out photos of R.U.F. atrocities that helped mobilize international support for ending the conflict.

The government had signed a peace agreement, the Lome Accord, with the R.U.F. in July 1999. It wasn't the first time, and by May 2000 it was unraveling again. Foday Sankoh, the R.U.F.'s leader, had joined the government, but his commanders in the field were underwhelmed. U.N. peacekeepers had been sent to enforce the accord; early that month, disgruntled R.U.F. cadres captured around 500 of them. (Taylor allegedly masterminded the operation, but that charge was ultimately dropped from the indictment; while the judges found that "the evidence was insufficient to establish" Taylor provided the R.U.F. with arms to secure their release, they did conclude that he was "a significant actor in the process and helped to facilitate" their rescue.)

After the incident in May 2000, when news of the incident reached Freetown, thousands of people marched on Sankoh's home in protest. Accounts differ as to who started shooting first—the peacekeepers, Sankoh's guards, or fighters who'd joined the demonstration—but everyone agrees it was a bloodbath. Sankoh escaped in the confusion, but was captured himself not long after.

"Holbrooke," Prosper recalls, "was fired up." It was Srebrenica all over again. At first Sierra Leone's President, Tejan Kabbah, announced that Sankoh would be tried under the laws of Sierra Leone. Just over two weeks later, Kabbah sent a letter to the U.N. Secretary General, requesting "the United Nations... resolve on the setting up of a special court for Sierra Leone."

In the interim, Prosper had flown in and met with Kabbah. In his recollection, the President wanted an international tribunal, but Prosper's experience in Rwanda had made him wary of going that route. Sitting in Tanzania, far removed from the crimes it judged and the victims it was supposed to reassure, that tribunal had provoked frustration and indifference. "We needed to find a way to bring justice closer to the people," Prosper believed. "The people felt too far removed from the process. They couldn't see or feel justice occurring on their behalf."

After talking it through with Kabbah, Prosper says the President "instructed [Sierra Leone's Attorney General Solomon] Berewa and me to sit down...and we sketched it out on paper. We came up with the basic composition and then it went back to Kabbah and he wrote the letter...I stayed in country until the letter was written, because we wanted to make sure the letter got out." As former ambassador David Scheffer recalls in his new memoir, the letter "followed closely the concept paper Prosper and I had drafted."

Of course, had Sankoh and the rest been placed on trial in a Sierra Leonean court, justice would have been as close to the people as it had ever been. An international court was arguably necessary because the Lome Accord had granted amnesty to the R.U.F.; Sankoh simply couldn't be tried under Sierra Leonean law. But the previous peace agreement with the R.U.F. before Lome also included an amnesty, and that hadn't stopped the government from putting Sankoh on trial and sentencing him to death in October 1998.

A few months after that verdict came the Freetown invasion, and the rebels declared open season on judges. "Sierra Leone was on the verge of being a failed state," recalls a senior official who took part in the negotiations that set up the Special Court. "They had no capacity to conduct trials." But Sierra

Leonean judges were appointed to the bench, and while the International Center for Transitional Justice acknowledged in a 2009 report that the courts were in “a state of decay,” the report also noted that “when it came to composing defense teams, a significant number of Sierra Leoneans were chosen as lead counsel.”

The court that President Kabbah’s letter envisioned was a hybrid tribunal, the first of its kind. It would draw on both international and Sierra Leonean law, and both national and international judges would preside. In the negotiations that followed over the next few months, the Sierra Leoneans and the U.N. secretariat lobbied the Security Council to empower the Court to go after those who bore the “most responsibility” for the crimes committed during the war, to grant it authority under Chapter 7 of the U.N. charter, and to fund its work through assessed contributions by the U.N.’s member states. The Security Council was unimpressed. The Sierra Leoneans and the U.N. Secretariat lost on all three counts.

In the end, the Court would try only those who bore “the greatest responsibility,” letting commanders like Koker’s “ruthless ones” off the hook. “One of the key things that we did is we intentionally did not limit it to Sierra Leone nationals,” says Prosper. “There was an effort to do that, and we—the U.S. and others—said no because we had Charles Taylor in mind.”

Without Chapter 7 authority, the Court was unable to issue warrants or compel states to act on its request; the lack of assessed funding meant it would have to raise its budget from voluntary donors. As a hybrid, the Court was a disappointment. It has made few references to Sierra Leonean law, and the Sierra Leonean government actually nominated international judges for some of the minority of seats it was granted on the bench.

According to the senior official, the Security Council “didn’t want assessed funding because they didn’t want another Yugoslav tribunal. They wanted a narrow formulation of the jurisdiction, because the narrower the formulation, then of course the fewer indictees, and the fewer indictees, then the fewer trials.”

They got what they were after. The Special Court for Sierra Leone has dispensed justice at a fraction of the price of the Yugoslavia and Rwanda tribunals, which cost over \$300 million and \$245 million respectively for 2010 – 11, long after their peaks. Most years the Special Court gets by on about a tenth of that sum. Close to half its funding has been provided by the United States, but the court has still been chronically short of cash, often only three months away from shutting down.

“The enthusiasm for international criminal courts had considerably waned,” recalls a former U.S. diplomat who dealt with the Court during the Bush era. The president set the tone early on, when he erased Clinton’s signature from the treaty establishing the International Criminal Court. Nor had Clinton been particularly enthusiastic about the I.C.C., only putting his name down on the last possible day before he left office, and only after intense negotiations to limit its authority. “The U.S. was not in favor of the I.C.C.,” says the former U.S. diplomat. “Anything we were in favor of was viewed as an alternative.”

In an interview for this story, the Special Court’s first registrar (essentially a chief administrator), Robin Vincent (who died in June 2011), said that “There were those states... who while saying they supported the ideals of the Special Court for Sierra Leone were not prepared to put any money in because of the American contribution.” Vincent was told: “The U.S. hasn’t signed up to the I.C.C., so therefore we don’t want to be seen to be in bed with them.” As he recalled, “I was never able to tell...whether that was a convenient excuse for not contributing or whether it was a genuine one.”

The I.C.C. finally came online in July 2002. The U.S., after calling so loudly for accountability in Sierra Leone and Liberia, scrambled to sign “bilateral immunity agreements,” exempting its own people from prosecution. In March 2003, President Kabbah signed on the dotted line. A month later, the Overseas Private Investment Corporation—an arm of the U.S. government—provided \$25 million in desperately

needed financing for the rehabilitation of Sierra Leone's rutile mines (ravaged by the R.U.F. during the war, allegedly at Taylor's suggestion).

Taylor's one lunatic moment on the stand comes out of nowhere on a Thursday morning in late August, 2009. Griffiths is questioning him about his government's arrest of documentarian Sorious Samura and his crew nine years earlier on charges of espionage. Taylor says that the interview Samura had scheduled was "an attempt to kill me." But he goes further: "A major Western intelligence source" informed his government that the camera Samura would use to tape the interview "contained some beam or something that fired at me would, over a period of time, lead to cancer." As Taylor was told: "The camera is going to be your demise."

