SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE

Meli River, on the Guinea Border.

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, 11 March 2009

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

Local News

International News

Concord Times
Wednesday, 11 March 2009
Opinion

"Special Court not a good precedent"

The Special Court for Sierra Leone completed its last trial on 25 February, convicting the three most senior leaders of the reviled Revolutionary United Front (RUF) of a series of war crimes and crimes against humanity between 1991 and 2002. They will be sentenced this month. International observers were keen to emphasise that justice had been done in Sierra Leone, which is still recovering at snail's pace from its civil war. They say the verdicts - guilty on 16 of 18 counts in the cases of interim leader **Issa Hassan Sesay** and Commander **Morris Kallon** (aka **Bilai Karim**), and guilty on 14 of 18 counts in the case of security chief **Augustine Gbao** - are vital to the civil war's victims and to the establishment of humanitarian law.

In the brutal conflict more than 50,000 people were killed, thousands had limbs amputated by machetes, and child soldiers armed with Kalashnikovs terrorised their own families. It is estimated that one in three women in Sierra Leone have been raped. Since the Court began business in 2004, three members of the Armed Forces Revolutionary Council (AFRC) junta that took power in 1997 have been convicted and sentenced - Alex Tamba Brima (50 years), **Ibrahim Bazzy Kamara** and **Santigie Borbor Kanu** (45 years each). Two members of the Civil Defence Forces (CDF), which mostly made up of Kamajors (traditional hunters) fighting against the RUF rebel attackers and - **Moinina Fofana** and **Allieu Kondewa** - were sentenced to 15 and 20 years. The trial of the RUF's main sponsor, **Liberian** ex-President **Charles Ghankay Taylor**, is under way in The Hague for security reasons and is expected to end in 2010.

Supporters claim that hefty penalties will deter others around the world from such heinous acts. They say also that the Court has helped to bring lasting stability to Sierra Leone through outreach programmes which explain its work and how it has brought the killers and thugs to justice. Civic activists give talks to local people about the Court and how evidence is gathered, and the Court proceedings are televised. The Court was a new departure for international justice: a 'hybrid court', based in Sierra Leone, backed by the United Nations and run according to international humanitarian law.

Sierra Leonean ex-President **Ahmed Tejan Kabbah** invited the UN to set it up, with judges drawn from Sierra Leone and other jurisdictions (AC Vol 47 No 8). The funds come from voluntary contributions by governments and run to hundreds of millions of dollars.Recommendations by a separate Truth and Reconciliation Commission may begin to bear fruit, very belatedly, when reparations for 100,000 victims of the war start being handed out this year. The initiative is largely supported by the new UN Peacebuilding Fund and carried out by the country's new Human Rights Commission, headed by the dedicated **Jamesina King**. The Court has helped to establish a truer history of the war. Too many popular accounts identified the RUF as the war's only real villain, overlooking the role of the AFRC, a rabble of soldiers and young men who emerged from a low-ranking army coup in 1996. Yet the Court determined that it was the AFRC who led the invasion of Freetown on 6 January 1999, when some 6,000 people died.

The Court decided that the RUF was not responsible for that invasion and its atrocities.The Court also said that the RUF was not responsible for crimes committed in three districts in Freetown's Western Area. It explained that the war's horrors involved the AFRC and army dissidents as well as the RUF. It also defined five new violations of international humanitarian law: forced marriage, sexual slavery, enlisting child soldiers under 15, attacks on peacekeepers and acts of terrorism against civilians. The proceedings have lasted much longer than anticipated and cost a great deal more. The budget runs to US$68.4 million for 2008-10, with nine judges paid a combined $2.1mn, this year. Critics say the wrong people stood trial. It was not the judges' fault that four of the most important indictees have died: the RUF's top two leaders, founder **Foday Sankoh** and **Sam 'Mosquito' Bockarie;** AFRC leader **Johnny Paul Koroma;** and CDF leader Chief **Samuel Hinga Norman.**

Some kind of justice has been done but the Special Court has not set a good precedent for international justice.

However, the judges were responsible for selecting the 13 people (nine of whom survived) who were indicted. In a hectic war, fought by men who switched sides as opportunity offered, the idea of holding 13 'most responsible' is itself a rewriting of history. As early as the end of 1993, the RUF was divided into two regions with little communication between them. More than 70,000 fighters were demobilised when the war ended in 2002.

