

**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:

Wednesday, 17 July 2013

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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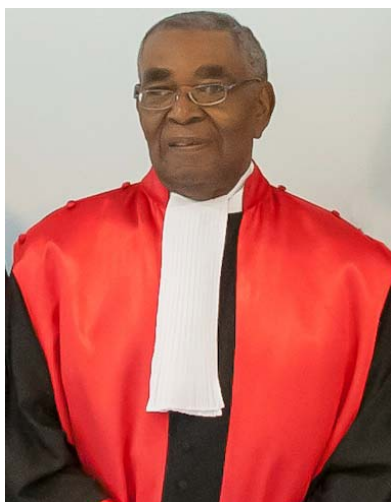
Special Court for Sierra Leone
Outreach and Public Affairs Office

PRESS RELEASE

Freetown, Sierra Leone, 17 July 2013

“Justice is for Us All”: Statement by Special Court President Justice George Gelaga King to Mark International Criminal Justice Day

Eleven years ago, in 2002, we marked two significant moments in the short history of international justice. The first, on January 16th, was the ratification of the Special Court Agreement that set up the Special Court for Sierra Leone. The second, on July 17th, was the ratification of the Rome Statute which, drafted four years earlier – fifteen years ago today, in fact – set up the International Criminal Court.



The establishment of both these courts, along with the ICTY and the ICTR which preceded them and the other tribunals which came after, represent not only milestones in international criminal justice, but also an international awakening of conscience for the plight of victims around the world. Let me state it thus: A just world cannot turn its back on victims, no matter where they may live, and a stable international order cannot rest on a fragile foundation of justice. Justice is about fairness, and due process. Justice is for us all.

As the Special Court for Sierra Leone nears the completion of its mandate in just a few months time, it is fitting on International Criminal Justice Day to consider what we have accomplished.

I have no doubt the Special Court will be remembered for its jurisprudence on such important issues as head of state immunity, on the enlistment, recruitment and use of child soldiers, and on forced marriage as a crime against humanity. We will certainly be remembered as the first international tribunal to try and convict those responsible for abducting children and forcing them to fight in war; for abducting women and girls and forcing them to be “wives” of rebel combatants; and for attacks directed against United Nations peacekeepers. We will also be remembered as the first international court since Nuremberg to indict and to try a sitting head of state, former Liberian President Charles Taylor, who is currently appealing his conviction and sentence.

We should be remembered for our Outreach programme. The Special Court was the first to put people on the ground who, in community town hall meetings, through local radio call-in shows and school visits, with video screenings of the trials in remote villages, by reaching out to victims and civil society groups, and in many other ways brought the workings of the Special Court and an understanding of international justice to the people of Sierra Leone and Liberia.

Soon – very soon in fact – we will be remembered as the first modern tribunal to achieve its mandate and to transition to the Residual Special Court for Sierra Leone.

But on International Criminal Justice Day, it is even more important for us to remember those for whom these courts were established – and by this I refer to the victims. We should recall the thousands of men, women and children who were murdered during a decade of conflict in Sierra Leone, who were deprived of their families, or their homes or their villages. We should not forget the thousands of children who were taken forcibly from their families and forced to fight. We must not forget the thousands of women subjected to rape, sexual slavery and forced marriage.

It is my hope for International Criminal Justice Day that we will look back to what we have accomplished and feel honoured to have been a part of it; that we will look forward to what remains to be done and be determined to do even better, and that we will continue to build a consensus aimed at the ending of impunity for international crimes and in bringing about of a more just world.

#END

The Special Court is an independent tribunal established jointly by the United Nations and the Government of Sierra Leone. It is mandated to bring to justice those who bear the greatest responsibility for atrocities committed in Sierra Leone after 30 November 1996.

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PRWeb

Wednesday, 17 July 2013

On International Justice Day, ICTJ Looks at Legacy of Special Court with 'Seeds of Justice: Sierra Leone'

As the world marks International Criminal Justice Day, the International Center for Transitional Justice looks at the impact of international courts on societies where mass atrocities have occurred. ICTJ's new multimedia project "Seeds of Justice: Sierra Leone" presents the voices of five Sierra Leoneans of different backgrounds reflecting on the legacy of the Special Court for Sierra Leone.



