

**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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Martin Royston-Wright
Ext 7217

Local News

Liberian Lawmaker Wants Short Prison Term for Taylor / <i>Politico</i>	Page 3
Justice for Sierra Leone! No Justice for Ethiopia? / <i>The Exclusive</i>	Pages 4-5

International News

Charles Taylor's Defense to Counter Prosecutor Sentencing Recommendation / <i>CNN</i>	Pages 6-7
Prosecution Wants 80 Years for Charles Taylor / <i>Associated Press</i>	Page 8
Charles Taylor Verdict: Has Justice Been Served? / <i>PressTV</i>	Page 9
Disciples of War Being Brought to Justice / <i>NewsChief.Com</i>	Pages 10-11
Investigative Software Helps Prosecution's Case / <i>KM World</i>	Page 12
Lessons for Nation From the Charles Taylor Verdict / <i>The Star</i>	Pages 13-15
PYJ - Taylor's Men Killed My Ma! / <i>The New Dawn</i>	Page 16
...Charles Taylor and Selective Accountability / <i>Global Policy Forum</i>	Pages 17-19

NEWS

Liberian Lawmaker Wants Short Prison Term for Taylor

Maryland County Senator, Dan Morias, has called on the United Nations (UN) backed War Crimes Court for Sierra Leone in The Hague, the Netherlands to give former Liberian President, Mr. Charles Taylor a short prison term. The former Liberian leader was found guilty for aiding and abating the war in Sierra Leone by the Court.

In a chat with the Heritage Newspaper Monrovia May 6, 2012, said Mr. Taylor should be given a short time in prison, because according to him, (Taylor was not found guilty of any direct involvement with the war in Sierra Leone as he was charged by the Court.

Senator Morias, who was elected on the ticket of the former ruling National Patriotic Party (NPP) of Mr. Taylor, said it would be fair enough, were Mr. Taylor to get a short time in prison.

This, according to him, should be retroactive of the years he (Taylor) had already spent in custody during the time of the trial. "The verdict against Mr. Taylor, I consider a victory for him, because he was not convicted of any of the crimes that he was linked to. This means that he actually won the case, but that is foreign politics and we must understand this," the Maryland County lawmaker pointed out.

"In actual sense, Mr. Taylor was guilty from the first day of his arrest, and so, that verdict was not amazing. Taylor's verdict was a trophy or an achievement to some international powers who thought con-

victing him was something great. There is nothing else for Mr. Taylor, but prison, and this is what we are requesting for a short period, because he has already spent a lot of time in custody. In fact, there isn't anything that clearly defines the period of aiding and abating war as said by the prosecutor" he noted.

The former Maryland County Superintendent described the verdict of the former Liberian President as "troubling" not only for Liberia, but the entire sub-region. Giving the historicity of crisis, he (Morias) said the West African crisis is intertwined, and that no one nation or individual should take responsibility or account for it.

According to him, other countries in West Africa including Sierra Leone, Ivory and Guinea have been directly involved with crisis in Liberia which claimed the lives of more than 150,000 persons. Speaking further, Senator Morias observed that the verdict of Mr. Taylor could also in turn negatively affect Liberia with respect to the indictment period. He further pointed out that Liberia could be made to pay reparation to the people of Sierra Leone since the indictment period indicates that Mr. Taylor was President of the country (Liberia) at the time.

"One thing I want to stress is that Liberia as a country could also be affected by this verdict. This verdict makes Liberia vulnerable to the people of Sierra Leone," he added.

The Exclusive
Thursday, 10 May 2012

Justice for Sierra Leone! No Justice for Ethiopia?

Guest Writer

By Alemayehu G. Mariam

Warlord Charles Taylor Caged!

After 420 days of trial (over nearly four years), 115 witness, over 50,000 pages of testimony, and 1,520 exhibits, Charles Taylor, warlord-turned-president of Liberia, was found guilty on 11 counts by the U.N. Special Court for Sierra Leone. Taylor was found guilty of war crimes and crimes against humanity (including murder, rape, mutilating civilians, including cutting off their limbs, conscripting child soldiers, sexual slavery and other acts of terrorism) committed in Sierra Leone from November 30, 1996, to January 18, 2002. Over 50,000 people died in that conflict. Taylor "aided and abetted" the notorious warlords Foday Sankoh, Sam "the Mosquito" Bockarie and Issa Sesay of the Revolutionary United Front (RUF) in Sierra Leone. Taylor participated in the planning, instigation and commission of these crimes and provided weapons and military support in exchange for "blood diamonds" mined by slave laborers in Sierra Leone. Taylor will be sentenced next month.

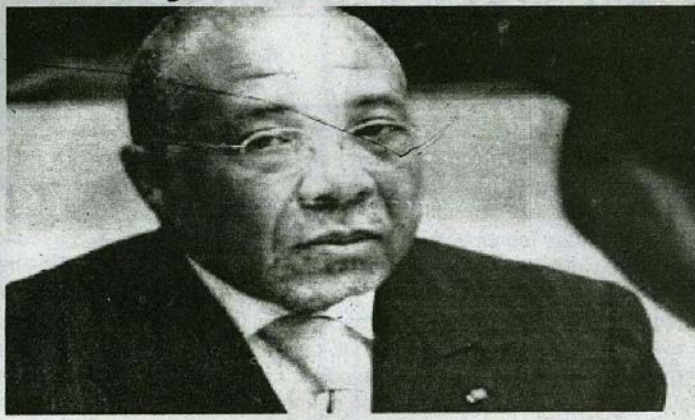
There were some problems in the prosecution's evidence. There were few documents to show the depth and scope of Taylor's involvement with the rebels. There was no evidence that Taylor was at the scene of the rebel crimes. There was little evidence showing the Liberian troops Taylor sent to Sierra Leone were directly involved in the war crimes and crimes against humanity. However, prosecutors were able to use radio and telephone intercepts and the testimonies of Taylor's close associates and security detail and show that Taylor had