Tens of thousands of atrocities were committed. To punish 13 people for all this was a tricky proposition. Human rights movement Amnesty International and other groups want hundreds more investigated. Critics also say that some of the most brutal leaders escaped the Court's jurisdiction by a series of bargains. Mid-ranking fighters were recruited as key prosecution witnesses despite their own perhaps more heinous acts. Issa Sesay, the most senior convicted RUF leader, was said by the defence to have always tried to limit attacks on civilians and could well have served as a witness against Sankoh and Bockarie.

The critics say some witnesses were offered amnesty, money and relocation in exchange for dubious testimony about events for which they were themselves responsible. The Court tried people only for crimes committed after 30 November 1996, thus letting thousands of perpetrators off the hook. Setting up the Court did Kabbah a favour, since it was most unlikely to indict its founder. Yet his Defence Minister, Norman, with whom he worked closely, was indicted, making him look like a fall guy. President **Ernest Bai Koroma** has not made the Special Court part of his strategy to secure stability in his country.

There has been much concern about court procedures and approaches that seemed to disadvantage the defence team. The prosecution flew round the world raising money for the Court but the registry that runs the Court did not permit the defence to do the same, allotting money to both sides from a limited central budget. Office space, vehicles, staff salaries and privileges were weighted in favour of the prosecution. Some say the Court was mandated to convict the accused - UN ex-Secretary General **Kofi Annan** called them criminals before their trials had started. Money raised on a voluntary basis is bound to be vulnerable to the donors' worries. **Britain** and the **Netherlands**, where Taylor is being tried, are the longest standing, largest donors. The **United States** has been open-handed but its expected $9 mn. will not arrive until September. A gap has emerged, as cash dries up in May and several smaller donors have yet to pay or will pay less than expected. The funding gap could be as high as $7 mn. Amid the world's financial disasters, contributions from **France, Germany** and **Ireland** hang in the balance and Britain's contribution is devalued along with the pound sterling.

Above all, for those who seek equal international justice for all, the Special Court undermines the credentials of the International Criminal Court in The Hague. So long as justice is meted out country by country, international law is not carried through in the fullest sense. A Special Court for one country looks a little like picking and choosing the atrocities that are worth worrying about.

Culled from Africa Confidential.

Sierra Leonean ex-President Ahmed Tejan Kabbah invited the UN to set it up, with judges drawn from Sierra Leone and other jurisdictions (AC Vol 47 No 8). The funds come from voluntary contributions by governments and run to hundreds of millions of dollars.Recommendations by a separate Truth and Reconciliation Commission may begin to bear fruit, very belatedly, when reparations for 100,000 victims of the war start being handed out this year

The News
Wednesday, 11 March 2009

FEATURE

Making a Case for Defence Counsel in Juvenile Trials

By Hawa Kamara

The want of defence counsel for children who are in conflict with the law is now a growing problem with attendant effects on the administration of juvenile justice in the country. That is, the majority of juvenile offenders are not represented by legal practitioners when they are arraigned before the court for having been in breach of the law. Such a practice definitely undermines the justice system especially as it relates to the rights of juveniles during trials. This is so because it violates a fundamental provision - the accused's right to a legal representation - as espoused in both national and international instruments. The reason for this anomaly may be multi-faceted. Some parents' or guardians' are financially handicapped to secure the services a lawyer. In other cases, the juveniles are 'street children' who do not even have persons to guarantee them protection under the law. Most importantly, it can be the state's insensitivity to upholding the rule of laws as expected of all civilized nations the world over.

The importance of having legal representation during trials cannot be overstated let alone in the trials of juveniles who are constrained by a number of factors including their mental capacities to withstand the rigors of a normal court procedure. Where there is an absence of a defence counsel, juveniles stand to be substantially disadvantaged as they are not accustomed to the setting of the court, not to talk about the language. This practice has often beclouded the administration of justice in juvenile courts which often begs the question as to whether the rights of children are protected within our justice system. This article seeks to examine the problems of juvenile justice system with particular focus on legal representation by highlighting the roles of defence lawyers in juvenile proceedings. It will also try to proffer some recommendations as a way of tackling this problem.