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ICTJ's new multimedia project "Seeds of Justice: Sierra Leone" presents the voices of five Sierra Leoneans of different backgrounds reflecting on the legacy of the Special Court for Sierra Leone (SCSL).

After ten years of a brutal civil war, in which tens of thousands of people were killed, raped, and mutilated and hundreds of thousands were expelled from their homes, the government of Sierra Leone joined the United Nations in 2002 to create the Special Court for Sierra Leone, to try those most responsible for war crimes and crimes against humanity.

"The court has made a significant contribution to international jurisprudence and played a role in moving the focus of prosecutions for serious crimes back to the national plane," says David Tolbert, president of ICTJ. "Its legacy is rooted in recognizing victims' rights to justice, strengthening the rule of law, and fighting impunity in Sierra Leone."

The Special Court is notable as the first tribunal of its kind established in the country where crimes were committed, helping to bring trials closer to victims and their families. It is also the first "hybrid" court to combine international and national staff.

Over the past 10 years, the court has indicted 13 individuals, including former Liberian President Charles Taylor, the first sitting African head of state to be indicted for war crimes and crimes against humanity (BBC News, April 26, 2012). In May 2012, the court's Trial Chamber sentenced Taylor to 50 years in prison for planning, aiding and abetting crimes committed by rebel forces in Sierra Leone (New York Times: May 30, 2012). His case is now under appeal.

As the work of the Special Court draws to a close, ICTJ joins Sierra Leoneans as they reflect on SCSL's lasting legacy for their country. "Seeds of Justice: Sierra Leone" is part of ICTJ's year-long project "Exploring the Legacy of the Special Court for Sierra Leone" and captures personal reflections on the court from a diverse group of Sierra Leoneans: a women's rights activist, a lawyer, a traditional chief, a businesswoman, and an advocate for persons with disabilities who is himself an amputee.

One of the subjects is Fatmata Claire Carlton-Hanciles, the principal defender at the Special Court and the first Sierra Leonean to hold the position. After rebels invaded Freetown, she fled to Guinea and then Gambia as a refugee.

"West Africa was up in flames before the court came," says Carlton-Hanciles in her video portrait. "But [now] perpetrators know in no uncertain terms that the long arm of the law is here to stay."

The Special Court has brought a measure of justice for victims, and most Sierra Leoneans have a positive view of the court, according to surveys. Its trials have been an opportunity for citizens to learn the truth about what happened during the conflict, and its courtrooms have provided a legal forum for hundreds of victims to come forward and tell their stories.

Still, the court has been criticized for prosecuting a relatively small number of perpetrators and for failing to provide reparations to victims and their families, many of whom continue to suffer the terrible effects of the conflict.

"Many of us were pleased when the verdict [against Charles Taylor] was passed at The Hague. But still much needs to be done to address the needs of persons who were amputated during the war," says Mohammed Bah, an amputee and activist for survivors with disabilities featured in "Seeds of Justice."

Through photography by award-winning photographer Glenna Gordon, "Seeds of Justice: Sierra Leone" features interviews with Mohammed Bah, Fatmata Claire Carlton-Hanciles, Chief Kasanga, Princess AD Rogers, and Aminata Sesay. It is the latest in a series of ICTJ projects using multimedia to present transitional justice issues to diverse audiences.

Redress

Tuesday, 16 July 2013

Press Release

ICC Decision in Kenyan Deputy President's case: protection of victims is paramount

16 July 2013 – Yesterday, the plenary of Judges of the International Criminal Court (ICC) announced that the trial against William Ruto, the current Deputy President of Kenya and Joshua Sang, head of operations at Kass FM Kenya, both accused of violence following Kenya's 2007 presidential election, will be held in The Hague.