shipped weapons to the rebels in exchange for (blood) diamonds. Taylor avoided conviction for "command responsibility" under article 6(3) of the Statute of the Special Court which imputes criminal responsibility "if the superior knew or had reason to know that his or her subordinate was about to commit crimes prohibited by the Statute or had done so, and the superior failed to take the necessary and reasonable measures to prevent or punish the perpetrators". Despite evidence that Taylor had knowledge RUF rebels were committing war crimes and crimes against humanity and that he had significant influence over them, there was insufficient evidence to prove that he had effective "command and control" over them to prevent the crimes or punish the perpetrators. Taylor denied all of the charges and any responsibility for the crimes committed in Sierra Leone. He testified on his own behalf for seven months seeking to portray himself as a peace maker. The trial reportedly cost SUSD250 million! Was it worth the expense? Does justice have a price tag?

Rogues Gallery of African Criminals Against Humanity

The International Criminal Court (ICC) has issued arrest warrants for other current and former African heads of state, including Cote d'Ivoire's former president Laurent Gbagbo and Sudan's president Omar al-Bashir (and the late Moamar Gadhafi). In November 2011, Gbagbo was quietly whisked away to the Hague from house arrest in Cote d'Ivoire to face justice before the ICC on charges of crimes against humanity (murder, rape and other forms of sexual violence, persecution and other inhuman acts) that were allegedly committed during the post-election period. Gbagbo will soon be warming Taylor's chair.

Al-Bashir sneered at the ICC indictment in 2009: "Tell them all, the ICC prosecutor, the members of the court and everyone who supports this court that they are under my



shoe." (In time, he may come under the ICC's shoes.) The U.N. estimated well over 300,000 people have perished under Bashir's regime. Along with Al-Bashir, the ICC has also issued warrants against other Sudanese nationals including Ahmed Haroun, a lawyer and minister of humanitarian affairs, Ali Kushayb, a former senior Janjaweed (local militiamen allied with the Sudanese regime against Darfur rebels), Bahr Idriss Abu Garda, a rebel leader and two others. The ICC has also indicted criminals against humanity in Kenya. Uhuru Kenyatta, finance minister and son of Kenya's famed independence leader Jomo Kenyatta, resigned following an ICC ruling that he will face trial for crimes against humanity in connection with the communal post-election violence between supporters of presidential candidates Raila Odinga and Mwai Kibaki in 2008. The U.N. estimates some 1,200 people died in weeks of unrest between December 2007 and February 2008, and 600,000 people were forcibly displaced. Cabinet secretary Francis Muthaura, a close ally of president Mwai Kibaki, former Education Minister William Ruto and radio announcer Joshua arap Sang face similar charges.

In Uganda, the ICC has indicted senior leaders of the "Lord's Resistance Army" including the notorious Joseph Kony, his deputy Vincent Otti and three other top commanders. In the DR Congo various rebel and militia leaders and Congolese military officers and politicians including Thomas Lubanga Dyilo, Jean-Pierre Bemba Gombo, Bosco Ntaganda, Mathieu Ngudjolo Chui and two others have been indicted. The ICC has issued arrest warrants for Moammar Gaddafi's son Saif al-Islam and Libyan intelligence chief Abdullah al-Senussi who was arrested in Mauritania in March of this year. Libya is contesting ICC jurisdiction so that it may be able to try the two suspects in Libyan courts.

No ICC Indictments in Ethiopia?

While seeking out war criminals and criminals against humanity in the Sudan, Kenya, Uganda, the DR of Congo, Libya and other places, the ICC and U.N. Security Council have avoided "Crimes Against Humanity Central- Ethiopia". The evidence of crimes against humanity and war crimes in Ethiopia is fully documented, substantial and overwhelming.

An official Inquiry Commission appointed by Meles Zenawi in its 2006 report documented the extrajudicial killing of at least 193 unarmed protesters, wounding of 763 others and arbitrary imprisonment of nearly 30,000 persons in the post-2005 election period in Ethiopia. The Commission

was limited to investigating the "violence that occurred on June 8, 2005 in Addis Ababa and violence that occurred from November 1 to 10, 2005 and from November 14 to 16, 2005" in other parts of the country. (The Inquiry Commission has evidence on extrajudicial killings by security forces for dates other than those indicated, and had those casualties been included in the official Commission report the numbers would have increased several fold.) The killings investigated by the Commission occurred after Zenawi publicly declared that all of the country's security and military forces were under his direct, exclusive and personal control.

The Commission's evidence further showed that nearly all of the 193 unarmed protesters died from gunshot wounds to their heads or upper torso. The Commission found substantial evidence that professional sharpshooters were used in the indiscriminate and wanton attack on the unarmed protesters. The Commission further documented that on November 3, 2005, during an alleged disturbance at the infamous Kality prison near Addis Ababa, guards sprayed more than 1,500 bullets into inmate cells in 15 minutes, killing 17 and severely wounding 53. These and many other shocking facts were meticulously documented by the Inquiry Commission which examined 16,990 documents, received testimony from 1,300 witnesses and undertook months of investigation in the field. There is also documentary evidence to show that there are at least 237 named police and security officials directly implicated in these crimes and subsequently dismissed from their positions. No person has even been criminally investigated, arrested, charged, prosecuted or in any way held accountable for any of these crimes. In December 2003, in the Gambella region of Ethiopia, 424 individuals died in extrajudicial killings by security forces. A report by the International Human Rights Clinic of Harvard Law School's Human Rights Program corroborates the extrajudicial killings. In 2008, in the Ogaden region of Ethiopia, reprisal "executions of 150 individuals" and 37 others were documented by Human Rights Watch.