Part II, section 3(5) of the Children and Young Persons Act, otherwise known as Cap 44 of the Laws of Sierra Leone 1960 recognises the right of a juvenile to be represented by a legal counsel whenever such need arises. The Act provides for a juvenile to enjoy the services of advocates or other appropriate assistance in the determination of a legal matter. The use of 'advocates' in Cap 44 serves the purposes of both the 'legal or other appropriate assistance' provided for in the Convention, with the 'other appropriate assistance'. Also, Section 18(1) of the Child Rights Acts 2007, which establishes a Family Court, states that "[a] child shall have a right to legal representation at a family court." This provision is in tandem with Article 40 (2) (b) (ii) of the Conventions on the Rights of the Child which accords children the right to "... have legal or other appropriate assistance in the preparation and presentation of his or her defence." On the contrary, the majority of children who appear in court are not represented by legal counsel. Worst even is the fact that the Court often fails to take cognizance of this fact, but instead invoke section 14 of Cap 44 which states that "[if] the accused does not employ counsel, the court shall, at the close of the examination of each witness for the prosecution, ask the accused whether he wishes to put any questions to that witness." This pattern continues the guilt or innocent of such children. The reason is that some children in asking questions, end up implicating themselves further instead of exonerating themselves. Others because of the rigid atmosphere become dumbfounded and would tacitly admit to whatever allegations that are made against them. In a current larceny case, for instance, the juvenile offender was asked to cross-examine the prosecution witness who had earlier told the court that her niece saw the offender taking two bags out of the house and reported the matter to her. During the cross-examination, all what the offender asked was why did the witness' niece not shout when she saw him carting away the bags. At that juncture, the Magistrate cautioned him that the question was for the niece and not for the complainant. When he was asked if he had other questions for the witness, he responded to say the least. A lawyer was more likely to have asked technical questions in order to discredit the evidence of the witness thereby making a strong case for the juvenile offender. Additionally, a lawyer may canvass for a mitigation of the disposition to a lighter sentence where the accused may have been convicted.

Another area that warrants attention in the exercise of juvenile justice is the granting of bail. This provision is hardly enjoyed by offender lacking legal representation. Part II section 5 of Cap 44 makes provision for bail to be granted to offenders if he or she is not charged with homicide or any offence whose imprisonment term exceeds seven year, if he or she is to be prevented from being associated with 'undesirable person' or if the release of such person may not "defeat the ends of justice"; the court shall grant bail to "....such person on recognizance being entered into by him or by his parents or guardian, or other responsible person, with or without sureties for such amount as will in the opinion of the officer secure the attendance of such person upon hearing of the charges'. Most parents or guardians of juvenile offenders are not familiar with these legal provisions, not to talk of the offenders themselves. In most case therefore, such child offenders have been sent to the remand home pending trial by presiding magistrates who wiled an overwhelming discretionary powers in the absence of a defence counsel. Where one is present, the child offender has often been released on bail pending trial. This practice underscores the reason why is it that the majority of the children found in the remand homes are awaiting trial without legal representation.

Since the enactment of the Child Rights Act in 2007, there has been lots of controversies in court with regards the determination of the age of majority of the juveniles. The said Act provides as 18 and that of criminal responsibility is 14. however, the court is sometimes of the opinion that child offenders provide false ages (under 18 years), either in order to benefit from a juvenile trial or to be exempted from trial in cases of a claim of not reaching the minimum age of criminal responsibility. In such situations where the court is in doubt as to whether or not the child has attained the age of majority, or has not past the minimum age of criminal responsibility, it is only a legal practitioner, equipped with the requisite skills that can adequately argue on behalf of that child. An example to underscore this point was vividly demonstrated in court when a lawyer made a successful application for a mater involving a boy below 14 to be discharged because according to him, the boy was yet to attain the age of criminal responsibility. Without legal representation, the said boy would have been at the mercy of the court, probably tried and if found guilty, would have been sent to the Approved School to serve his sentence.

The lawyer in a court of law also serves as the juvenile's voice to the court as he/she represents the expressed interest of the offender at any stage of the proceedings. He can object to the prosecution if he thinks a leading question has been asked and maintain high degree of integrity and remain confidential. He advocates in the best interest of the juvenile, recommend to the juvenile actions consistent with his interest and also about the potential outcomes of various course of action without which the juvenile will not be able to understand certain basic things regarding the trial. The defence lawyer also has the task to be meeting the juvenile as frequently as possible and communicate with him in a manner which is very effective, considering his maturity, physical or language, background, etc. If the court does not have an interpreter, the defence counsel should move the court for the appointment of an interpreter. He also advocates to the court to appoint a guardian if it appears to him that the juvenile does not have a parent or adult to provide assistance to him.