The Trial is scheduled to open on 10 September 2013 in The Hague, rejecting requests from both accused that hearings be conducted in Kenya or Tanzania instead. The accused face charges of crimes against humanity, including murder, rape, forcible transfer of population, persecution and other inhumane acts. REDRESS and Kituo Cha Sheria welcome the judges' decision to hold the trial in The Hague as it resonates with the majority of victims' concerns. While arguments had been put forth on the benefits of serving justice closer to the thousands of victims and their relatives who bore the brunt of the post-election violence, there are serious concerns about the security of victims and witnesses as well as potential pressures that might affect the trial's integrity. The decision shows that the ICC is not subject to manipulation and is set on fulfilling its mandate.

Victims have made it clear to the Court that the advantages of holding hearings locally are outweighed by the risks to victims' and witnesses' security. They have expressed their fears that hearings in Kenya may make it easier for the accused to mobilise supporters and intimidate those involved in the proceedings as well as contribute to flaring up lingering ethnic tensions.

The suspects remain in powerful positions in Kenya. In March, Uhuru Muigai Kenyatta and William Samoei Ruto, two of the accused, were elected respectively President and Vice-President of Kenya, in the general elections, making Kenyatta the first sitting Head of State to face trial before the ICC.

“Victim intimidation has already taken place and it is likely that it will increase if hearings are held in Kenya. Victims may shun the process if they feel endangered,” said Carla Ferstman, Director of REDRESS. “It is paramount that the ICC put in place adequate protection arrangements for victims and witnesses so that the proceedings are not disrupted and the Court is able at a later stage to hold hearings locally.”

“The ICC must above all, in ensuring effective and meaningful participation for victims, safeguard their rights and heed their voices. The political context within which the victims find themselves, presents security challenges that are real and can derail victim participation, a crucial aspect of the ICC process” said Getrude Angote, Executive Director, Kituo Cha Sheria.

International Criminal Court

Wednesday, 17 July 2013

Press Release

Pre-Trial Chamber II requests Nigeria to immediately arrest Omar Al Bashir

On 15 July 2013, Pre-Trial Chamber II of the International Criminal Court (ICC) requested the Federal Republic of Nigeria to immediately arrest Sudanese President Omar Al Bashir, on visit to Abuja (Nigeria) and to surrender him to the ICC. Omar Al Bashir faces charges of war crimes, crimes against humanity and genocide, allegedly committed in Darfur (Sudan).

The Chamber recalled that Nigeria is a State party to the Rome Statute since 2001, and has the obligation to execute the Court's orders. The Chamber also noted that the situation in Darfur was referred to the ICC by resolution 1593 of the United Nations Security Council and that, according to article 87(7) of the Rome Statute, "[w]here a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute [...] the Court may make a finding to that effect and refer the matter to the Assembly of States Parties or, where the Security Council referred the matter to the Court, to the Security Council".

The Chamber instructed the ICC Registrar to immediately transmit the decision to the Nigerian authorities, and to prepare a report to the Chamber concerning Omar Al Bashir's visit to the Federal Republic of Nigeria.

Background

Sudanese President Omar Al Bashir is alleged to have committed five counts of crimes against humanity (murder, extermination, forcible transfer, torture and rape), two counts of war crimes (intentionally directing attacks against a civilian population as such or against individual civilians not taking part in hostilities, and pillaging), and three counts of genocide committed against the Fur, Masalit and Zaghawa ethnic groups. Two warrants of arrest have been issued in this case. The suspect remains at large.

The ICC has informed the United Nations Security Council and the Assembly of States Parties to the Rome Statute of Mr Al Bashir's visits to Djibouti, Chad and Kenya, as well as of the non-cooperation of Malawi and Chad in arresting Mr Al Bashir. It is for the United Nations Security Council and the Assembly of States Parties to take any measure they may deem appropriate to ensure the full cooperation with the ICC.

NBC

Tuesday, 16 July 2013

Sudan president leaves Nigeria despite genocide arrest warrant



President of Nigeria Goodluck Jonathan, left, and Sudanese President Omar al-Bashir right, shake hands before an African Union summit on health focusing on HIV and AIDS.

By Henry Austin, NBC News contributor

The president of Sudan has been allowed to leave a conference in Nigeria, despite the International Criminal Court calling for his "immediate arrest" on charges of genocide and war crimes, officials said Tuesday.

