

SPECIAL COURT FOR SIERRA LEONE
PRESS AND PUBLIC AFFAIRS OFFICE

PRESS CLIPPINGS

Enclosed are clippings of the latest local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office as of:

Wednesday, April 14, 2004

The press clips are produced Monday to Friday.
If you are aware of omissions or have any comments or suggestions please contact
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UN Approves \$16.7 For Special Court

By Miatta Solomon

The United Nations General Assembly has adopted without a vote, a resolution to commit \$16.7 m. towards the work of the Sierra Leone Special Court. The decision was taken following the report of the Fifth Committee of the General Assembly on the budgetary needs of the court. Some members of that committee had earlier raised strong objections when Secretary General Kofi Annan made an appeal for the committee to "subvent" its rules in order to supplement the court's finances in view of shortfalls in donor pledges.

SEE BACK PAGE

The new resolution states that, "the Assembly would authorise the Secretary General, as an exceptional measures, to enter into commitments in an amount not to exceed \$16.7 million to supplement the financial resources for the court for the period from 1 July to 31 December 2004."

It goes on to state that, "Any regular budget funds appropriated by the tribunal would be refunded to the United Nations upon liquidation of the court, should sufficient voluntary contributions be received."

The Secretary General, in concert with the Management committee of the Court, was further requested to "redouble efforts to raise voluntary contributions for the Court and report at the fifty-ninth session on the progress made in that respect". The Assembly also appealed to Member States for voluntary contributions in support of the court and to honour existing pledges. The Assembly noted that the court is expected to complete its work in 2005 and requested the Secretary General "to invite the court to adopt a completion strategy. The Management committee was further requested to "review that structure of the court, with a view to minimising the cost of completing its work, without adversely affecting the legal agreement between the United Nations and the Government of Sierra Leone".

Sierra Leone Times

Wednesday April 14, 2004



"Umaru Fofana"
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Sent by:
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To: leonenet@listproc.umbc.edu
cc:
Subject: Charles Taylor Breaks Silence

13/04/2004 16:30

Tearful Taylor breaks silence to hit back over war crimes charges

Source: Agence France-Presse English Wire Date: April 13, 2004

by Ade Obisesan

LAGOS, April 13 (AFP) - Liberia's former leader Charles Taylor broke his long silence Tuesday, in his first interview since he was exiled to Nigeria, lashing the international community over the war crimes charges against him.

Taylor stood down as president and fled to Nigeria in August last year as rebel forces closed in on Monrovia, clearing the way for the United Nations and west African mediators to install a peace-building interim government.

The former warlord was given a luxury villa overlooking the harbour in the southeastern city of Calabar, and after issuing a handful of provocative press releases was told to keep quiet by Nigeria's President Olusegun Obasanjo.

But as international prosecutors in Liberia's neighbour **Sierra Leone** stepped up calls for him to face a UN-backed war crimes tribunal and amid moves to freeze his alleged foreign assets, a tearful Taylor hit back.

In an interview with Nigeria's privately-owned Channels Television, the 56-year-old Libyan-trained guerrilla chieftain dismissed allegations that he had been responsible for the atrocities carried out by Sierra Leonean rebels.

He also attacked a recent UN resolution seeking to freeze the assets he allegedly holds around the world, which are said to be the profits from the systematic looting of his small, war-torn west African nation.

"I would like to be held accountable for everything I did when I was head of state in Liberia. I own no foreign bank account anywhere and I want the United Nations and the international community to prove me wrong," he said.

On the war crimes charges which have been lodged at the UN-backed Special Court probing abuses during **Sierra Leone's** civil war, he insisted he had been asked to intervene in Liberia by the west African regional bloc ECOWAS.

"My involvement in **Sierra Leone** was approved by ECOWAS. This bizarre scenario (of his sponsoring war crimes in that country) was put together to get at Charles Taylor," he told his Nigerian television interviewer.

Taylor has been accused of backing **Sierra Leone's** rebel Revolutionary United Front which was guilty of many human rights abuses, including the maiming of civilian prisoners, during its 1992-2002 conflict with the elected government.

Within Liberia itself, where Taylor had first fought his way to power before winning a

1998 election, his rag-tag army of child soldiers and guerrilla fighters has been widely and convincingly accused of similar bloody excesses.

Taylor was speaking as Liberia's new interim leader, Gyude Bryant, arrived in Nigeria for talks with Obasanjo.

Bryant has said he is not seeking Taylor's extradition, but **Sierra Leone's** special court, human rights groups and several foreign governments including the United States have called for him to face justice.

Obasanjo has said that he will not allow Taylor to face the Sierra Leonean court, but would return him to a "legitimate" Liberian government.

Taylor broke down in tears when the television interviewer asked him if he missed Liberia, saying: "I did not squander the wealth of my people. Mr Taylor did his best in Liberia.