Griffiths did not follow up. Of course, the source might simply have meant that Taylor was liable to betray himself on film, or that mere reporting was more of a threat to his rule than any rebellion. Then again, Fidel Castro has claimed that in 1971 the C.I.A. designed a camera with a gun inside to take him out. In 2001, two men posing as documentary filmmakers assassinated Ahmed Shah Massoud in Afghanistan; their camera was packed full of explosives (Taylor would later claim he'd been briefed about this, although it occurred a year after Samura's arrest; the prosecution seized on that as evidence of perjury). Cancer-beams aside, the claim wasn't quite as crazy as it might seem. Or maybe it was simply an attempt to stoke Taylor's paranoia. It was one of the few hints of the Taylor so often portrayed in the international media: a man enthralled by superstition and dark portents.

When the prosecution finally got its shot at cross-examining him two-and-a-half months later, they aimed straight for the camera. Ordered to name the intelligence source, Taylor barely breaks a sweat; he doubles down and fingers the Americans and the French, effectively neutering the line of questioning. It's a masterful parray. Even with his back to the wall, Taylor is at the top of his game.

The Accra International Conference Center was packed. It was June of 2003, and Ghana was hosting peace talks between Taylor's government and the major rebel group threatening to bring it down, Liberians United for Reconciliation and Democracy (LURD). None other than Taylor himself was to address the opening session. Back in Liberia, LURD was marching relentlessly toward the capital.

Taylor was supposed to take the stage at 11:00. By noon, he still hadn't turned up. That morning, almost 1,000 miles away in Freetown, Prosecutor David Crane had unsealed what, until then, had been a secret indictment of the Liberian president. "The evidence," Crane declared, "led unequivocally to Taylor." Interviewed for this story, Crane said he intended "to bring down and embarrass Charles Taylor in front of his peers. To let the people of West Africa know that at the stroke of my pen I could bring down the most powerful warlord in Africa. And to let the world know that Charles Taylor was using the peace process as a delaying tactic."

Finally, Taylor appeared. As he took to the podium, the LURD delegation, emboldened by the indictment, walked out. There would be no peace in Liberia in the weeks to come.

Back at the hotel where Taylor and the Liberian delegation were staying, people wept openly and packed rapidly. One Liberian, a local chief traveling with Taylor's entourage, pulled aside Lewis Brown, previously Taylor's Foreign Minister and at the time one of his chief negotiators. "There was urgency in his voice," Brown recalls. "He said to me: 'What is this we're hearing? They're saying we should arrest the President?' I said, 'Yeah, they asked the Ghanaians to arrest the President.'" The chief paused, then asked, bewildered: "Do they know he's President?"

The Ghanaians didn't arrest Taylor that day. Instead, they put him on a plane and flew him back to Liberia. Ghana's president, John Kufour—along with South Africa's Thabo Mbeki and Nigeria's Olesegun Obasanjo—had worked hard to coax Taylor out of Liberia. In a leaked diplomatic cable, Obasanjo tells U.S. officials he was "insulted" by the unsealing of the indictment.

In the weeks that followed, Monrovia was wracked by fighting so intense Liberians referred to the battles as World War I and World War II. Many sought shelter near the U.S. Embassy, hoping the U.S. would protect them. On July 20, the rebels shelled the area, leaving 19 dead and another 60 wounded. The survivors piled corpses outside the Embassy in protest. President Bush ordered three warships to Liberia, but they simply sat offshore (not the first time the U.S. had tried this tactic in Liberian history). On August 7, peacekeepers intercepted a shipment of arms bound for the government's forces. Four days later, Taylor went into exile.

"I think all of these Courts that have a role in ongoing political situations, ongoing conflicts, inevitably play a political role in terms of how those conflicts might be resolved," says the former U.S. diplomat. "And they can very easily pour gasoline on the fires."
The exterior of the ICC. Photos by Nicholas Jahr.

Recent history is distressingly rich with examples. In Guinea, after former junta leader Dadis Camara's Red Berets brutally suppressed an opposition rally in September 2009, human rights groups demanded accountability. Secretary of State Hillary Clinton declared that the perpetrators "should not be given any reason to expect that they will escape justice." Two months later, Dadis was shot in the head by a close aide afraid he was going to take the fall, and Guinea teetered on the brink.

In the Cote d'Ivoire, Laurent Gbagbo refused to accept his defeat in the November 2010 presidential election. When his Republican Guard opened fire on protestors, both the European Commission and France's President Nicolas Sarkozy invoked the International Criminal Court. Gbagbo dug in deeper, and eventually had to be hauled out of a bunker by French and opposition forces.

In Libya, Gaddafi's indiscriminate slaughter of protesters earned the distinction of being the second situation ever to be referred to the I.C.C. by the U.N. Security Council. Three weeks later, Taylor's old sponsor was declaring that armed resistance in Benghazi would be shown "no mercy" and the bombers were taking off. Taylor couldn't have been far from Gaddafi's mind.

Lewis Brown says that before the indictment was unsealed, he had already met with "Western leaders" and confirmed that "President Taylor was ready to leave." Once the indictment was made public, "I saw the forces who were battling the government, whatever reasons they had, as being given a shot in the arm...It was like overturning everything that could possibly come out of the peace initiative. How would they arrest President Taylor?"

Across the table was Kabineh Ja'neh, then LURD's chief negotiator and now an Associate Justice of Liberia's Supreme Court. "I have no doubt in my mind that President Taylor was in his last days, with or without the



indictment,” he says. However, he believes that without it, “the fight would have lasted much longer. President Taylor was not the kind of person that would just walk away.” After all, Taylor had repeatedly used peace processes to his advantage before; Liberia’s factions had negotiated 13 different deals between 1990 and 1996, often little more than opportunities to regroup and rearm.

But that day in Accra, nobody knew what to expect. In the words of another member of Taylor’s entourage (granted anonymity due to fear of reprisal), when Taylor finally turned up at the hotel, “the air conditioner was on, but he was sweating.”

For two months in 2003, Moses Blah was president of Liberia. These days, he keeps a lower profile. Head to Red Light Junction, the major intersection on Monrovia’s outskirts, leave the main road for a dirt track and follow that through the scrub for another 10 minutes or so, and you’ll find Blah’s compound. From the turret above the gate, a couple of Nigerian UN peacekeepers eye the road.

Inside the walls sits Blah’s two-story home, modest by American standards. Off to the right, the unfinished foundations of a couple of buildings are slowly being overtaken by the grass; a cow or two wander the grounds.

Blah was one of the original members of Taylor’s National Patriotic Front of Liberia, and eventually became his Vice President. When Taylor stepped down, he stepped up. He testified for the prosecution in the Hague.

The threats started before he made the trip. Sando Johnson, one of Taylor’s associates (and as of this past October, a senator in Liberia), allegedly said Blah and his family would be killed if he wasn’t careful. After Blah returned, he says signs were posted on his door, and that of his brother: “The Blah family...they will slaughter them. They will burn my house. My house will turn to ashes.” A week or so after he testified, Blah says a group of about a half-dozen men tried to break into his compound through a small gate in the back. Interrupted by his security detail, they fled. More than a year later a grenade was discovered nearby.