Omar al-Bashir is accused of five counts of crimes against humanity, two counts of war crimes and three counts of genocide against the Fur, Masalit and Zagawa tribes in Darfur, where the U.N. estimates 200,000 people have been killed.

Two arrest warrants have been issued for the former army brigadier, who came to power in 1989 after leading a bloodless military coup.

But while many African countries - including South Africa, Kenya and Malawi - have threatened to act on the warrant, Nigeria allowed him to attend Monday's one-day African Union HIV/Aids summit.

This was in keeping with 2009 vote by African Union states not to cooperate with ICC indictments, a Nigerian official told Reuters.

African enthusiasm for the court has waned over the years, partly owing to a perception that prosecutors disproportionately target African leaders - an accusation the ICC denies.

Bashir's press secretary and his Nigerian hosts denied local media reports that he left the conference early.

"President Bashir returned normally to Khartoum after participating in the summit in Abuja to resume his work," Emad Said, told Reuters.

The ICC noted that it could refer the Nigerian government to the U.N. Security Council for failing to execute an order of the court, of which Nigeria is a member.

A spokesman said a report would be written and the judges would ultimately decide on the appropriate course of action.

Human rights groups in Nigeria had filed a suit with the Federal High Court in the capital Abuja, demanding he be arrested and handed over to the ICC.

"The judiciary in this country has the responsibility to implement legal obligations created by treaties undertaken by Nigeria," the Nigeria Coalition on the International Criminal Court said in a statement.

But Chino Odiawu, a spokesman for the group, said that they hadn't been able to get a local warrant before al-Bashir left the country, although he was confident that it would have been granted.

"It was extremely frustrating," he said. "But we will keep going until we get justice for the people of Darfur."

Nigeria has been forced in the past to hand over the former Liberian president, Charles Taylor, the warlord who began Sudan's devastating civil war in 1989.

The country had promised him a safe haven if he resigned, but in 2006 they succumbed to huge international pressure to hand him over. He was subsequently sentenced to 50 years in jail at the international Special Court for Sierra Leone in The Hague.

Elise Keppler a Human Rights Watch spokeswoman, said al-Bashir "was feeling the heat of the intense pressure for his arrest."

"Business as usual is over for this head of state suspected of the most serious crimes committed in Darfur," she said.

"Nigeria and other governments need to play their part in seeing justice done by taking him into custody and surrendering him to the ICC."

Reuters contributed to this report.

Amnesty International

Wednesday, 17 July 2013

Opinion

On International Justice Day, an Inconvenient Truth

By Scott Edwards

Just as storms overwhelm unattended levees, political strife and armed conflict can overwhelm the system of international law created to ensure we do not repeat the darkest periods of human history. Wednesday marks the 15th anniversary of the adoption of the Rome Statute, which established the International Criminal Court to secure accountability for war crimes, crimes against humanity and genocide. This week also brings continued news of the terrible price paid by civilians as a result of such grievous crimes in Syria, Sudan and elsewhere.

Millions have been victims of these crimes in recent history, yet only very rarely have those responsible been held accountable. In the last two decades, however, progress has been made towards reversing this trend of impunity. With the establishment of the International Criminal Court, a clear message was sent around the world that failure to investigate and prosecute such crimes at the national level will not be tolerated.

Yet, every hopeful step is met with new and compelling challenges. Political alliances sometimes supersede international legal and moral obligations, shielding fugitives such as Omar al-Bashir, the sitting president of Sudan, for example, from appearing before a court of law to answer for their alleged crimes. Impunity for grave crimes robs those victimized of justice, and prevents communities and whole countries from recovering from trauma.

An arrest warrant for al-Bashir was first issued by the ICC in 2009, where he was charged with genocide, war crimes and crimes against humanity in Darfur. Since then, several governments have readily hosted him, failing in their legal obligations to arrest and surrender the accused to the ICC for trial. These governments, and the many more that fail to condemn these breaches of obligation, have some moral ownership over the devastating war crimes and crimes against humanity in Southern Kordofan and Blue Nile, now manifested far in space and time from the crimes in Darfur.