Furthermore the defence lawyer is also expected to be acknowledging of dispositional alternatives available to the court and should inform the parents or guardians of the juvenile about those alternatives, possible recommendations to the court and of possible outcome of the hearing. Most people are unaware of a good number of these legal provisions or court proceedings. As a result, it is but fitting that juvenile offenders be provided with legal counsels.

In conclusion, therefore, it is necessary that juvenile offenders are given adequate protection before the law by providing them defence counsel. It is my humble submission that the Government, through the Ministry of Social Welfare, Gender and Children's Affairs should employ the services of legal practitioners who can represent this vulnerable group of people whenever the need arises. Also, non-governmental organisations working on access of justice issues should consider venturing to provide legal assistance of particularly this special group. Finally, the government, through the justice ministry should think of increasing the number of juvenile courts around the country as this would help in the expeditious administration of justice.

Awoko
Wednesday, 11 March 2009

Human Rights Commission fund phases out

It appears as if the Human Rights Commission in Sierra Leone will scale down its activities if a proactive move is not made to identify sources of funding to compliment government's counterpart fund.

In an interactive session over the weekend, the Chairman of the Human Rights Commission of Sierra Leone Edward Sam explained that, his Commission has been striving on the United Nations Peace Building fund since its inception with counterpart funding from the government of Sierra Leone.

Even though the chairman was optimistic that more funding would be available to them based on proven results over the years, he expressed pessimism that should they fail to secure funding from their donor partners, government budget allocation to them might not be adequate to implement all their lined up action plans.

On their areas of interventions, Mr. Sam explained that they investigate or inquire into any allegation of human rights violations, promote respect for human rights through public awareness and education programmes, establish a documentary center, publish guidelines, manual and other materials explaining the human rights obligations of public officials and others.

The commission also advice and support government in the preparation of reports under international human rights instruments or treaties, visit prisons and other places of detention to inspect and report on conditions, monitor and document violations of human rights in Sierra Leone and to publish an annual report.

He confirmed that they have developed a road map or strategic plan with some 8 goals which include the promotion and protection of civil and political rights and to also influence government to enhance the economic social rights of its people.

Los Angeles Times
Wednesday, 11 March 2009
Opinion

The U.S. must reengage with the International Criminal Court

The U.S. risks being left without any influence on major international legal issues.
By David Kaye

The arrest warrant issued last week for Sudan President Omar Hassan Ahmed Bashir has thrown into stark relief a question the Obama administration and Congress need to address:

What are we going to do about the International Criminal Court?

The desire for a permanent criminal court to try individuals accused of crimes against humanity, war crimes and genocide has been around since the Nuremberg trials. Its creation, stalled during the Cold War, picked up momentum again in the 1990s, when the United States led the creation of war crimes tribunals for Yugoslavia and Rwanda. By 1995, the United States under President Clinton had assumed a leadership role in planning for an International Criminal Court.

In 1998, most of the world's nations gathered in Rome for final negotiations on an ICC treaty. The Clinton administration -- knowing that it could only get Congress to ratify such an agreement with strict protections for national security interests -- pushed hard to immunize American officials from prosecution and to give the U.N. Security Council a significant role in determining situations the ICC should pursue.

In the end, although more than 90% of the court statute was acceptable, the U.S. was unable to secure the concessions it wanted, and it voted against the ICC's founding document, the Rome Statute. Although he was disappointed in the outcome, Clinton nonetheless authorized signing the document shortly before he left office, an act that allowed the U.S. to remain engaged with the court but did not require it to join.

The incoming Bush administration saw things differently. Soon after taking office, the new president ordered the Rome Statute "unsigned," and his administration embarked on an effort to undermine the ICC, encouraging other nations to promise not to hand over Americans to its jurisdiction under any circumstance.

Led by Jesse Helms, the late Republican senator from North Carolina, Congress imposed sanctions against governments that joined the court, even cutting off military assistance to some. Congress prohibited U.S. cooperation with the court and authorized the president to use any necessary means to rescue Americans who might be held by the court. Europeans, sensing the hostility, dubbed the law "The Hague Invasion Act."