Ethiopian military personnel who ordered or participated in attacks on civilians should be held responsible for war crimes. Senior military and civilian officials who knew or should have known of such crimes, but took no action may be criminally liable as a matter of command responsibility. The widespread and apparently systematic nature of the attacks on villages throughout Somali Region is strong evidence that the killings, torture, rape, and forced displacement are also crimes against humanity for

which the Ethiopian government bears ultimate responsibility.

No person has even been criminally investigated, arrested, charged, prosecuted or in any way held accountable for any of these crimes.

In 2010, Human Rights Watch made a submission to the U.N. Committee Against Torture "regarding serious patterns of torture and other cruel, inhuman, and degrading treatment in Ethiopia."

Torture and ill-treatment have been used by Ethiopia's police, military, and other members of the security forces to punish a spectrum of perceived dissenters, including university students, members of the political opposition, and alleged supporters of insurgent groups, as well as alleged terrorist suspects. Human Rights Watch has documented incidents of torture and ill-treatment by Ethiopian security forces in a range of settings. The frequency, ubiquity, and patterns of abuse by agents of the central and state governments demonstrate systematic mistreatment involving commanding officers, not random activity by rogue soldiers and police officers. In several cases documented by Human Rights Watch, military commanders participated personally in torture. No person has even been criminally investigated, arrested, charged, prosecuted or in any way held accountable for any of these crimes.

International Criminal Court of Justice or International Criminal Court of Selective Justice?

It is historic and commendable that the ICC UN Special Tribunal for Sierra Leone has convicted Charles Taylor for war crimes and crimes against humanity. The verdict is undoubtedly a giant step forward in ending the culture of official impunity and criminality in Africa. African dictators and tyrants may no longer assume automatic impunity for their criminal actions. David Crane, the former prosecutor who indicted Taylor in 2003 correctly pointed out, "This is a bell that has been rung and clearly rings throughout the world. If you are a head of state and you are killing your own people, you could be next." U.N. Secretary General Ban Ki-moon described the Taylor verdict as "a significant milestone for international criminal justice" that "sends a strong signal to all leaders that they are and will be held accountable for their actions."

But the ICC and the U.N. Security Council must not succumb to the shameful practice of selective justice. It is hypocritical to indict criminals against humanity in the Sudan, Kenya, Uganda and the DR Congo and pretend to "hear no evil, see no evil and speak no evil" on the war criminals and criminals against humanity in Ethiopia. There cannot be a double, triple or quadruple standard of justice tailored for different grade of war criminals and criminals against humanity. There is no such thing as a good war criminal or criminal against humanity. There can be no beauty contest among warthogs. What is good enough for the Sudan, Kenya, Uganda and the DR Congo MUST be good enough for Ethiopia because what is good for the goose is good for the gander. Based on the compelling and substantial readily available evidence, the ICC has a legal duty and a moral obligation to at least open an investigation into war crimes and crimes against humanity committed in Ethiopia since 2002 when the court was created.

CNN

Thursday, 10 May 2012

Charles Taylor's defense to counter prosecutor sentencing recommendation

By the CNN Wire Staff



(CNN) -- The defense for Charles Taylor is expected to submit its counter-recommendation Thursday after prosecutors said the former Liberian president deserves an 80-year sentence for a war crimes conviction.

Taylor was found guilty last month of aiding and abetting war crimes in neighboring Sierra Leone's civil war.

"Should the trial chamber decide to impose a global sentence, 80 years' imprisonment would be appropriate," said Brenda Hollis, chief prosecutor for the Special Court for Sierra Leone.

In the statement last week, the prosecutor said the sentence reflects the gravity of the crimes.

"But for Charles Taylor's criminal conduct, thousands of people would not have had limbs amputated, would not have been raped, would not have been killed," Hollis said. "The recommended sentence provides fair and adequate response to the outrage these crimes caused in victims, their families and relatives."

Last month's landmark ruling by the international tribunal was the first war crimes conviction of a former head of state by an international court since the Nuremberg trials of Nazi leaders after World War II.

Taylor, 64, was found guilty of all 11 counts of aiding and abetting rebel forces in a campaign of terror that involved murder, rape, sexual slavery, conscripting children younger than 15 and mining diamonds to pay for guns.

Prosecutors accused Taylor of financing and giving orders to rebels in Sierra Leone's civil war that ultimately left 50,000 dead or missing. His support for the rebels fueled the bloody war, prosecutors said.

Prosecutors, however, failed to prove that he had direct command over the rebels who committed the atrocities.

There is no death penalty in international criminal law, and he would serve out any sentence in a British prison.

Taylor has been a pivotal figure in Liberian politics for decades, and was forced out of office under international pressure in 2003. He fled to Nigeria, where border guards arrested him three years later as he was attempting to cross into Chad.

His trial was at the special court for Sierra Leone in The Hague, Netherlands. U.N. officials and the Sierra Leone government jointly set up the tribunal to try those who played the biggest role in the atrocities. The court was moved from Sierra Leone, where emotions about the civil war still run high.