This week, the government of Nigeria hosted him for a conference, instead of arresting him. Following outrage at the decision, al-Bashir left Nigeria, free to return to Sudan. Justice -- though an end unto itself -- has a practical utility that we have failed dismally to shepherd for the deterrence of atrocities. Any hope for preventing future crimes depends on our willingness to prosecute current ones.

'International Justice' as a concept is based on the moral precept that there are universal and immutable bounds to human behavior; it is our grandest collective statement that individuals, no matter their position, status, or power, must be held accountable for war crimes, crimes against humanity and genocide. The Rome Statute is a product of international recognition that, with crimes such as these, a standing, last-resort mechanism for justice must be in place.

Perpetrators of the most heinous crimes against our shared humanity are readily labeled as monsters or aberrations: the grotesque manifestation of statistical deviance. However, the existence of these heinous crimes is conceptually no different than seemingly aberrant floods, super-storms and erosion in a possible future of run-away climate change; all are the natural consequence of the accumulation of externalities.

Today's atrocities are the product of impunity; of the accumulated pollution of the global body politic and government capitals with the notion that political survival, rather than the pursuit of justice, is the ultimate arbiter of the bounds of human behavior. Political expediency and narrow state-interest often imperils the humanity that international law was designed to protect. The U.N. Security Council's failure to refer blatant crimes against humanity in Syria to the ICC typifies the commodification of justice as a concession to be negotiated in grand diplomacy.

Paired with these short-sighted failures is a diffuse attack on the ICC itself as an institution of coercion: the morally dubious proposition that -- since some crimes committed by powerful individuals have gone unanswered -- international justice efforts represented by the ICC are naked expressions of hegemony and control. Agents of impunity could not devise a better ruse undermining accountability than to propagate a narrative of the ICC and other mechanisms as themselves manifestations of injustice.

Today's failures to attend to the "levees" that enforce the universal and immutable bounds of behavior invite more atrocities into the future. It is an inconvenient truth for many world leaders that short-sighted concessions on justice and accountability -- whether for noble pursuits of peace, or for self and state interest -- will reap costs that will be paid for by our grandchildren.

Scott Edwards is managing director, Crisis Prevention and Response, Amnesty International USA

International Criminal Court

Wednesday, 17 July 2013

Statement from the President: International Criminal Justice Day



By Judge Sang-Hyun SONG, President of the International Criminal Court on July 17- International Criminal Justice Day

Fifteen years ago, on 17 July 1998, history was made. Gathered in Rome, Italy, the international community agreed on the creation of a permanent international court with a mandate to punish the perpetrators of the most inhumane crimes imaginable and to provide reparations to the victims of such acts.

By adopting the Rome Statute of the International Criminal Court, the world embarked upon an audacious plan to create a global justice system based on international cooperation aimed at holding

accountable those responsible for genocide, war crimes and crimes against humanity.

Many said that this was an impossible task, that the adversity could not be overcome. But the global justice project proved strong. The International Criminal Court (ICC) today is a vibrant, independent international organization with 122 member states – and many more have expressed their intention to join.

With eight on-going investigations, eight preliminary examinations, and the issuance of 23 arrest warrants and nine summonses to appear, the ICC is undertaking more investigations and conducting more proceedings involving more suspects than ever before.

More than 12,000 applications for participation in proceedings as a victim and more than 9,000 applications for reparations were received. More than 5,000 victims are participating in ICC proceedings, giving them a voice in the courtroom. The Trust Fund for Victims is providing support to an estimated 80,000 victims of crimes under the ICC's jurisdiction.

The story of the International Criminal Court gives us hope; it is proof that audacious goals can be achieved.

While we have come a long way, we cannot afford complacency. Make no mistake – the ICC faces threats today as real as ever before. There are those who seek to undermine the international justice movement, who politicise its action, who question its value, and who purport to speak for the victims it serves. There are those who refuse to cooperate, leaving more than ten ICC suspects still at large.

That is why on this day – 17 July – it is worth pausing to gather our resolve and to affirm why we must not waiver in pursuit of justice.