Of the prosecution’s 91 witnesses, 23 were granted some degree of protection on the stand: a screen preventing them from being identified, for example. Four testified entirely in closed session (meaning their evidence is unavailable to the public). The judges shot down 13 more requests for prosecution witnesses to testify in closed session; Blah was one of them. Seven of those witnesses stayed home.

The defense argues that those who showed up were drawn by a free trip to the Hague and the impressive sums of money the prosecution paid out. One defense witness testified that he raked in \$30,000 U.S. from the prosecution. Some witnesses seem to have been reimbursed for lost wages despite testifying they were unemployed. One witness received a little less than the equivalent of \$900 U.S. for “miscellaneous” expenses; he admitted on the stand he used it to pay for computer courses in Freetown. Another witness walked away with a year’s worth of rent payments from two separate offices at the Court.

Other benefits have followed as well: the testimony of Foday Lansana, one of the prosecution’s most important witnesses, won him an early release from prison. One defense witness claimed he was offered \$90,000 by a prosecution investigator to testify he had carried diamonds from the R.U.F. to Taylor. Blah himself received more than \$13,000 in just over a year, much of which went to medical treatment.

“I didn’t go there for money,” Blah insists. “I only went there because I went to say the truth.”

In the end, Blah chose to testify openly, and he wasn’t the only witness to do so whose testimony was met with threats. The family compound of another witness was invaded by several unknown men; before the police scared them off, the invaders told those present they’d all be killed. Several days later a leaflet was found in the yard repeating the threat.

Just a month after he testified, Blah says the guards provided by the Special Court were gone. “The Special Court has cut the payment and support for security to me,” he says. “I no more hear from them. They don’t care anymore, after I testified. Maybe all they wanted was for me to testify.” Next, the government cut his security personnel from three to a single unarmed guard. He checks his blood pressure twice over the course of the interview. “Yes, I’m worried,” he says. “What happens when the Nigerians leave? Where will I be?”

After Taylor was forced into exile, the Nigerians extended their hospitality to him as well, and he lived under something like house arrest in a villa in Calabar. Back home a transitional government took power, elections were held, and Ellen Johnson Sirleaf became the first woman to be elected head of state in Africa. (After years of denials, Sirleaf admitted in her 2009 autobiography that she raised funds for Taylor in the early days of his rebellion.) In the first month of her presidency, more than 300 Liberian and international human rights groups wrote her a letter calling for her to request that Nigeria hand Taylor over to the Special Court. “We want to see it as a secondary issue,” she replied, “even though it may be of utmost concern to the international community.”

Six weeks later, she signed off on a formal request for Taylor’s extradition. “It was a high-level discussion” between the U.S. and the president’s office, says a senior Liberian diplomat, “and we didn’t ask questions. We just know from what the president explained, that she had to do it, and in her best judgment, it was the best thing to be done for Liberia.” The request was made public by the U.S. Congress while Sirleaf was in the country shaking the cup; by the end of her visit she’d won pledges of \$50 million in Economic Support Funds directly from the House and another \$25 million from the World Bank (run at the time by Bush appointee Paul Wolfowitz), as well as a promise of further aid from President Bush himself.



Photo of Moses Blah's compound in Liberia by Nicholas Jahr.

The Nigerians, who the U.S. had spent years urging to turn Taylor over, sat on the request for at least a week. On March 25th, they finally deigned to reply with a statement whose dry irony made it an instant classic of diplomacy, informing Sirleaf that “the government of Liberia is free to take former President

Charles Taylor into its custody.” Taylor, of course, was four countries away, and Liberia lacked a functioning army or police force.

Three days later, on the eve of a meeting between Nigerian President Obasanjo and President Bush, Taylor “vanished.” The Nigerians expressed shock. Twenty-four hours after that, he was stopped trying to cross the border.

The Special Court sits on an 11½-acre site midway up Freetown’s hills, perched there like some exotic butterfly that might take flight at any moment. Few Sierra Leoneans ever passed through the maze of security surrounding it; when it came time for Taylor’s trial, they never had a chance.

Several Sierra Leonean organizations, the Center for Accountability and the Rule of Law (CARL) among them, filed an amicus brief with the Court arguing that one of the court’s other trials presented a far greater threat to the country’s security than Taylor’s, and that his should remain in Freetown. They called for a public security assessment. They never got it.

Even before the Court’s president announced he’d been discussing relocating Taylor’s trial with the government of the Netherlands, President Bush told the press that “there is a process to get Charles Taylor to the court in the Netherlands.” That process had apparently begun even before Taylor’s arrest. The International Center for Transitional Justice reported that “according to a senior member of the SCSL,” in October 2005 the U.S. government told the prosecutor: “If you want Taylor it will have to be outside [the region] because it’s too destabilizing.”

As CARL’s Mohammed Suma pointed out at the time, Taylor was held for three months in Freetown without incident. Still, his presence clearly made the Sierra Leonean and Liberian governments nervous; both requested his trial be moved abroad.

“What legitimized the Court was not the statute or the rules of procedure or the laws... or the U.N.S.C. resolution,” says Suma. “What enhances its legitimacy is its connection to the people on behalf of whom it’s claiming to be working.” Relocating Taylor’s trial only placed justice further from the people. “Instead, they held the trial in the Hague and started ‘justice tourism,’” flying in local advocates and chiefs to fill the seats in the public gallery.

“It was a decision that had to be taken, but it was really regrettable,” says Herman von Hebel, the Court’s registrar at the time. Besides placing justice that much further away from the people of Sierra Leone, the move to the Hague cost millions. But it was not without its benefits; von Hebel says that “as soon as Taylor was transferred...the willingness of people to come forward as witnesses increased, and in that respect I think it did serve justice.”

The courthouse will soon be turned over to the Supreme Court of Sierra Leone. Maintenance costs more than \$1 million U.S. a year. According to a 2009 report by the International Center for Transitional Justice, “The government of Sierra Leone cannot maintain the site of the Special Court for Sierra Leone in its current state.”

“It has been demonstrated,” stated prosecutor Stephen Rapp after the testimony of the final prosecution witness, “that it is possible to prosecute a former chief of state in a trial that is fair and efficient, even where the indictment covers wide-ranging crimes. We have seen international justice conducted in accordance with the highest standards.” Three weeks later, the judges finally determined the charges against Taylor.

The first indictment drawn up against Taylor used wording identical to those of the other rebel factions in Sierra Leone’s war. Borrowing from the International Criminal Tribunal for Yugoslavia, Taylor was

accused of participating in a “joint criminal enterprise” (J.C.E.), international law’s equivalent of a conspiracy charge.

“The common plan, purpose or design (joint criminal enterprise),” read the original indictment, was “to take any actions necessary to gain and exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas.”

The problem? Under J.C.E., that “common plan, purpose or design” had to be criminal. And besides the slightly ominous ring to “any actions necessary,” that could just as easily describe a political campaign as a military one. This was more or less what Taylor’s judges ruled in the other trial they presided over.