Taylor becomes the first former head of state since Adm. Karl Doenitz, who became president of Germany briefly after Adolf Hitler's suicide, to be convicted of war crimes or crimes against humanity by an international tribunal.

Former Yugoslav President Slobodan Milosevic was tried by an international tribunal, but died before a judgment was issued.

Associated Press
Wednesday, 9 May 2012

Prosecution wants 80 years for Charles Taylor

Former Liberian president Charles Taylor deserves an 80-year sentence for the war crimes he was convicted of last week, including aiding and abetting murder and rape on a mass scale, prosecutors said in a written filing Thursday.

Judges at the Special Court for Sierra Leone on April 26 ruled Taylor played a crucial role in helping rebels to continue a bloody rampage during that West African nation's 11-year civil war, which ended in 2002 with more than 50,000 dead.

They found Taylor guilty of 11 counts of war crimes and crimes against humanity, for his role in arming the Sierra Leone rebels in exchange for "blood diamonds" mined by slave laborers and smuggled across the border.

In a written submission Thursday, prosecutor Brenda Hollis said an 80-year sentence would "reflect the essential role Mr. Taylor played in crimes of such extreme scope and gravity." The court does not have the death penalty.

Taylor's conviction, the first of a former head of state since the aftermath of World War II, is seen as a landmark in international war crimes law.

The 64-year-old Taylor will be sentenced on May 30. The defense must submit its counter-recommendation by May 10, and oral arguments are scheduled for May 16 _ including a chance for Taylor to address the court in person.

Taylor fled into exile in Nigeria after being indicted by the court in 2003 and wasn't arrested for three years. And while the Sierra Leone court is based in that country's capital, Taylor's trial was staged in The Hague, Netherlands for fear it could destabilize the region.

During seven months of testimony in his own defense, Taylor insisted he was an innocent victim of neocolonialism and a political process aimed at preventing him from returning to power in Liberia.

Hollis said the scale and brutality of the crimes Taylor helped make possible were such that they impacted "virtually the entire population of Sierra Leone."

"The purposely cruel and savage crimes committed included public executions and amputations of civilians, the display of decapitated heads at checkpoints, the killing and public disembowelment of a civilian whose intestines were then stretched across the road to make a check point, public rapes of women and girls, and people burned alive in their homes," she wrote.

She said there was little that could be said in favor of giving Taylor a lighter sentence, and the "brutality and impact on the victims should be reflected" in the demand.

There was no clear paper trail linking Taylor to rebels, and the three-judge panel hearing his case wound up convicting him of aiding and abetting the fighters. He was cleared of even more serious direct command responsibility over the rebels.

Taylor's lawyers must wait for the sentencing before they can file any appeal. Taylor will serve whatever sentence he receives in Britain.

PressTV

Wednesday, 9 May 2012

Opinion

<http://presstv.com/Program/240321.html>

Charles Taylor verdict: has justice been served?

It is reported that Charles Taylor received CIA training and help during his reign. Him coming to power, is alleged, is as a result of external powers.

Thursday groundbreaking judgment in the case of the former Liberian president Charles Taylor represents a milestone for both international justice and gender justice.

The former president of Liberia was convicted by the special court for Sierra Leone of 11 counts of aiding and abetting war crimes and crimes against humanity, including rape and sexual slavery.

He was also convicted of the charge of enabling "outrages upon personal dignity", arising from incidents in which women and girls were forced to undress in public and then raped and sexually abused, "sometimes in full view of the public, and in full view of family members".

In the conviction for terrorism too, the judges found that the raping of women and girls in public was part of the campaign aimed at terrorizing the civilian population.

NewsChief.Com
Wednesday, 8 May 2012

COMMENTARY

Disciples of war being brought to justice

By ARTHUR CYR, Syndicated columnist

Without justice, courage is weak," Ben Franklin wrote, and around the world today dangerous disciples of war are being brought to justice.

In late April, Liberia's former president, Charles Taylor, was formally convicted of war crimes and crimes against humanity by an international special court established in The Hague, Holland.

Taylor aided Sierra Leone rebel forces in carrying out bloody, brutal atrocities.

Liberia under Taylor was rightly regarded as having a ruling regime that was corrupt and dangerous, both domestically and toward other countries.

Liberia's current president, Ellen Johnson Sirleaf, earlier spent more than a year in prison during Taylor's dictatorship. He'd once threatened to kill her. Her legendary determination and courage inspired the nickname "The Iron Lady."

Around the world, other war criminals are slowly but steadily being brought to justice through due process.

Last November, a New York jury convicted Viktor Bout for trying to sell arms to the Revolutionary Armed Forces of Colombia, or FARC, in order to kill Americans. His nickname is "The Merchant of Death."

Former Soviet army officer Bout became rich and feared dealing in weapons and drugs on a vast scale.

The book "Merchant of Death" documents his extraordinary career. Authors Douglas Farah and Stephen Braun provide details regarding a global trail marked in blood. Wholesale death literally was his occupation.

Initially based in Russia, Bout moved his operations to Belgium, then the United Arab Emirates.

For years, he kept just barely ahead of a comprehensive worldwide law enforcement effort to take him down.

Bout was seized in Thailand in a sting operation orchestrated by the U.S. Drug Enforcement Administration.

The Thai government initially vetoed extradition, in response to strong pressures from Russian interests.

The turnabout reflected intense, continuous effort by the U.S. government.

Bout's arrest in a luxury hotel was a victory for basic morality and decency as well as law enforcement.

In July 2011, Goran Hadic was arrested in Serbia. He was the last remaining accused Balkans war criminal not yet taken into custody following the brutal fighting in that region during the 1990s.