The ICC started operation during the summer of 2002, after the 60th government joined. Today, 108 countries are members, including most of Western Europe, Latin America and Africa, as well as Canada, Mexico, Australia and Japan. But the U.S. hostility was slow to thaw. It wasn't until 2005, after Colin Powell defined the Darfur atrocities as genocide, that the first signs of a more pragmatic approach emerged. The United States went along with the U.N. Security Council's referral of Darfur to the ICC for investigation and possible prosecution. Under Condoleezza Rice, the United States quietly adopted a posture of wary realism, rhetorically supporting the Darfur investigation without engaging the ICC in a serious or official way.

The time has now come for the U.S. to become more engaged.

Consider the warrant for Bashir. The warrant may well have been the right move. But it could cause damage to the peace process in Sudan and retaliation against millions of displaced persons and refugees in Darfur, where the U.S. has deep moral and political stakes. The ICC undoubtedly would have benefited from U.S. input last year, when the prosecutor was considering the warrant, and from the kind of information and analysis the United States routinely has provided to other international tribunals.

Closer engagement also would allow the U.S. to help shape policy and legal developments in ways that meet its concerns. Today, we have little ability to influence the court's thinking. As a consequence, many basic principles of international law are being developed without U.S. input.

Not all the action is in the courtroom either. Parties to the ICC are considering whether and how to amend the Rome Statute to include the crime of aggression -- the unlawful use of military force. Our ability to shape the court's approach to this crime is limited unless we take prompt steps to play an active role.

Bringing Congress along on the idea of increased engagement could prove difficult, and joining probably remains unlikely. Despite polls showing public support for international justice, the court is still seen as a political liability in this country. Both Democrats and Republicans in Congress have expressed concern about the court's potential ability to interfere with American sovereignty on military and political issues.

Still, engagement with the court is possible, even without joining. The Obama administration's first job, working with Congress, is to reverse the hostility of the last eight years. Among other things, we should sign back on to the Rome Statute -- a step that merely indicates that the U.S. affirms the ICC's objectives. We should then initiate a process to provide the court with information to advance its investigations. Finally, we should consider measures domestically and at the Security Council to squeeze those who harbor alleged perpetrators of war crimes, crimes against humanity and genocide.

Getting back in the game will advance American interests while contributing to international justice. In addition to Darfur, the ICC is pursuing cases referred to it by Uganda, the Democratic Republic of Congo and the Central African Republic, places where U.S. engagement can make a difference. American support for other tribunals in the Balkans, Sierra Leone, Lebanon, Cambodia and elsewhere has likewise proved essential.

Rebooting ICC policy serves U.S. interests. It also is an important step toward resetting America's place in the world. It's time to reengage.

David Kaye, a State Department lawyer in the Clinton and Bush administrations, directs the UCLA Law School's Human Rights Program and its Sanela Diana Jenkins International Justice Clinic.

The New Vision (Uganda)
Tuesday, 10 March 2009

Omar Bashir's indictment is a writing on the wall

Opiyo Oloya

IN the parlance of tough street gangs, Omar Hassan Ahmad Al Bashir, president of Sudan, is going down. Once you strip him of all vestiges and trappings of office, it becomes simply, "Omar is going down."

By issuing an arrest warrant for the Sudanese leader last week, the International Criminal Court (ICC) made good on its indictment of July 14, 2008.

According to the world court, Al Bashir is "suspected of being criminally responsible, as an indirect (co-)perpetrator, for intentionally directing attacks against an important part of the civilian population of Darfur, Sudan, murdering, exterminating, raping, torturing and forcibly transferring large numbers of civilians, and pillaging their property".

Again, in street lingo, Al Bashir is one bad dude. But, this being the first warrant of arrest ever issued for a sitting head of state by the ICC, the genii is finally out of the bottle. From here on end, there will be no respite for bad leaders who use their powers to wantonly victimise their citizens. No rationalisation—I was just trying to put down a nasty insurgency—is going to cut it at all.

Indeed, as records will show, leaders indicted for war crimes tend to fall at some point. In May 1999, Yugoslav President Slobodan Milosevic became the first head of state to be indicted by the International Criminal Tribunal in The Hague. He was formally transferred to The Hague in June 2001, and nine months later, he sat in front of a judge to face justice. Even as Milosevic was in the dock, another dictator, former Liberian president Charles Taylor was indicted on June 4, 2003 by the UN-backed Special Court for Sierra Leone for "crimes against humanity" and "serious violations of international human rights laws".