"What is important to me is my honour ... it must be restored. The UN resolution passed on me was illegal and unlawful, I have no foreign bank account anywhere," he insisted.

Taylor, dressed in a fine dark suit with a blue tie to match, said that he would not fear returning to Liberia, where he claimed he had offended no one.

"I have no fears about returning to Liberia. I am not anti-peace. When Liberia is free of arms ... Charles Taylor and other exiles should be free to return to Liberia," he said.

"Liberians need to go home, need to reconcile among themselves," he said during the hour-long interview, but said he had no ambition to return to frontline Liberian politics nor to manipulate events from exile.

"Rather, I would like to be the Jimmy Carter of Liberia. I would like to set up a foundation, helping Liberians," he insisted, referring to the former US president who has since worked in helping democratic development abroad.

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ABC Online

Taylor's successor urges his surrender. 14/04/2004. ABC News Online

[This is the print version of story <http://www.abc.net.au/news/newsitems/s1086718.htm>]

Last Update: Wednesday, April 14, 2004. 7:20am (AEST)

Taylor's successor urges his surrender

Liberia's interim leader, Gyude Bryant, has called on his predecessor Charles Taylor to surrender to a Sierra Leonean war crimes tribunal

Mr Bryant is visiting Nigeria, the warlord's country of exile.

However, Mr Bryant has stopped short of calling on his host, Nigeria's President Olusegun Obasanjo, to hand the 56-year-old former president over to the body.

"If the court invites Mr Taylor the most honourable thing for him to do is to go there and exonerate himself," Mr Bryant said.

Mr Bryant came into office last October, two months after Nigerian peacekeepers secured the Liberian capital Monrovia against a rebel advance.

Mr Obasanjo persuaded the embattled Mr Taylor to accept an offer of asylum.

Mr Taylor is now living in exile in south-eastern Nigeria, despite calls for him to face justice for his alleged war crimes.

"His being there [in Nigeria] is part of this peace process," Mr Bryant said, when asked whether he would urge Nigeria to surrender Mr Taylor to the UN-backed war crimes court in Sierra Leone.

Mr Bryant says his Government has received assurances from Mr Obasanjo that once an elected government is in place in Liberia he would "favourably consider" any request to hand Mr Taylor over to Monrovia.

Mr Taylor, who rose to power in 1997 at the end of a seven-year rebellion in Liberia, is wanted by a war crimes court in neighbouring Sierra Leone on charges that he armed and trained the Revolutionary United Front.

--AFP

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Charles Taylor: Any Substance in His Appeal?

This Day (Lagos)

ANALYSIS

April 13, 2004

Posted to the web April 13, 2004

Lagos

For six years, Sierra Leone lost about 75,000 of her citizens to the savage hands of war. Acknowledgment must however be given to the UN who played a major role in bringing about peace to that war torn country. After reaching an Agreement with the Government of Sierra Leone a special International Court was established with the UN passing a resolution on August 14, 2000 to that respect.

However, due to the problems being encountered by similar UN Tribunals (the International Criminal Tribunal for Yugoslavia - ICTY and the International Criminal Tribunal for Rwanda - ICTR), as well as the financial strain of running them; the UN Secretary General therefore proposed a kind of 'hybrid' court largely different from the ICTY and the ICTR in a bid to curtail these set backs from being manifest in the special Court for Sierra Leone. The court which has the task of trying those who bear the greatest responsibility for the grave breaches of the laws of war, had in June 2003 indicted Charles Taylor, then a sitting president of Liberia. According to the prosecutor of the Court Mr. David Crane, all the evidence collated by his office led unequivocally to Mr. Taylor.

It may interest you to know that Africa had in the recent past, allowed prominent Leaders who were accused of gross violations of Human Rights to slip into exile. This may be attributed to the absence of an effective International mechanism of justice. However since the Rwandan genocide of 1994, the massive cost of impunity for gross human rights and humanitarian law abuses has provided a new impetus for International justice.

The pogrom in Rwanda generated a new recognition by African leaders of the need for international justice and accountability in the region. Thus the atrocities in Sierra Leone, where the amputation of limbs became the signature crime of the rebels further impelled international action. The UN Special Court has provided the avenue for the punishment of perpetrators of these atrocities, and hopefully it will serve as a deterrent to renewed violations (in the entire region). The effort to prosecute Taylor who is charged with, "bearing the greatest responsibility for war crimes, crimes against humanity and serious

violations of international humanitarian law within the territory of Sierra Leone since November 30, 1996, is a critical element in this endeavour.