The amended indictment not only dropped any reference to J.C.E., but arguably failed to explicitly state any common purpose at all. The closest it came was a reference to “a campaign to terrorize the civilian population of Sierra Leone.” While the prosecution continued to refer to that plan “to gain and exercise political power,” the indictment didn’t, and it was the campaign of terror two of the three judges ruled to be the common purpose.

In a dissenting opinion, Justice Richard Lussick found the indictment “obviously defective.” Nor was he terribly impressed with the logic by which it had been salvaged, a “brain-twisting exercise” which required stringing together eight disparate paragraphs spread throughout the 34 of the final indictment.

“Not only does [the indictment] fail to specify any common purpose for the joint criminal enterprise,” Lussick noted, “it does not mention joint criminal enterprise at all.”

In her 2010 report on the trial, War Crimes Study Center trial monitor Jennifer Easterday concluded that “the decision means Taylor sat through the entire prosecution case before he fully knew the nature of the charges against him—an apparent violation of his fair trial rights.”

The same month Taylor made his debut on the witness stand, former prosecutor David Crane was making his debut on NBC. The Wanted starred “real operators, in search of real targets”: Crane alongside a former Green Beret and a former Navy SEAL, hunting down alleged terrorists, “the worst of the worst” as he put it, tricked out with handheld camerawork and the pseudo-spy-sat subtitles of a summer blockbuster.

Until he was plucked from obscurity by the Bush administration and shoved onto the world stage, Crane had been a senior inspector general in the U.S. Defense Department. He had no courtroom experience. “It was simple Management 101,” says Crane, arguing his role was to be more managerial than prosecutorial. “Creating a plan based on the mission you were given, based on the money that you have. It wasn’t rocket science.”

“All I can tell you about David Crane is...we were not too convinced,” says the senior official who was involved in the negotiations establishing the Special Court. Although the UN asked the U.S. for other candidates, the official says the organization was told “‘We won’t have any other names; this is the guy.’ And that was it.”

“You could say he was basically imposed by the U.S.,” the official recalls. “He was probably not the choice we would have made if we had the possibility of looking at other names. The U.S. was the major donor. And this court wasn’t going anywhere without U.S. money.”

Both of the prosecutors who followed Crane also have close ties to the U.S. Stephen Rapp had been a district attorney in northern Iowa, and he is now the Obama administration’s Ambassador for War Crimes. The current prosecutor, Brenda Hollis, began her legal career as a prosecutor for the U.S. Air Force (she then became a senior trial attorney for the International Criminal Tribunal for Yugoslavia). Taylor and his attorney have continually maintained that his prosecution is political.

Crane took to describing the conflict in made-for-TV terms. In 2006, the International Center for Transitional Justice reported people in Freetown thought he “sounds like George Bush.” His opening statement in the R.U.F. trial conjured “a tale of horror, beyond the Gothic into the realm of Dante’s Inferno,” home to Taylor’s “evil spawn,” “the commanders of an army of evil.” They were “the handmaidens to the beast” (“the beast of impunity,” that is). He charged all the Court’s indictees with acts of terrorism, and repeatedly linked Taylor to Al Qaeda.

His zeal had consequences no one expected. In his letter to the U.N., President Kabbah had requested a court that would “bring to credible justice those members of the Revolutionary United Front (R.U.F.) and their accomplices.” Crane went after everyone.

When the A.F.R.C. overthrew Kabbah’s newly-elected government in 1997, Kabbah turned to local militias, the Civil Defense Forces (C.D.F.), commanded by Chief Sam Hinga Norman, to fight back. Even the former British High Commissioner for Sierra Leone, Peter Penfold, referred to Hinga Norman as a “hero.” Crane indicted him and two other men as the C.D.F.’s leaders.

At the time of his arrest, Hinga Norman was serving as Deputy Minister of Defense in Kabbah’s government. Finding people who will tell you Kabbah lost the 2007 election as a result isn’t hard.

“This whole idea of international human rights law is still very new to the ordinary man, and they could not understand that,” says Bernadette French. “I’m sure even the Sierra Leonean government did not think for a split second that Chief Hinga Norman would have been indicted, otherwise I’m not sure the President himself would have called for the establishment of the Special Court.”

Sierra Leone’s Truth & Reconciliation Commission found that the C.D.F. “played a vital role in defending the nation,” but “was itself responsible for considerable violations and abuses of human rights.” Norman’s co-defendants were found guilty. Hospitalized for surgery on his hip, the chief himself died six months before the verdict.

The Wanted was cancelled after two episodes.

Much to the disappointment of the press, Naomi Campbell made it through her testimony without hurling a phone at the help. The notoriously mercurial supermodel seemed anything but, determinedly and skillfully avoiding making the connections the prosecution wanted to hear. That at a September 1997 party at Nelson Mandela’s place, she’d spent the evening flirting with Charles Taylor; that at the end of the night he’d given her diamonds. By the end of her testimony, the prosecutor’s questions became so aggressive that the judges actually admonished her that she could not treat her own witness as hostile.

The prosecution had actually rested their case more than a year before Campbell testified. In the end her evidence took up a scant three paragraphs of the 1,274 of the prosecution’s final brief.

Campbell actually seized the spotlight away from one of the most important witnesses the defense called to testify: Issa Sesay, the former interim leader of the R.U.F.. Sesay was appointed the R.U.F.’s leader after Foday Sankoh’s May 2000 arrest. Exactly who made that appointment was argued at trial; the prosecution claimed it was Taylor who promoted him, while the defense claimed Sesay was chosen not by Taylor alone, but by the group of West African leaders who were mediating the conflict. Sesay himself says it was Nigeria’s President Obasanjo who “brought about the idea” (though a May 2001 State Department cable casts some doubt on this claim, reporting that Obasanjo “had not been impressed with Issa Sesay”).

When he was arrested Sesay sobbed, “Is this the peace I signed for? Is this the peace?” Sesay was convicted of murder, rape, enslavement, and recruiting child soldiers, among other highlights. He got 52 years, two more than Taylor. It’s the highest sentence meted out by the Special Court.

A 2008 report by the War Crimes Study Center speculates that the prosecution may have been trying to flip Sesay, or at least to use the possibility to get him talking after his arrest. The investigators who interviewed Sesay once he was in custody repeatedly failed to explain his rights and deprived him of a lawyer; over a thousand pages of interview transcripts were ruled inadmissible as a result. On his last day on the stand, he declared, “I have nothing to gain.” It’s still hard to imagine he has much love for the Court.

According to the prosecution, the diamonds Taylor was allegedly doling out in South Africa were payment for a major arms shipment for the R.U.F.. Sesay denied Taylor had any role in the deal (he claims Gaddafi kicked in \$2 million). He denied Taylor had any role in the R.U.F. whatsoever. For that matter, he denied that by the time of the Freetown invasion there was much of an R.U.F. for Taylor to command; there were so many schisms among the leadership that “the R.U.F. was not thinking as one during that period and did not have a single command structure.”