United Nations officials joined with representatives of the international judicial tribunal overseeing these trials in welcoming this benchmark event.

Slow and inefficient, international legal institutions nonetheless steadily are making progress.

If this brief, brutal list indicates such practices are removed from the United States, think again.

Edwin P. Wilson, a retired U.S. intelligence pro, went to work for terrorist state Libya in the 1970s. Wilson recruited expert military veterans, including U.S. Army Green Berets, for Col. Moammar Gadhafi's regime.

Killings in Colorado as well as Germany were blamed on Wilson's efficient lethal crew.

Alleged deals, backed by substantial evidence, included shipping 20 tons of C-4 plastic explosives to Libya in chartered planes.

Wilson became a U.S. law enforcement priority. Libya refused to extradite him, but imaginative American operatives set up an attractive bogus deal and lured him to the Caribbean, where he was arrested.

Wilson spent almost three decades in prison, but then was released.

A federal judge declared the CIA and Justice Department had acted improperly regarding the trial, and overturned his conviction on procedural grounds.

By definition, the rule of law puts the same obligations on all parties, innocent and guilty.

Franklin and fellow Founders understood the goal is great but the process often painful.

Arthur I. Cyr is Clausen Distinguished Professor at Carthage College. Email him at acyr@carthage.edu.

KM World

Wednesday, 9 May 2012

Investigative software helps prosecution's case

The Special Court for Sierra Leone used investigative software from ZyLAB to help prove its case against the former Liberian president, Charles Taylor, who was found guilty recently of planning the killing of tens of thousands of people during Sierra Leone's civil war. Taylor was accused of using "blood diamonds" to arm and fund rebel troops in Sierra Leone, as part of his strategy to seize the country's diamond mines.

Johannes C. Scholtes, chief strategy officer for ZyLAB, says, "This was a very difficult case for the prosecution to prove. The team had millions of relevant documents of varying quality and formats, and only a portion was readily searchable. Therefore, we deployed our software to enable the legal team to use state-of-the-art exploratory search methods."

According to ZyLAB, its e-discovery and investigations software made all the data collected in the case fully searchable.

Prior to the conviction of Taylor, Herman von Hebel, registrar for the Special Court of Sierra Leone, wrote Scholtes, "Our staff greatly appreciates the use of this comprehensive program for the filing and searching of documents, which will benefit the work of the Court."

Scholtes says, "It was critical to enable the prosecution to retrieve key evidence from all documents. With ZyLAB, not only did their investigation span the complete collection, but it also led to the discovery of integral references and code words for the prosecution's case."

The ZyLAB data mining tools were used to pinpoint and decipher several clandestine references and alias terms that ultimately influenced the case, the company reports.

After implementation of the ZyLAB software at the Office of the Prosecutor, the rest of the Special Court for Sierra Leone also deployed the technology for records and evidence management.

The Star (Kenya)

Wednesday, 9 May 2012

Opinion

Lessons for Nation From the Charles Taylor Verdict

By Ashford Muriuki Mugwuku

On 14th March, and 26th April this year, two significant but landmark decisions have been rendered by two different international courts convicting high ranking personalities of crimes against humanity, war crimes related offences under International Criminal Law.

On 14th March, the International Criminal Court convicted Thomas Lubanga Dyilo aged 51 of three counts of crimes against humanity including, enslavement, enlisting of child soldiers and conscription, rape and related offences committed in DRC Congo in the Ituri minerals rich province between September, 2002 and August 2003. This verdict is the first to be delivered by the ICC and coincided with 10 years of its existence. Thomas Lubanga is a former warlord, the founder and leader of the rebel group "Union des Patriotes Congolais (UPC) Political Party and its Military Wing, Forces Patriotiques pour la Liberation du Congo (FPLC). The Lubanga trial took six years.

On 26th April, 2012, the United Nations backed Special Court for Sierra Leone (SCSL) convicted the former Liberian President Charles Taylor of crimes under international law including aiding and abetting war crimes, crimes against humanity, such as acts of terrorism, murder, rape, use of child as soldiers as charged in several counts in the indictment. The charges against Charles Taylor were primarily founded on his role in co-operation and involvement with the notorious warlords in Sierra Leone, especially the Revolutionary United Front (RUF) in return for blood diamonds. Taylor was convicted of 11 counts including acts of terrorism, murder, rape and conspiracy of child soldiers.

Taylor, who pleaded not guilty, advanced the argument that he was a statesman and a peace maker in the region at the time the crimes were committed. This defence was overruled by the judges. Taylor is the first head of state or former president in Africa to be convicted by an International Criminal Court of crimes against humanity and comes second in the world, after a former Naval Chief Admiral Karl Doenitz who was leader and President of Germany after Adolf Hitler's demise, Karl Doenitz, was tried and convicted by the first International Criminal Tribunal at Nuremberg 1945 for taking part in a conspiracy to commit crimes against humanity.

Reflections on Taylor's landmark trial and verdict raise numerous legal and political issues and lessons pertinent to Kenya's situation today. There is justification to argue that in the Kenya case, there is apparent failure of leadership and control in the management of the post - election violence situation and more importantly, the resulting indictments of Kenyans at the ICC.

The same day the Charles Taylor verdict was delivered the East African Legislative Assembly passed a motion seeking to transfer the ICC trials facing Kenyan suspects from the ICC at the Hague to the Arusha based East African Court of Justice. The motion was presented and discussed before the 10th Extra Ordinary Summit of heads of states of the East African Community which President Kibaki chaired in Arusha Tanzania on 28th April, 2012. The summit directed the Council of Ministers to consider the matter and report by end of May 2012, on a Resolution to extend jurisdiction of the court to cover crimes against humanity.