The Case Before the Upper Chamber

The Special Court which has an upper chamber made up of five noted jurists from different countries including an eminent retired Justice of the Supreme Court of Nigeria, Emmanuel Olayinka Ayoola J.S.C (as he then was) and presided over by Geoffrey Robertson Q.C, will have to determine these issues as put before it by Mr. Taylor's team of lawyers to wit;

- (a). Whether the writ issued against him by the court can run outside Sierra Leone;
- (b). Whether the indictees of the special court can benefit from any amnesty or government undertaking not to prosecute allegations given before the Lome Agreement;
- (c). Whether there is a crime of recruiting child soldiers in customary international law;
- (d). Whether the court was lawfully established;
- (e). Whether the voluntary funding by the UN deprives the court of its independence and impartiality;
- (f). Whether his indictment at the time he was president of Liberia and subsequently was invalid because he was immune from prosecution.

We shall attempt to x-ray these issues brought forward by Mr. Taylor in the light of International Law/International Humanitarian Law.

_ Does the Special Court's Powers Extend Outside Sierra Leone?

This question goes to the root of the establishment of the court and its powers/jurisdiction. Mr. Taylor is in essence asking the upper chamber to determine whether the special court has powers only to issue writs within Sierra Leone or to issue such writs within that state and outside that state. I am of the view that the court's jurisdiction covers persons not within Sierra Leone as it is an international court, though its powers to prosecute is limited to atrocities committed within Sierra Leone alone. It is pertinent to observe that the crimes Mr. Taylor is being charged with, are classified as war crimes and under the Geneva Convention states are required to either try these crimes themselves or hand over the suspects to a competent tribunal. The Special Court having been authorized by both the Government of Sierra Leone and the United Nations to try crimes committed in the course of the civil war in that country, carries such an authority.

_ Can Amnesty be Granted to Persons Responsible for War Crimes

The report of the UN Secretary-General on the establishment of the Special Court which was submitted to the security council on October 6, 2000 stated that the jurisdiction of the court to try persons deemed "most responsible for war crimes, crimes against humanity and other violations of the International Humanitarian Law", committed after the conclusion of the Abidjan Agreement {i.e. November 30, 1996}.

This date was chosen because it would help put the Sierra Leone conflict in perspective without unnecessarily extending the temporal jurisdiction of the Special court.

Of particular interest to us is the response of the UN Assistant Under-Secretary General For Legal Affairs when asked how the court's subject matter and temporal jurisdiction could be reconciled with the amnesty granted under the Lome Agreement; he acknowledged that the amnesty given by the Sierra Leone Government was for crimes under the Sierra Leone Law, whereas "international crimes were a different matter". He further pointed out that during the signing of the Lome agreement, the special Representative of the Secretary-General had entered a reservation on the amnesty provision. what is more, the special court's jurisdiction covers certain category of crimes punishable under Sierra Leonean Law but not so punishable under international law, the amnesty so granted [under the Lome Agreement] can then be said to apply only to those crimes which can be prosecuted under the domestic law but not under international law.

The Use of Child Soldiers

Despite the moral question surrounding the use of children as soldiers, [morals having little or no influence on the actors in the theater of war] the legality of it is another issue entirely. Our solicitous observation is that there seems to be a growing consensus against the use of children as soldiers, for instance:

[A]. The new international Criminal Court has resolved to treat the use of child soldiers as a crime against the laws of war.

[B]. The International Labour Council (ILO) has declared child soldiering as one of the worst forms of child labour

[C]. The UN Security Council, the UN General Assembly, the UN Commission on Human Rights, the African Union, the Organization of American states and the Organization for Security and Cooperation in Europe (OSCE) have all condemned the use of child soldiers.

[d] International Humanitarian law and the UN Convention on the Rights of a Child set fifteen years as the minimum age for military recruitment and participation in armed conflicts. However a new Optional Protocol to the Convention on the Rights of a Child prohibits Governments and armed groups from using children under the age of eighteen years in conflict, it also bans all compulsory or voluntary recruitment of children under that age. Further more, the Optional Protocol having raised the minimum age requires strict safeguards for voluntary recruitment.

The problem of child soldiers is most critical in Africa and Asia, and it still being practiced in happen in many countries of Europe, Middle East and the Americas. We believe it is the end of innocence when children who are physically vulnerable and easily intimidated are abducted or recruited by force and often compelled to follow orders under the threat of death, some others join armed groups out of desperation. As the society breaks down during armed conflicts, children who are left with no access to school are driven from their homes or separated from their family members, many of who then see armed groups as their best chance for survival; an escape from poverty; conversely some join military forces to avenge family members who have been killed. Because of their frailty and lack of experience, child soldiers suffer higher casualties than their adult counterparts.

Even after the conflict is over, they may be left physically disabled or psychologically traumatized. Frequently denied an education or the opportunity to learn civilian job skills, many find it difficult to rejoin peaceful society. Schooled only in war, former child soldiers are often drawn into crime or become easy prey for future recruitment.