But the media didn’t stick around for Sesay’s return to the stand after Campbell’s star turn. “If we had not called her, people would say ‘Why did you not call her?’” says an attorney for the office of the prosecutor who wasn’t authorized to speak on the record. “It would have made no sense not to. We had to. It’s an obligation.”

“I just thought they wanted some publicity,” says Mohammed Suma of Freetown’s Center for Accountability and the Rule of Law. “This would get the donors to become interested again. It doesn’t carry much weight. It’s unfortunate that we were only able to gain the attention of the international community and the international media through that.”

Campbell’s cameo won the court as much if not more coverage than it had received since the trial began. The New York Times published almost as many stories on her testimony as it had on the entire trial up to that point (and the paper has published more stories than most).

But the media heat served another purpose. During the trial of the leadership of the civil defense forces—the militia that President Kabbah relied on to restore his government—the attorney for Chief Hinga Norman, the militia’s leader, attempted to subpoena the president. Sierra Leone’s Attorney General shrugged it off. In their filing on the motion to subpoena Campbell, the defense warned: “The Trial Chamber should be cautious about issuing an order that may not be enforceable.” Proving that it could compel Campbell to testify—without a state enforcing the order, much less a police force—the Court demonstrated its power. And in a culture obsessed with celebrity, what better subject to demonstrate it with than a supermodel.

Eventually, the I.C.C. had to take its courtroom back. For the last months of the trial, the Special Court held session in the Special Tribunal for Lebanon. The courtroom’s grey paneled walls feel like an asylum; reportedly the building was once used by the Dutch Secret Service, and this was their basketball court. The public gallery is on a balcony overlooking the courtroom; witnesses sit directly below its edge. It’s more or less impossible to see them without watching one of the four flat-screen televisions mounted overhead, your attention inevitably channeled away from what’s occurring right before your eyes. From above, Taylor looks subdued, his hair thinning on top. He sits quietly throughout the prosecution’s closing argument, showing no reaction.

This is something of a feat. The day begins with Courtenay Griffiths declaring: “We feel it is our professional duty to withdraw.” After the defense rested its case, the WikiLeaks started flowing. The defense requested, among other issues, that two cables be admitted into evidence. By the time the moment

to submit final briefs arrived, the judges still hadn't ruled on the matter. So Griffiths and his team requested more time to prepare the final brief, time a majority of the judges denied them. Dissenting from the majority, Justice Julia Sebutinde of Uganda cautioned that "to ultimately strike out on a procedural basis his Final Trial Brief that essentially contains his defense to the charges in the Indictment is to deny him his fundamental right to defend himself."

Eventually, the two cables were admitted into evidence. The latter of the two, dated April 2009, recounts discussions between the State Department and the Court's administration concerning the latter's funding, the sort of discussions that had to happen by design. In a separate cable dispatched a month earlier, the U.S. ambassador to Liberia advises that "should Taylor be acquitted in The Hague or given a light sentence, his return to Liberia could tip the balance in a fragile peace. The international community must consider steps should Taylor not be sent to prison for a long time. We should look at the possibility of trying Taylor in the United States." She goes on to write that "all legal options should be studied to ensure that Taylor cannot return to destabilize Liberia."

To the defense, this was clear proof that Taylor's prosecution was political. To the prosecution, it was clear proof "that this court operates independently."

Finally, Griffiths walks out. And there is a moment, in which Taylor glances after him, rises from his seat, and then spreads his arms, palms out, uncertain of whether he should go. The camera doesn't seem to catch it, and for a brief instant, it's as if we've had a glimpse behind the scenes, and what we're seeing is just a 65-year-old man at the mercy of much larger forces. You have to remind yourself of his former powers. And then he returns to his seat.

Taylor sits, eyes downcast—though you can never be sure if it isn't a trick of the camera angle—as his sentence is read. Seated in the fourth row behind his defense team, he seems almost marginal to the proceedings. For more than a half hour, Justice Lussick runs through the mitigating and aggravating factors considered by the judges. The camera slowly settles into alternating close-ups of him and Taylor, as if they're being pressed into a duel in which neither is interested. They've dissolved into their roles.

Finally Lussick invokes "a new era of accountability," and asks Taylor to rise. The camera cuts to a long shot of Taylor when you want a close-up, and then back to Lussick. Fifty years. Taylor will die in prison.

Appeals, from both sides, seem inevitable. The verdict was still hailed in most quarters as a victory for the rule of law, a step toward the end of impunity. What went unmentioned in the majority of the coverage is that while the judges found Taylor guilty of helping to plan some of the R.U.F.'s most terrifying offensives, they refused to find him guilty as part of a joint criminal enterprise, much less of enjoying superior responsibility over the R.U.F.. Instead, they found him guilty only of the lesser charge of aiding and abetting the rebels' crimes.

As Griffiths pointed out in his last turn at the mic, the same charge could be leveled against Tony Blair, whose government armed Sierra Leone's Civil Defense Forces (and violated a UN Security Council resolution in doing so). The United States has a long history of backing one rebel group or another to achieve its goals abroad; in his recent memoir about his time reporting on the last phase of Liberia's civil war, James Brabazon finds it likely that the U.S. trained the rebels who helped force Taylor from office. It's hard not to suspect that what sets Taylor apart is that he was the president of a minor, impoverished African state.

Having unleashed Taylor upon the world, intentionally or unintentionally, the U.S. eventually set out to remove him from the stage. It shepherded the establishment of the Court, effectively appointed almost every one of its prosecutors, and worked to secure Taylor's arrest. As regime changes go, this was far less bloody than Iraq. Thus, it may prove to be a turning point in enforcing the rule of international law. Or it may prove to be the moment after which that prospect ceased to be credible.

BBC

Tuesday, 10 July 2012

DR Congo warlord Thomas Lubanga sentenced to 14 years

Congolese warlord Thomas Lubanga has been sentenced to 14 years in jail for recruiting and using child soldiers in his rebel army in 2002 and 2003.

He was convicted by the International Criminal Court (ICC) in March - the first conviction since the court was set up 10 years ago.

Lubanga had protested his innocence and said he had not supported the use of child soldiers.

But in a unanimous decision, the judges said Lubanga was responsible.

Campaign group Human Rights Watch says more than 60,000 people were killed in the conflict between Hema and Lendu ethnic groups in Ituri, in north-eastern DR Congo.

In June, ICC chief prosecutor Luis Moreno-Ocampo said he was asking for a "severe sentence" of 30 years.

He said the prosecution was requesting a sentence "in the name of each child recruited, in the name of the Ituri region".

The conviction of Lubanga is linked to current unrest in DR Congo.

Rebel forces are advancing towards the country's main eastern city of Goma. They are headed by Gen Bosco Ntaganda, who is also wanted for war crimes by the ICC.

Jewish Journal

Thursday, 5 July 2012

http://www.jewishjournal.com/world/article/teshuva_in_liberia_moving_from_ruin_to_reconciliation_20120705/

Teshuva in Liberia: Moving from ruin to reconciliation

by Rabbi Sharon Brous



Rabbi Sharon Brous with some of the women of WIPNET (Women in Peacebuilding Network) in Liberia. Photo courtesy of American Jewish World Service

Sometimes, when you visit a place that is full of so much pain, the stories — and days — begin to bleed into one another.