We do this because we recognise the power of justice to bring a measure of peace to the thousands of children, women and men who have been made victims by crimes we do not dare to imagine, who have borne suffering we cannot bear to comprehend.

We do this because we know that accountability deters crime, and that we have a duty to the future generations who deserve to live their lives free from fear.

We do this because we know that assertions of power through violence and brutality can be no way to a negotiating table, or a seat in the international community.

As expressed by many international personalities, the ICC's presence is felt around the globe, encouraging domestic authorities to pursue accountability, pushing groups to renounce violence and embrace political solutions, and deterring leaders from the commission of grave atrocities.

Ensuring accountability is a process which we must pursue ceaselessly, and on this day, I am thankful to the people without whom justice would never persevere.

I am thankful to the victims for their endurance, support and participation. I am thankful to the witnesses who make tremendous sacrifices so that the truth can be revealed, and accountability brought to bear. I am thankful to civil society for their tireless efforts to build support and move us forward, and I am thankful to the leaders and diplomats who hear their voices, and translate their words into action.

International criminal justice is not owned by any one culture, nor driven by any one people. It is an ideal which is intensely human; it is why the International Criminal Court has been embraced across all the world's continents.

We have travelled a long way down the path of accountability, but it is a journey which will never be complete. We see obstacles on our way, but know they will be overcome. We have always moved forward, and we take no backward steps, because our eyes are fixed on the cause, because we travel this path together, and because we do so with conviction. I am honoured to have your company on the road.

OUPblog (Oxford University Press)

Monday, 15 July 2013

Opinion

The coming of age of international criminal justice

By Julia Geneuss and Florian Jessberger

Fifteen years ago, on 17 July 1998, the Rome Statute, the founding treaty of the International Criminal Court (ICC), was adopted, creating the first permanent international forum to try and punish perpetrators of mass atrocities. The anniversary of the adoption of the Rome Statute was chosen as World Day for International Justice — a ‘holiday’ to celebrate not only the ICC, but the whole emerging system of international criminal justice. This year the Rome Statute celebrates its fifteenth birthday, its Quinceañera. A good opportunity for a few thoughts on past, present and future of international criminal justice.

Past: Success

The emergence of an international system of criminal justice is indeed worth celebrating. It represents one of the few bright spots in the recent history of international law. In the last decade of the 20th century we experienced phenomenal progress in individual criminal accountability for genocide, crimes against humanity and war crimes, with, inter alia, the establishment of the ad hoc Tribunals for the former Yugoslavia and Rwanda, the proceedings for human rights violations, in particular torture, against Chilean General Augusto Pinochet in Spain and the United Kingdom, the establishment of the International Criminal Court, and the implementation of international core crimes into many national legal orders.

Present: Pressure

These days, however, international criminal justice is going through tough times. Fifteen years after the adoption of the Rome Statute and ten years after the idea of a permanent international criminal court switched from being a utopian dream to becoming reality it is difficult to deny that the ‘project’ of international criminal justice is increasingly coming under pressure. The euphoric mood that, only a few years ago, swept through the international and academic community as well as the general public has faded. Optimism has slowly turned into disillusionment. Arguably, the momentum for international criminal law has disappeared.

international criminal court

Several recent incidents, when considered together, support this hypothesis. At the international level, the performance of the ICC is met with growing disbelief. States parties have become more and more impatient with a Court that needed ten years to render its first judgment. Despite a growing number of investigations, prosecutions, trials and appeals they pushed for a zero-growth budget — in times of weak economy and financial crisis international criminal law does not seem to be too high on the states’ priority lists. Also, the ICC, first and foremost the Court’s Office of the Prosecutor, is heavily criticized for its allegedly selective prosecutorial strategy, its focus on Africa, culminating in severe tension between the Court and the African Union. Finally, these days it is more apparent than ever that ICC still is torn between universal aspiration and traditional sovereignty, between criminal law and international law, between common law and civil law traditions, between human rights enforcement and careful observance of fair trial standards, and, last but by no means least, between law and politics. The International

Criminal Tribunal for the Former Yugoslavia, on the other hand, has received a lot of criticism for its recent acquittals of high-ranking military generals. The decisions were cause for deep concerns — both outside and apparently also inside the Court, culminating in allegations that the decisions were based on purely political rather than legal reasons. As a consequence, many observers feel that the Tribunal is well on the way to lose the rather good reputation it gained during the last decade and discredits itself at the final stretch before it will be closed down for good.