By issuing the arrest warrant for Bashir, the ICC is flexing its muscles and telegraphing its jurisdiction over the conduct of sitting heads of state. In effect, the ICC is saying, "We are willing to take on anyone, head of state or not, who is suspected of perpetrating crimes against humanity."

Naturally, critics of the ICC, especially in Africa and the Muslim world have condemned the Bashir arrest warrant as a charade aimed only at poor Third World countries while ignoring the human slaughter by superpowers like America in Iraq and Russia in Chechnya.
Some have also pointed to the hypocritical treatment of Israeli leaders in the face of the killings in Gaza. Though he has been in a coma since January 2006, many feel that former Israeli Prime Minister Ariel Sharon should be put on trial in absentia for the massacres of as many as 3,500 women and children in the Lebanese camps of Shatila and Habra between September 16 and 18, 1982.

An Israeli court headed by Judge Yitzhak Kahan found Sharon, who was Israeli Defence minister at the time of the massacre, responsible for what transpired in the two nights for allowing Christian Phalanges militias into the Palestinian camps.

Still others suggest that former US president George Bush also must be brought to trial for trumping up the case against a non-existent weapon of mass destruction (WMD) as a pretext for invading Iraq. Sudan's

state minister of information and communications summed it all up when he referred to the ICC as a "whiteman's tribunal" and the arrest warrant "an insult".

But make no mistake about the impact of the issuance of the arrest warrant for Bashir. At the very minimum it tells the world that Bashir is a tainted man, one in whose company any self-respecting leader must never be caught dead.

He is a wanted alleged criminal with blood on his hand. He cannot be seen, heard or even accepted among leaders of free nations. Indeed, with time, the chorus of support for the Sudanese leader heard in many African capitals last week will quietly die away, replaced by polite avoidance.

Yes, Bashir can go to Al-Fashir, the capital of North Darfur, brandishing a sword as he did on Sunday, invoking African liberation against neo-colonialism and such. But what he will no longer enjoy is the camaraderie of the other African heads of state.

They may still pay him lip service, even encourage him to fight to clear his name, but self-preservation will dictate prudence for many leaders.

In time, Bashir will become the sick man of Africa, neither condemned by his peers nor welcome into their august circle, always avoided like the man with the don't-touch-me disease. On the larger African front, the arrest warrant in the name of Bashir will make many heads of government scrutinise their own human rights records and policies.

The question each leader must ask is: "Is there anything in my past or present that could become the focus of ICC investigation and possible future indictment?"
While the ICC will not send a police posse to arrest indicted war criminals, it does have plenty of patience to wait the suspects out. In the case of Milosevic and Taylor, changes of political fortunes ensured that the long arm of international justice finally caught up with them.

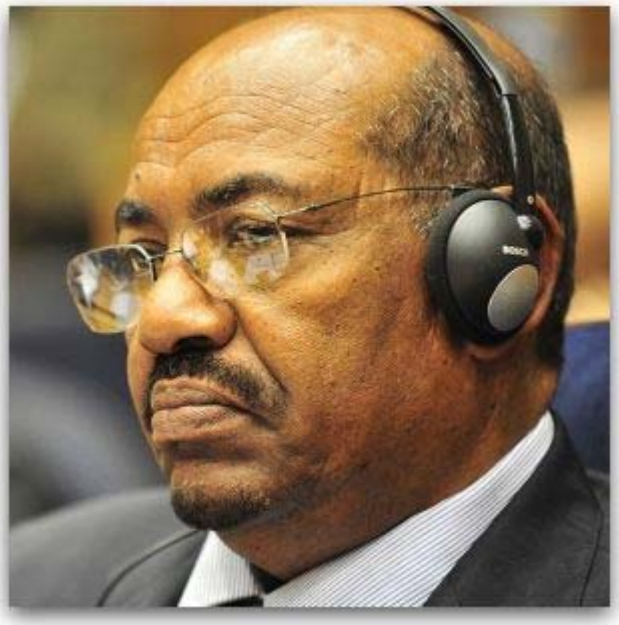
That could be the case with Bashir. More importantly, the issuance of the arrest warrant has effectively pre-emptied any effective lobbying that the African Union and Arab League may wish to carry out on behalf of Bashir.
The new premise is that the leader of Sudan must plead his innocence in front of a world court.