The Assembly resolution came barely two days after President Kibaki announced during his state of the Nation Address that the government was exploring mechanisms to have the I.C.C cases tried locally. The question that comes to mind is; can the ICC trials which are purely governed by international law

recognized by Kenya's Constitution and the International Crimes Act 2008 be stopped or be subjected to local political machinations aimed at deferring, suspending or transferring them to a court other than the ICC? Can political expediency of the government of the day or regional interests under the auspices of the East Africa Regional Assembly be a factor in requesting for such a move?

This move by Kenya like many others before it, is misguided, ill advised and political. First, the EALA has no legal mandate to legislate on matters purely Kenyan without appropriate statutory backing and/or resolution of Kenya parliament.

Second, the East African Court of justice is not a criminal court, and it has no jurisdiction over the crimes, the subject of the Rome Statute and, hence, I.C.C.

Third, any Resolutions by the East African Court at this juncture granting it jurisdiction to try the Kenyan I.C.C suspects or to refer to the I.C.C cases to the Court would be in conflict with international law, the UN Charter, the Rome Statute and even worse, inconsistent with the letter and spirit of the Constitution of Kenya together with the International Crimes Act, 2008.

It would arguably be to the detriment of the ICC suspects themselves as it could be interpreted to mean or amount to obstructing the course of justice and offences against the administration of justice under Article 70 of the Rome Statute; subversion of the law regarding obligations imposed by Rome Statute or ICC Rules on Kenya as a state party requiring co-operation with the ICC.

The actions being undertaken by the Government may in due course or in the fullness of time, fall foul of the law, as contravening or attempting to contravene the Constitution.

Overall, the picture being presented is one of indecision, confusion and a conspicuous lack of legal and political direction on this issue. This is not only worrying but equally embarrassing the country. It is, for instance, embarrassing for the President to send statements to the ICC or to be let to make public announcements touching on the on-going ICC process or take other actions that have implications on the entire ICC legal process without appropriate legal and political advice. Just who advises who in this country? Who takes whose advice?

A while ago the president publicly directed the Attorney General to appoint a panel of lawyers to advise on the ICC issue. Should the Attorney General be the one to be directed or advised by the President on what to do or should it be the other way round. The Attorney General is the Chief Legal Adviser to the Government who has the capacity to review situation and render appropriate advice on the course of action for Kenya, but of course within the laws applicable.

The actions by various state actors with regard to the ICC process in Kenya do not present any clear policy, political or legal position. For instance, the two Principals executed an Agreement for the establishment of a Local Tribunal here in Kenya in accordance with the recommendations of the Waki Report. The implementation of the Waki Report stalled soon thereafter. Parliament then passed the International Crimes Act, 2008, which gave an indication that Kenya was willing to co-operate with the ICC. In the meantime, the ICC Special Prosecutor Luis Moreno Ocampo visited Kenya and had a cordial and entertaining visit during which he was hosted by the President and also the Prime Minister. There was no protest and or any sign of disapproval, displeasure or discomfort with the ICC process from any of the State actors involved.

Almost immediately after the Ocampo Six were named, the President issued a public statement affirming the ICC Process, and promising that if any of the charges were confirmed against any of the suspects, the government would take action, including removal of affected persons, from government positions. Sometimes in between, Parliament endorsed a Motion calling for withdrawal of Kenya from ICC. The effort for withdrawal of Kenya from ICC does not seem to have metamorphosed into reality.

However, like other moves before and after this motion, the attempted withdrawal of Kenya from the ICC does not help matters as such withdrawal can only take effect a year after the notification is received by the Secretary General of the United Nations. The withdrawal will not in any way affect the continued consideration of any matter which is already under consideration prior to the date on which the application become effective

It is apparent that the coalition Government in Kenya has failed to effectively handle the post-election situation so as to ensure punishment for those responsible, and justice to the victims of the crimes, sustainable peace and reconciliation.

Kenya needs to consider whether it would be better, as the Rwandan Government has argued, if more locally relevant mechanisms of justice were established and applied, so that the victims of the post election violence can themselves decide whether its appropriate to punish and or whether it is appropriate to forgive. We cannot remain confused, sit aloof or indecisive for far too long without suffering serious legal and political consequences.

Ultimately, Kenya must realize that many conflicts in society must be understood as struggles by the poor to hold the powerful to account. Government accountability is key to delivery of sustainable solution to peace, prosperity and sustainable development.

Ashford Muriuki Mugwuku is an advocate of the High Court of Kenya and a former defence counsel at the UN - ICTR, Arusha, Tanzania

The New Dawn (Liberia)

Tuesday, 8 May 2012

PYJ - Taylor's Men Killed My Ma!

Senator Prince Johnson of Nimba County is a man with many colors, and some say the commander of the former rebel Independent National Patriotic Front of Liberia is unpredictable.

Last week Senator Johnson described his estranged mentor war crimes convict Charles Taylor as a kind-hearted personality, whose generosity he noted, has affected many lives both in Liberia and elsewhere.

Johnson's comments followed Special Court judges guilty verdict pronounced against Taylor on April 26 for aiding and abetting joint RUF/AFRC rebels in Sierra Leone.

On the other hand, he has accused Taylor of killing his (Johnson's) mother in 1990 during the onset of the Liberian civil war.

Johnson was one of the most senior battlefield commanders of Taylor's National Patriotic Front of Liberia rebels who invaded Liberia on December 25, 1990 in a military campaign against the late President Samuel Kanyon Doe.