International criminal law enforcement also faces a backlash at the national level: Belgium and Spain significantly cut back their laws on universal jurisdiction, thus no longer being able to prosecute international crimes that have no direct connection to their territory or citizens. Judge Baltasar Garzón, the judge who initiated the proceedings against Pinochet in the mid-1990ies and one of the most visible protagonists of a forceful system of international criminal justice, has been swept out of the way. In several countries, such as Germany, the laws on international crimes which were ambitiously implemented during the heyday of international criminal justice have hardly been applied. And finally, in a closely related matter, the US Supreme Court recently sent a powerful message against civil universal jurisdiction with its unanimous decision in *Kiobel*, the majority of judges arguing for a ‘presumption against extraterritoriality’ in human rights litigation under the Alien Tort Statute.

Future: Open

These are just but a few fervently discussed “setbacks” for international criminal justice. These events and their possible impact on the overall fate of the international criminal justice project are important to analyze. Is this the not so happy end of the success story of international criminal justice? Or is international criminal justice simply being brought down-to-earth requiring an adjustment of our excessive expectations? In a symposium “Down the Drain or Down to Earth: International Criminal Justice under Pressure” we edited for the recent issue of the *Journal of International Criminal Justice* a number of eminent scholars present their views on these questions and put things into perspective.

Reading through the thought-provoking essays a number of common findings can be observed. First of all, most authors emphasize the relativity of success and failure: The assessment of the overall development of the international criminal justice project depends on the proper context and temporal baseline one chooses for comparison. If compared with the situation ten years ago, it must be acknowledged that international criminal law today is in a state of decline. Twenty years ago, however, today’s existing architecture of international justice seemed to be not more than a utopian dream of a few scholars.

Second, while most authors agree that the ICC’s performance is rather unsatisfactory, they simultaneously highlight the regained importance of national jurisdictions within the global system of international criminal justice. With international criminal law infiltrating the legal systems of many states, the principle of complementarity, which stipulates the only subsidiary competence of the ICC vis-à-vis national jurisdictions, comes to be seen as one of the most important features of the ICC Statute. This way, the prosecution of international crimes finds its way back to where it arguably belongs: before national courts of the affected states.

Ultimately, despite all well-justified criticism of particular events, the authors seem to concur that recent developments generally indicate normalization rather than structural decline. We tend to agree with this analysis. The establishment of a system of international criminal justice has been an ambitious, revolutionary project. As in any revolution, hopes have been high, probably too high. Maybe we are all just coming to terms with the simple truth that international criminal justice in action is not an ideal in

itself. Rather, it is complicated, costly, and exhausting — both in a literal and a figurative sense. Time has come for more modest, more realistic expectations.

Dr. Julia Geneuss LL.M. (NYU) is Senior Research Fellow and Lecturer at the University of Hamburg. She is a member of the Editorial Committee of the Journal of International Criminal Justice. Prof. Dr. Florian Jessberger is Professor of domestic and international criminal law and procedure at the University of Hamburg. He is member of the Board of Editors of the Journal of International Criminal Justice.

The Journal of International Criminal Justice aims to promote a profound collective reflection on the new problems facing international law. Established by a group of distinguished criminal lawyers and international lawyers, the journal addresses the major problems of justice from the angle of law, jurisprudence, criminology, penal philosophy, and the history of international judicial institutions. The recent issue of focuses on the many difficulties facing international criminal justice today, and David Luban's and Bill Schabas' papers are freely available for a limited time.

Bangordaily News
Monday, 15 July 2013

Fighting genocide, crimes against humanity through international justice

By Ronald B. Davis



AFOLABI SOTUNDE | Reuters

Sudanese President Omar al-Bashir walks out of a hotel in Abuja July 14, 2013. Al-Bashir arrived in Nigeria on Sunday for an African Union summit on HIV/AIDS as his hosts chose to ignore an International Criminal Court (ICC) arrest warrant against him.