The stories of the people of Liberia, whose ferocious civil war ended only nine years ago, reveal horrifying trends through 14 years of fighting. Scant memories are shared nowadays of life before the war (not easy, but peaceful at least), many more of the terror as waves of rebel forces pushed their way through the country, massacring thousands and displacing hundreds of thousands, many never to return. There are stories of families torn apart, stories of unthinkable brutality, the constant and consistent terror of violence unabated, the devastation of social structures (all schools and medical centers in the country shut down, the private sector evaporated completely) and desperate food shortages for far too many years.

Yes, all war is devastating, but the war in the West African nation of Liberia was characterized by a particular brutality — perhaps because it was orchestrated by a man with a compulsion toward the obscene, specializing in vicious and pervasive rape of women and girls as young as 3 years old, perpetrated often by boys and young men not much older than their victims. When this war made it to the headlines of the Western press, it was generally because of this noxious detail: the small boys who were abducted and initiated into Charles Taylor's army by being shot up with drugs and forced to commit heinous crimes against members of their own villages — often their own families. This ensured that they'd dedicate themselves wholly to the war effort, having eviscerated all hope of returning home. Later,

this tactic was taken up by Taylor's enemies as well — warlords who attacked the same tired population in their own effort to wrest power from the powerful in Monrovia.

Toward the end of my time in rabbinical school, in the late 1990s, I began to study human rights and conflict resolution in earnest. At the time, Charles Taylor had become president of Liberia and was presiding over the second deadly phase of civil war there, while perpetuating the war in neighboring resource-rich Sierra Leone. Over the course of that decade, two lush and promising African countries were crushed by waves of senseless violence perpetrated against civilians — murder, rape, torture and, especially in Sierra Leone, amputations: arms, legs, breasts, ears. (It was his criminal acts in Sierra Leone that earned Taylor his recent conviction in The Hague, sentencing him to 50 years in prison.) As the fighting raged in both countries, I'd run between Talmud classes to the School of International & Public Affairs at Columbia University to watch video clips of these boy soldiers — some 10 or 11 years old — riding around the countryside on the backs of beat-up pickup trucks with their rifles, cigarettes and sunglasses. They clearly had no comprehension of the devastation they were causing, no sense that the atrocities they were committing would take generations to heal. I found myself wondering what would happen to the boy soldiers and their families when the war ended. This question haunted me, and I set out to determine whether the vast Jewish literature on teshuvah — reconciliation and forgiveness — might offer any insight that could help bring healing once the fighting ceased.

After a decade and a half of fighting, the war that transformed Liberia's beautiful countryside into a post-apocalyptic nightmare reached a triumphant denouement. In 2003, as the conflict reached a fevered pitch with Taylor's enemies closing in on the capital city of Monrovia, thousands of women came together proclaiming the simple message: "We want peace. No more war." WIPNET (the Women in Peacebuilding Network), a group of extraordinary women led by Leymah Gbowee, who won the Nobel Peace Prize in 2011, wore white T-shirts and scarves and sat in the blazing sun and pouring rain, refusing to move until the men made peace. "We were not afraid," one of the women of WIPNET told me. "Either we will die from war or we will die fighting to make peace." The women stared down generals, warlords and soldiers. Gbowee stood before President Taylor and proclaimed:

"The women of Liberia are tired of war. We are tired of running. We are tired of begging for bulgur wheat. We are tired of our children being raped. We are now taking this stand to secure the future of our children. Because we believe, as custodians of our society, that tomorrow our children will ask us, 'Mama, what was your role during the crisis?'"

And the women prevailed, ultimately bringing down the Taylor regime and disarming the rebels and militias on all sides. In the first free election after the war, Ellen Johnson Sirleaf (who shared the Nobel Peace Prize with Gbowee) was chosen to be the president of the new Liberia — a nation devastated by war and desperate for healing.

I traveled to the region with Ruth Messinger of American Jewish World Service and a small cohort of Jewish thought leaders and philanthropists to see the country in the aftermath of conflict and disarmament. We set out to meet the architects of peace and the leaders of NGOs working toward women's empowerment, social and economic justice, and sustainable development, and to hear perspectives on the possibility of reconciliation. A few years ago, Liberia began a truth and reconciliation process, but it was aborted midcourse when it became clear that high-ranking government officials would be implicated for wartime actions. As a result, talks of reconciliation have stalled, and while Gbowee and some others continue to plead for a reinvigorated reconciliation process, the people I spoke with talked mainly of moving on. "You must forget about it," a young woman whose little brother was shot as he stood by her side, told me through tears. "Otherwise you'll never be able to move on with your life."

"Forgive and forget. It's the only way to start living again," a member of the hotel staff told me.

“We just want peace,” our driver, Mike, said. “Who did what, who didn’t do what — it doesn’t matter. As long as they’re willing to lay down their arms, that’s all that I care about.”

Forgive and forget? Move on? These words made me tremble every time I heard them. Perhaps it is because of my Jewish bias for justice. The fact is, there can be no justice without, well, justice — which is why I see a reconciliation process as both a spiritual and political necessity. How can a society be rebuilt when the man in the market stall next to you killed your child or raped your sister? And even if it’s possible to forgive and forget, is that really a social value?

A true reconciliation process in Liberia presents some serious challenges, not the least of which is the absurdity many perceive in investing money and resources into a lengthy reconciliation process at a time when the country is starving for basic services. Liberia’s health systems were utterly destroyed in war, and there are now only a few dozen doctors serving a population of nearly 4 million people in decrepit and under-resourced hospitals and clinics. Maternal and infant mortality rates are among the world’s highest, and children commonly die for lack of basic medical care. (We saw a young girl walking around with an infected open sore on her leg, something that would have been treated easily in the United States. I shudder to think what will happen as that infection inevitably spreads and she loses her ability to walk.) Because all of the schools were shuttered for 14 years, there is now an entire population of 8- to 30-year-olds who do not know how to read or write. The private sector remains virtually nonexistent, and foreign economic investment is often spent to the detriment of the Liberian people, as multinational corporations reap extraordinary profit from the land and sea and share little with the population. Only 2 percent of the country is on the electrical grid, and even in our very lovely hotel in the capital, there was no electricity or running water for much of our stay. And, as President Sirleaf shared with our group, rape remains a blight on the nation — she identifies it as one of the three greatest challenges the country faces. Teenage pregnancy is among the highest in the world; women have little access to contraceptives and therefore tend to have six to 10 children, etc., etc., etc.

And yet, I continue to wonder what chance this country — or any, really — has for recovery if it does not deal responsibly with its past.