But disagreement emerged and Johnson parted with Taylor and led his own splinter Independent National Patriotic Front of Liberia rebels that adapted the strategy of rapid advancement to Monrovia without holding any territory except the suburb town of Caldwell overlooking the capital where he used as a base until Taylor forces overran the area, forcing him into exile to Nigeria.

Johnson said Taylor's forces killed his mother after he broke away, but other accounts have revealed that rival frontline generals in the main NPFL predominantly from Johnson's home County Nimba, took advantage of the breakaway and went after his family members in the village.

Speaking to this paper via mobile, Johnson said, "though Taylor through his men killed my mother, but I have forgiven him for what he did to me."

During his trial at The Hague, Taylor described Johnson as a professional soldier and disciplinarian who sometimes "went a little overboard."

"Prince Johnson captured Doe alive and subsequently killed him," Taylor told judges at the Special Court for Sierra Leone.

Johnson confirmed before the Truth and Reconciliation Commission that he indeed captured President Doe from the ECOMOG base at the former industrial site Free Zone and killed him, but failed to disclose where the corpse of the former President was buried.

"Myself, I have forgiven Taylor for what he did to me when I broke away from the NPFL; his men killed my mother, even though I am not holding him liable to that extent, but I forgave him already," he said.

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Opening the other Eye: Charles Taylor and Selective Accountability

The US upholds a series of double standards on international criminality. It is the number 1 advocate of international criminal justice for others, but refuses to subject its own officials to the jurisdiction of the ICC, even going so far to threaten the use of military force in the Hague if the ICC indicts any US citizens. Western corporations are asked to comply voluntarily to moral practices, while political leaders in sovereign African states are subject to international criminal law. In this article, Richard Falk argues that the rule of law must be implemented consistently for people to take it seriously, and not only when it's convenient for the global elite.

By Richard Falk
Al Jazeera

From all that we know, Charles Taylor deserves to be held criminally accountable for his role in the atrocities committed in Sierra Leone during the period 1998-2002. Taylor was then president of Liberia, and did his best to encourage violent uprisings against the governments in neighbouring countries so as to finance his own bloody schemes and extend his regional influence. It was in Sierra Leone that "blood diamonds", later more judiciously called "conflict diamonds" were to be found in such abundance as to enter into the lucrative world trade, with many of these diamonds reportedly finding their way eventually onto the shelves of such signature jewelry stores as Cartier, Bulgari and Harry Winston, and thereby circumventing some rather weak international initiatives designed to protect what was then considered the legitimate diamond trade.

It is fine that Charles Taylor was convicted of 11 counts of aiding and abetting war crimes and crimes against humanity of the rebel militia that committed atrocities of an unspeakable nature, and that he will be sentenced in early May. And it may further impress liberal commentators that fair legal procedures and diligent judicial oversight led to Taylor's acquittal with respect to the more serious charges of "command responsibility" or "joint criminal enterprise". Surely, the circumstantial evidence sufficiently implicated Taylor in a knowing micromanagement of the crimes that it would have seemed reasonable to hold him criminally responsible for the acts performed, and not just for aiding and abetting in their commission. I share the view that it is desirable to lean over backwards to establish a reputation of fairness in dealing with accusations under international criminal law. It is better not to convict defendants involving crimes of state when strong evidence is absent to uphold specific charges beyond any reasonable doubt. In this respect, the Taylor conviction seems restrained, professional and not vindictive or politically motivated.

But as Christine Cheng has shown in a perceptive article published online on Al Jazeera, there are some elements of this conviction that feed the suspicion that the West is up to its old hypocritical tricks of seizing the moral high ground while pursuing its own exploitative economic and geopolitical goals that obstruct the political independence and sovereignty of countries that were once their colonies. As Cheng points out, the financing of the Special Court for Sierra Leone was almost totally handled by the United States, United Kingdom, the Netherlands and Canada. In addition, there were pragmatic reasons to make sure that Taylor was never allowed to return to Liberia, where he retains a strong following. It was feared that if Taylor were back in Liberia he would likely again foment trouble in the Liberian sub-region, and this would make it impossible to restore stability, and begin "legitimate" mining operations, which is what the West apparently wanted to have happen in Sierra Leone.

A double standard on criminality

What is dramatically ironic about the whole picture is that the United States is the number one advocate of international criminal justice for others. President Obama has even taken the unprecedented step, on April 23, 2012, of establishing an Atrocity Prevention Board under the authority of the National Security Council, and headed by Samantha Power - a prominent human rights activist that has been serving in his administration. In his speech of April 23 at the US Holocaust Memorial Museum, announcing the formation of the board, Obama said that atrocity prevention and response was a "core national interest of and core moral responsibility" of the United States. It is hard to fault such an initiative in light of the faltering US (and UN) response to recent allegations of mass atrocities

in Syria and Sudan, and against the background of refusing to be more pro-active back in 1994, as a grotesque and preventable genocide unfolded in Rwanda. At the same time, there is an impression, the essence of the liberal mentality, of Uncle Sam surveying the world with a blinkered vision, seeing all that is horrible while overlooking his own deeds and those of such friends as Israel or Bahrain.