On Wednesday, International Justice Day will be celebrated throughout the world to encourage an emerging system of international criminal justice.

The date, July 17, is the anniversary of the 1998 adoption of the Rome Statute, which created the International Criminal Court, the first permanent international court to prosecute individuals alleged to be responsible for war crimes, genocide and crimes against humanity. Through its role in prosecuting individuals, the criminal court is distinct from the International Court of Justice, which settles disputes among nations. Both courts are located at The Hague in the Netherlands.

Why do we celebrate International Justice Day? It's an opportunity to focus attention on what the International Criminal Court has accomplished and on efforts through this emerging system of international justice to prevent the recurrence of the horrendous crimes we read about in the news far too often.

By celebrating International Justice Day, we can also encourage the U.S. Congress to support international justice by approving the International Criminal Court treaty. By signing on, the United States would join 122 other nations in supporting a system of justice aimed at reducing the terrible large-scale crimes that have been committed by individuals far too often in the distant and recent past. By becoming a signatory, the U.S. would also gain a full voice in governing the International Criminal Court.

Each year, more nations become signatories to the Rome Statute. The position of the U.S. regarding the court has varied widely, but so far it has resisted ratification. However, the U.S. has been actively participating without a vote in the court's governing body, the Assembly of States Parties, increasingly in recent years.

Further, the U.S. has been voting in the U.N. Security Council in favor of referring alleged criminals to the court for trial. The court follows the Principle of Complementarity, which means it will only intervene if a defendant's country is unwilling or unable to investigate and prosecute him or her for one or more of the above-mentioned crimes. For nations with responsible governments and effective systems of justice, there is no danger the International Criminal Court will intervene.

Since the International Criminal Court statute took effect in 2002, the court has indicated dozens of people and has investigations ongoing in Sudan, the Democratic Republic of Congo, the Central African Republic, Kenya, Libya and Ivory Coast. The court is also conducting preliminary investigation of individuals in Afghanistan, Colombia, Guinea, Georgia, Honduras, Mali, Nigeria, Palestine and North Korea. Investigations have resulted in arrests, imprisonment and, in some cases, acquittal.

As with national justice systems like ours in the United States, the goal of the International Criminal Court is to discourage the commission of crimes. The creation of a permanent international court to prosecute individuals responsible for war crimes, genocide and crimes against humanity is relatively new and aims to discourage leaders from violating the proper norms of human behavior in the future.

So let us celebrate International Justice Day and hope that the International Criminal Court can accomplish these important goals — and that the United States soon commits its full support to the effort.

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ICC's reliance on live witness testimony at a crossroads – IBA

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A new International Bar Association (IBA) report published last week examines and assesses the achievements, challenges and needs of witnesses in cases before the International Criminal Court (ICC), and finds that its extensive reliance on witnesses is fraught with challenges.

The IBA's executive director, Mark Ellis, cited the case of prominent Kenyan politician Francis Muthaura, accused of crimes against humanity, as a prime example, saying: 'The ICC Prosecutor recently dropped all charges against Mr Francis Muthaura due to critical and unresolved problems with key witnesses.' He said this case highlights the myriad of issues surrounding witness-management and the need for the court to evaluate and review its approach to witnesses in order to bolster its international credibility and ensure fair, efficient and effective trials. Entitled, *Witnesses before the International Criminal Court*, the IBA report is the result of comprehensive research and consultations with ICC officials and other key stakeholders. It will be launched at a high-level roundtable discussion at The Hague Institute for Global Justice today in the approach to Wednesday's Day of International Criminal Justice. An open discussion on the ICC's efforts and challenges in managing and protecting its witnesses will be key ICC officials, members of The Hague's diplomatic community, and leading ICC experts. Discussion will focus on the Report's key findings; the specific recommendations made to the Assembly of States Parties (ASP), the organs of the Court, and the host state (the Netherlands); and the complex issues around organising and protecting witnesses.