It is true that healing takes time, and it may be that in another five to 10 years people will be ready for a reconciliation effort that interests few today. Whether it is implemented now or in a decade, it is clear to me that, for people to recover from the devastation of war, a sincere and robust national reconciliation effort is essential. The rush to move on as soon as arms are put down is understandable, but it fails to adequately address people’s deepest wounds, thereby threatening to undermine an already fragile peace. Placing reconciliation, even forgiveness, in the heart of the political arena and making it a national priority can create space for the possibility of healing and rebuilding.

Every conflict is unique, and as a result, there can be no one formula for an effective reconciliation process. What worked in South Africa would not have been successful in Guatemala, Sri Lanka or Northern Ireland. Specific cultural and religious assumptions must be central to the construction of any postwar effort. Nevertheless, there are several elements of teshuvah, the Jewish process of return and reconciliation, that I believe could offer a framework for healing in Liberia and other post-conflict regions. The first is the presumption that transformation is possible, both for an individual and for a society: Who you were in your darkest moment, high on drugs and war, is not who you must forever be. Second, one can choose to engage the enemy with empathy and compassion without diminishing one’s own pain or letting the perpetrator off the hook. War is the ultimate in dehumanization; reconciliation is about people beginning to see humanity in one another again. Third, there are certain crimes that are beyond the scope of full teshuvah — complete return — including rape and murder, trademarks of this war, like most. Nevertheless, some things can be done to restore social harmony and help rebuild a country’s infrastructure at the same time.

Rabbi Sharon Brous is the founding rabbi of IKAR (www.ikar-la.org), an L.A.-based Jewish community working to reanimate Jewish life by fusing spiritual practice and social justice, tradition and soul, piety and chutzpah. This year, she was noted as the No. 5 rabbi in the country by Newsweek/ Daily Beast, and she was listed among the Forward's 50 most influential American Jews three years in a row.



A group of Liberian children. Photo by Rabbi Sharon Brous

What does all of that mean from a programmatic standpoint? Jewish wisdom suggests a threefold strategy for communal or national reconciliation: truth, accountability and memory.

1. Truth. There is a certain irony in the insistence on truth-telling in the aftermath of violent conflict. Marc Gopin, director of the Center for World Religions, Diplomacy and Conflict Resolution at George Mason University, and others who have worked to end intractable conflicts have argued that in order to sign peace agreements, the criminality of the enemy must often be temporarily suppressed. But for a country or community to ultimately heal, the events of the past must be actively uncovered. In a national act of loving validation, communities should come together to speak publicly about their losses and to hear one another's stories. Gbowee writes about sacred exercises she began to hold during the war, called "Shedding the Weight." Small groups of women would gather by candlelight and share their stories of rape and assault, their terror and their dreams. Many people told their stories for the first time in this setting, and it seemed to create an opening not only for healing, but for empowerment and political activism.

2. Justice. Systems must be devised in which perpetrators are held accountable for the acts they committed. As Gbowee has said, boy (and even some girl) soldiers are "damaged children [who] have grown into damaged young people." They need the help of their communities, their nation, to transition from soldiers to productive community members. Rwanda's ambitious multifaceted reconciliation model distinguishes between the masterminds of the genocide (who have been or will be tried by the International Criminal Tribunal for Rwanda) and the foot soldiers, who are tried either in criminal courts or in local gacaca ("on the grass") courts set up around the country. Nearly 1.5 million people have been tried in these courts, designed to help victims learn the truth about the death of their family members and structured to give more lenient sentences to perpetrators who express remorse for what they have done. Safe arenas like these must be created, where perpetrators can hear of the pain they have caused and be guided by local religious and communal leaders toward taking responsibility and expressing regret for what they have done. In Rwanda, after acknowledging wrongdoing, perpetrators go to work draining swamplands and building roads, helping to repair the country they devastated.

3. Memory. Remembering is not about fueling resentment until the opportunity for retribution emerges. Memory — especially of pain inflicted upon our people — is central to Jewish liturgy and ritual; the assumption is that active preservation of memory not only honors those who suffered, but also transforms the consciousness of future generations. Many post-conflict regions have found a need for the creation of designated spaces (memorial structures) and times to remember (national days or rituals of remembrance, like National Sorry Day in Australia or Tisha b'Av and Yom HaShoah).

I understand the challenges of investing time and resources in truth-telling, accountability and the preservation of memory when the people need jobs and food. As one woman from WIPNET said, “We fought for peace, but you can’t eat peace.” And yet it seems to me that the work of social transformation is essential to the rebuilding of a society, and only with attention to war wounds will a new communal consciousness be formed — one that guides the people in addressing basic problems of poverty, unemployment and education. This will surely take time — any authentic process that undertakes the challenge of social, political and spiritual transformation surely would. There is no quick fix to violence and war — especially war this brutal and unforgiving. But dramatic social change is possible, as evidenced by the relationship between Germany and Israel, which most would have found unimaginable in the aftermath of the Holocaust.

It’s true that when you hear so many stories of pain and loss, they tend to blend into one. And yet there are some that, once heard, live in you forever. They change you in some way, push you to rethink all previous assumptions. Cecilia, one of the powerful white-shirted women who made the peace, shared her story with a few of us. She was working in some kind of informal intake set up by the women, hearing stories from men and children after the war. A man approached her and confessed to a brutal murder. Years earlier, Cecilia had been home with her sisters and parents when the rebels stormed their house. She was able to flee, but her sisters were forced at gunpoint to watch their father brutalized, dehumanized and ultimately murdered. She realized, as she now listened to the details pouring out of this young man, that the person he had tortured and killed was her own father. She burst into tears, whispered, “I forgive,” and ran away, sobbing. As she told us this story, we all wept and hugged. Afterward, I apologized, worried that we had unnecessarily provoked her to revisit her deepest trauma. “No,” she said. “It is through the tears that we begin to heal.”

I left Liberia profoundly moved by the strength of the people — especially the women — who continue to fight courageously for peace and the restoration of sanity and dignity in their country. I am proud of the work that AJWS supports on the ground — work that is actually helping to shape history — and touched that while most Liberian villagers have never before met Jews, they know of AJWS’ work and know that we are a people that has suffered terribly and has come out believing in the triumph of the human spirit. My prayer is that the spiritual and social needs of a devastated population can come to be seen as political priorities. I hope that Liberians will craft a system of accountability and justice in which truths are told, people called to take responsibility and given a chance to work toward the healing of the country. And I’d like for the mantra forgive and forget to be permanently replaced with reconcile and remember. But until then, at least we’ll have our shared tears.

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Malta Today

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Lebanon's Siniora had said 'no' to Malta hosting UN tribunal on Hariri assassination

US assistant secretary for international organisation affairs had pressed Siniora to host UN tribunal in Malta.



The Lebanese Prime Minister had indicated to the US that placing the new tribunal in a secure European city would be preferable.
Karl Stagno-Navarra

Former Lebanese Prime Minister Fouad Siniora had expressed "unease" at a United States proposal in 2007 to have Malta host the Special Tribunal for Lebanon (STL) which was set up by a United Nations Security Council Resolution to

prosecute those responsible for the 2005 assassination of Rafik Hariri in Beirut.