Heeding the sound of one hand clapping, it might be well to remember that the United States - more than any country in the world - holds itself self-righteously aloof from accountability on the main ground that any international judicial process might be tainted by politicised motivations. Congress has even threatened that it would use military force to rescue any US citizens that were somehow called to account by the International Criminal Court in The Hague, and has signed agreements with more than 100 governments pledging them not to hand over US citizens to the ICC. And yet it is international criminal lawyers and human rights NGOs from the US that have been most loudly applauding the outcome in the Taylor case, without even a whimper of acknowledgement that there may be some issues relating to double standards. If international criminal adjudication is so benevolent when prominent Africans are convicted, why does the same not hold for US officials? Given the structure of influence in the world, there exists more reason for Africans to be suspicious of such procedures than for Americans who fund such efforts, and who are so influential behind the scenes.

If aiding and abetting is what the evidence demonstrates, then should there not be at least discussion of whether international diamond merchants and jewelry retailers making huge profits by selling these tainted diamonds should be investigated, or even prosecuted? There was a voluntary, self-regulating certification procedure established, the Kimberly Process (2001) - named after the city in South Africa where the meeting of concerned governments, corporate leaders and civil society representatives took place. This joint initiative was especially pushed by large diamond sellers, such as the notorious De Beers cartel of South Africa, that were distressed by the downward effect on world prices by the availability of blood diamonds.

A British NGO, Global Witness, reports that almost none of the prominent diamond retailers took any notice of this cooperative effort to restrict the flow of blood diamonds, and seemingly purchased diamonds at the lowest price without enquiring too much as to their origins, or complying with the certification requirement established by the Kimberly Process. The latter process was partly developed to avoid a civil society backlash protesting this indirect support of atrocities, as well as to protect the market shares and control of the established international companies that had long dominated the lucrative trade in diamonds. But isn't revealing that Western corporations are asked to act in a morally responsible manner by way of a voluntary undertaking, while political leaders of sovereign states in Africa are subject to the draconian rigour of international criminal law?

Overlooking atrocities

These issues are absent from the Western public discourse. Take the self-satisfied editorial appearing in the Financial Times (April 27, 2012). It starts with words affirming the larger meaning of Taylor's conviction: "A strong message was sent to tyrants and warlords around the world yesterday. International law may be slow, but even those in the higher ranks of power can be held to account for atrocities committed against the innocent." And the editorial ends even more triumphantly, and without noticing the elephant standing in the middle of the room, that leaders "... in states weak and strong - now know that there can be no impunity for national leaders when it comes to human rights." Such language needs to be decoded to convey its real message as follows: "National leaders of non-Western countries should realise that if their operations henceforth stand interfere with geopolitical priorities, they might well be held criminally responsible."

There are several observations that follow:

If non-Western leaders are supportive of Western interests, their atrocities will be overlooked, but if there is a direct confrontation, then the liberal establishment will be encouraged to start "war crimes talk" - thus Milosevic, Saddam Hussein and Gaddafi (killed before proceedings could be initiated) were charged with crimes, while the crimes of those governing Bahrain, Saudi Arabia and Israel are ignored. The great majority of cases dealing with international crimes have been, up to this point, associated with events and alleged criminality in sub-Saharan Africa, confirming the extent to which this region has been devastated by bitter conflicts, many of which are attributable to the remnants of colonialism (divide and rule; the slave trade; formation of arbitrary boundaries separating tribal and ethnic communities; apartheid; the continuing quest for valuable mineral resources by international business interests etc). The Western mind is trained not to notice, much less acknowledge, either the historical responsibility

of the colonial powers or the unwillingness of the West to submit to the same accountability procedures that are being relied upon to impose criminal responsibility on those who are perceived to be blocking Western economic and political interests. The United States is particularly vulnerable from these perspectives. When we hear the names of Guantanamo Bay and Abu Ghraib, the immediate association is with US war crimes. When US leaders openly endorse reliance on interrogation techniques that are generally condemned as "torture", we should be commenting harshly on the wide chasm separating "law" from its consistent implementation. When a soldier, such as Bradley Manning, is reported to have exposed the atrocities of the Iraq and Afghanistan wars, he is held in humiliating prison circumstances and prosecuted for breaching secrecy, with suggestions that his intent was "treasonous", that is, intended to help enemies. At least, if there was a measure of good faith in Washington, it should have been possible to move forward on parallel paths: hold Manning nominally responsible for releasing classified materials, mitigated by his motives and absence of private gain, but vigorously repudiate and investigate the horrible crimes being committed against civilians in Iraq and Afghanistan, as well as the battlefield practices and training programs that give rise to such atrocities.

Hypocritical punishers

The Western powers have gone significantly further in sculpting international law to their liking. They have excluded "aggressive war" from the list of international crimes contained in the Rome Treaty which governs the scope of ICC jurisdiction. When the defendants were the losers in World War II, aggressive war was treated at Nuremberg (and Tokyo) as the supreme war crime - as it was declared to encompass the others: war crimes and crimes against humanity. The UN Charter was drafted to reflect this outlook, by unconditionally prohibiting any recourse to force by a state except in self-defence - narrowly defined as a response to a prior armed attack. But in the decades that followed, each of the countries that sat in judgement at Nuremberg engaged in aggressive war and made non-defensive uses of force - and so the concept became too contested by practice to be any longer codified as law. This reversal and regression exemplifies the Janus face of geopolitics when it comes to criminal accountability: when the application of international criminal law serves the cause of the powerful, it will be invoked, extended, celebrated, even institutionalised, but only so long as it is not turned against the powerful. One face of Janus is that of international justice and the rule of law, the other is one of a martial look that glorifies the rule of power on behalf of the war gods.

Where does this line of reasoning end? Should we be hypocrites and punish those whose crimes offend the geopolitical gatekeepers? Or should we insist that law, to be law, must be applied consistently? At least these questions should be asked, inviting a spirit of humility to emerge, especially among liberals in the West.