The unsaid part of this proposition is that Bashir cannot walk about as a free man without looking over his shoulders. He is a marked man. And he is going down, going down.
Opiyo.oloya@sympatico.ca

Eureka Street.com
Wednesday, 11 March 2009
http://www.eurekastreet.com.au/article.aspx?aeid=12285

CC's dubious Darfur justice

Kimberley Layton March 11, 2009



The background noise over Darfur appears to have finally reached its crescendo with the International Criminal Court issuing an arrest warrant for Sudanese President Omar al-Bashir.

Bashir has been waltzing around Sudan with impunity since 1989, promising the international community that the country 'will act as a responsible government' while overseeing the deaths of at least 300,000 people (Khartoum claims that the number is 10,000), and the displacement of approximately 2.7 million.

His actions have won him the dubious honour of becoming the first ever serving head of state indicted by the ICC. Though the panel of three judges claimed there was insufficient evidence to charge Bashir with genocide, he stands accused of two counts of war crimes and five of crimes against humanity in Darfur.

In retaliation to this affront, Bashir has expelled ten foreign aid agencies who, according to him, have undertaken 'activities that act in contradiction to all regulation and laws'.

Organisations including Oxfam, Save the Children, Care and Médecins Sans Frontières, in conjunction with the UN, currently run the world's largest humanitarian operation in Darfur providing humanitarian assistance to more than 1.5 million people. Their expulsion from the region leaves those people with nowhere to turn.

Established in 2002, the ICC has hauled before its tribunal such shady superstars as former Serb President Slobodan Milosevic (who escaped sentencing by dying mid-trial) and Bosnian Serb leader Radovan Karadzic, who remains in custody there.

Charles Taylor, the former Liberian President, has been extradited to face trial in front of a Special Court created by the UN for the violence in Sierra Leone. Jean Kambanda, the former Rwandan prime minister, was convicted of genocide by the International Criminal Tribunal in another landmark case.

Recently, 'Duch', a top Khmer Rouge leader, was tried in front of a Cambodian UN-established court. A similar set-up may soon find itself faced with the prosecution of top echelon Syrian officials over the assassination of the former Lebanese Prime Minister Rafik Hariri.

Not since Nuremburg or the Tokyo trials held at the conclusion of the Second World War have courts been given jurisdiction over individual citizens as opposed to just over states. Since the end of the Cold

War there have been considerable, though largely unremarked upon, advancements made in the international legal system.

As such, this latest act of the ICC ought to initiate an international patting of backs. Or should it? The African Union has called an emergency meeting in the Ethiopian capital Addis Ababa over the arrest warrant, only a day after warning it would hurt the fragile peace process. China, which has significant economic investments in Sudan (read: oil), and Russia, both armed with UN Security Council vetoes, have indicated they will halt any UN action.

The rebels have declared it impossible to negotiate with an indicted leader. Then there is the grave question of the people of Darfur who are now left stranded due to the untimely exit of the aid agencies. What of them? Given that this is Africa, and that they are absent from our television screens at present, more will die. Thus what seems like the beginning of the end of the tragedy of Darfur risks becoming simply the end of the beginning.

Supporters of the ICC claim to stand for ethics, for what is 'right', and for justice, yet the complexities of the situation ought to give us all pause.

The decision to pursue Bashir is ultimately a political choice that involves difficult trade-offs. The ICC can only deliver justice in its most legalistic form; it is forced by its very nature to neglect the wider and more nuanced meaning of the word.

Prosecuting Bashir will not deliver justice to the people of Darfur. Absent the humanitarian aid that they depend on to survive they will be delivered into an even worse situation.

Yet turning a blind eye to Bashir's atrocities is perhaps just as irresponsible. Sudanese Humanitarian Affairs Minister Ahmed Haroun, himself wanted for war crimes, remarked that 'it is up to the international community to weigh up the damage made by [ICC prosecutor Luis Moreno-Ocampo's] application and the arrest warrant'.

The international community might have finally turned off the music in an attempt to stop Bashir's brutal waltz, but at what cost? The stakes could not be higher.

Kimberley Layton is Canberra-based freelance writer and a recent honours graduate in International Relations from the Australian National University.