A US embassy cable signed by Ambassador Jeffrey D. Feltman in Beirut in May 2007, revealed details of a meeting between US assistant secretary for international organisation affairs Kristen Silverberg with Lebanon's then Prime Minister Fouad Siniora.

Silverberg had pressed Siniora on the site selection to host the tribunal and had touted Malta and Cyprus as possible venues.

But the US cable goes on to say that "concerning site selection, Siniora expressed unease over placing the tribunal in either Cyprus or Malta."

According to the cable, Siniora said "that Syrian intelligence has numerous assets in Cyprus, while the security establishing the court in Malta may be compromised as well, but by Libyan agents."

The Lebanese Prime Minister had indicated to the US that placing the new tribunal in a secure European city would be preferable.

The tribunal was eventually set up in Leidschendam, near The Hague in The Netherlands, and also has a field office in Beirut.

The tribunal officially opened on 1 March 2009. There was an initial three-year mandate for the court and there is no fixed timeline for the judicial work to be completed, so the tribunal may be operational for several years.

In March 2011, Antonio Cassese, the president of the Tribunal, issued his second annual report on the operation and activities of the tribunal in which he anticipated the completion of the bulk of the court's work by 2015. "The end of investigations with a view to submitting indictments by 29 February 2012 would allow us to begin with maximum alacrity, already in this third year, at least pre-trial and some trial proceedings, thus being able to complete the core mandate of the Tribunal within a total of six years", Cassese said.

The Prosecutor submitted an indictment on 17 January 2011 and filed an amendment to the indictment on 12 March.

After a review by the pre-trial judge Daniel Fransen, the tribunal submitted four confidential arrest warrants to the authorities of Lebanon on 30 June 2011. According to secondary sources, the warrants name four senior members of Hizbollah.

The party's leader Hassan Nasrallah denounced the legitimacy of the tribunal three days later on 3 July.

Before the Special Tribunal for Lebanon was established there was a UN investigative commission (UNIIC), which worked on the Hariri assassination. The UNIIC's role was to gather evidence and to assist the Lebanese authorities to conduct their investigations. The STL and UNIIC are completely separate organisations.

The United Nations investigation initially implicated high-level Lebanese and Syrian security officers in Hariri's killing.

Damascus denied involvement. Four pro-Syrian Lebanese generals were detained by the Lebanese authorities for four years without charge in connection with Hariri's killing. One of the first acts of the Special Tribunal for Lebanon was to order the release of the generals after an STL judge ruled that there was not enough evidence to justify their detention.

Leadership

Tuesday, 10 July 2012

<http://www.leadershiponline.co.za/articles/politics/2014-international-justice>

ICC turns 10 but doesn't have much to show for it

The International Criminal Court (ICC), based in The Hague, celebrated its 10th anniversary on Sunday, 1 July. To date, the ICC has started only three trials and convicted only one person, Congolese warlord, Thomas Lubanga, who is set to be sentenced today (July 10).

Ad hoc tribunals set up by the ICC in terms of its founding treaty, the Rome Statute, to prosecute the perpetrators of genocide, war crimes and crimes against humanity in conflicts such as the wars in the former Yugoslavia and Sierra Leone have succeeded in putting on trial the most senior political and military leaders — from Radovan Karadzic to Charles Taylor.

Ad hoc tribunals were, in fact, the front-runners in the 1990s to the establishment of the ICC itself. These international criminal tribunals were set up to deal with war crimes in Rwanda and the former Yugoslavia. They were, however, limited in their efficiency and deterrent capability, which spurred the need for a permanent court to handle the world's most serious crimes.

Following lengthy negotiations, the concept of a permanent court was finally approved at a United Nations conference in Rome on July 17, 1998. After receiving more than 60 ratifications by April 2002, the treaty became legal on July 1, 2002. On March 11, 2003, the ICC opened with Canadian Philippe Kirsch as judge-president and Elizabeth Odio Benito of Costa Rica and Akua Kuenyenia of Ghana as vice-presidents.

Probably the greatest weakness of the Rome Statute and, by extension, the ICC is that the United States, save for a very short period earlier in this millennium, is not a signatory to the treaty.

Not only did the US oppose the formation of the ICC but it effectively took measures to frustrate its functioning in relation to American citizens. Its opposition was based on fears that its soldiers might be subjected to prosecutions that were either trivial or politically motivated.

The United States insisted on immunity for all its military personnel operating in UN peace-keeping missions, particularly in East Timor and Bosnia-Herzegovina.

They were denied immunity in East Timor, but after vetoing an un-extended peace-keeping mission in Bosnia-Herzegovina, Washington was granted a one-year exemption from prosecution to be renewed every year.

The United States also formed bilateral agreements with other nations obliging them not to hand over US personnel to the ICC. It passed the American Service Members Protection Act authorising the president to use all means necessary to free US personnel detained by the ICC.

Eventually, President Bill Clinton signed the treaty at the end of his second term but US support for the treaty was quickly withdrawn when President George W. Bush 'un-signed' the treaty in 2002.

Since then, ex-president Bush and seven of his associates have been found guilty of war crimes by a war crimes tribunal in Kuala Lumpur in May this year. The tribunal unanimously delivered a guilty verdict on charges relating to their knowing that prisoners of war were being tortured while held in Afghanistan, Iraq and Guantanamo Bay.

But the alleged war crimes are likely to go unpunished as the tribunal which found them guilty is a ‘tribunal of conscience’ set up in 2008 by the Kuala Lumpur Foundation to Criminalise War. It does not have the power to impose any punishment.

Other non-signatories of the Rome Statute include India, Iran, Japan, North Korea, Pakistan, Saudi Arabia, Sudan, Syria, and Turkey. While most Western European and South American countries are signatories, there is only one Arab nation — Jordan — and five Asian nations — Afghanistan, Cambodia, Mongolia, South Korea and Tajikistan.

This leaves the ICC open to international political and strategic manoeuvring and power games.

Its effective functioning is further hampered by the fact that, like other international tribunals, it has no police force and has to rely on member states to detain those it indicts. So far, just six people have been arrested and five remain in the court’s detention centre, which is located within a Dutch prison in Scheveningen, The Hague.

And as the ICC celebrated its first decade in the quest “to put an end to impunity for the perpetrators” of atrocities, allegations of state-sponsored atrocities in Syria are piling up and the court stands powerless to intervene. The first person it ever indicted, Ugandan war-lord Joseph Kony, is also still at large and his brutal militia, the Lord’s Resistance Army, continues its reign of terror.

Over the years, the ICC has opened seven investigations and issued 20 arrest warrants for suspects ranging from Kony and the top commanders of the Lord’s Resistance Army to Sudanese President Omar al-Bashir.

ICC prosecutors claim that the very fact the likes of Al-Bashir and the late Libyan dictator, Moammar Gaddafi, have been indicted is a major step toward ending impunity for leaders who use violence against their own people.

But fierce criticism that the ICC is not a truly international instrument for justice and strongly biased against Africa, continues. So far it has opened investigations in Africa and is running them in Uganda, Congo, Central African Republic, Sudan, Kenya, Libya and the Ivory Coast.

Piet Coetzer