_ Was the Special Court Lawfully Established?

This question being advanced by Taylor's lawyers goes to the foundation of the courts establishment, which in effect leads us to the issue of Treaties in international law. This being the process whereby the Court was established.

The evolution of the modern Nation-State and the consequent evolution of an international order founded upon an increasing number of independent and sovereign territorial units inevitably gave rise to questions of international cooperation. Diplomatic representation became more wide spread as the system expanded and political and economic relationships multiplied. It soon became obvious that diplomatic contacts were unable, on their own, to cope completely with the complexities of the international system; hence the development of the international conference as a form of extended diplomacy. Such gatherings dealt with problems that concerned more than two or three states and in major cases resulted in an international treaty or formal peace- where armed conflict is involved. Treaties can be said to be a more direct and formal method of international law creation unlike the other sources of International law (international conventions, international customs etc). The concept of Treaties is basically an agreement between States although it may also be between States and International Organizations as seen in the instant case, where the United Nations Special court for Sierra Leone was established by a Treaty between the United Nations and the Government of Sierra Leone.

Therefore, it goes without saying that the legality of the court is assured as its establishment is hinged on an Agreement [Treaty] between two recognized International law subjects,

_ The Independence and Impartiality of the Court

The Special Court, which has a three-year mandate, relies on voluntary contributions from states to fund its work. This was aimed at establishing its independence and impartiality, as it will not be bound to any single benefactor. At the inception of the court, Amnesty International in a letter to the UN Secretary General advised that;

"The prosecutor of the Special court must be granted full independence in practice, to examine all the evidence and try all individuals who bear the greatest responsibility for the violations of international (Humanitarian law) and crimes committed under the Sierra Leone law."

The Special Court is different from the other International Criminal Tribunals [ICTY for Yugoslavia and ICTR for Rwanda] as these courts are direct organs of the UN and quintessentially international bodies, sitting outside the area of conflict in The Hague and Arusha, Tanzania respectively. The special court on the other hand, is of mixed composition, with some judges and other staff being appointed by the UN and others by the host Government of Sierra Leone. It also applies Sierra Leone law as well as international law hence it being known as a "mixed" or "hybrid" tribunal. It therefore can be safely stated that the court is wholly independent, and will neither be guided by the dictates of the UN, Sierra Leone nor any other Nation but solely by the yearning of justice.

Can a Head of State be Prosecuted for War Crimes?

Generally a head of State is immune from civil and criminal proceedings for his actions while in office. It is also well established that for every general rule there are exceptions nonetheless, the issue of crimes against humanity which is a pre-emptory norm of international law [principles of which no derogation is allowed], overrides any such immunity. The chief prosecutor of the International Criminal Court, Luis Moreno-Ocampo, in his keynote address at the International Bar Association conference in San Francisco in September 2003 noted that:

A president can not have the privilege of 'Head of state Immunity' if he has committed genocide."

Mr. Taylor should not be allowed to go free on the basis of 'Head of state Immunity' as his indictment is indicative of his past criminal conduct. This assertion is premised on the fact that an individual regardless of his rank or government status would be personally liable for any war crimes or grave breaches of the Geneva Convention committed or orchestrated by him. This was again given emphasis in the recent case of Chile's General Augusto Pinochet when the British House of Lords held in 1998, that a head of state found guilty of human rights violations can not seek refuge under the doctrine of sovereign immunity, such crimes being categorized under the pre-emptory norms of International law. The ICTY indictment of Slobodan Milosevic while he was a sitting president of Yugoslavia sent a clear message to the effect that even heads of states are not immune to war crimes prosecution -Mr. Milosevic is currently undergoing trial at The Hague.

Sometimes litigation is a gamble because of its unpredictability, neither the lawyer nor the litigant would be able to predict the judgment of the court. They can only guess the outcome of the action and nothing more. Hence we have only attempted an analysis of the issues involved in Mr. Taylor's appeal to the upper chamber of the Special Court with the clear intent of educating our minds in the light of the increasing influence of the branch of law termed international law {particularly the laws of war and International Humanitarian law}, which has been made more pertinent by technological advancement which in turn is fast transforming the world into a global village. This is significant in the instant of the happenings in Africa, Iraq and some parts of Asia and Latin America, which would have stirred up some level of interest in this branch of law. However its importance is buttressed by the fact that it is one of the few areas of the law of nations that is not tainted by the overbearing influence of International politics.

** Nmaju is a solicitor with Alpha Juris chambers Port Harcourt, Nigeria*

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WORLD News

Liberia's Bryant headed to Nigeria, will not request handover of Taylor

MONROVIA (AFP) - Liberia's interim leader Gyude Bryant was to travel Tuesday to Nigeria where he said he would not request the handover of Charles Taylor, the exiled former president wanted on war crimes charges in Sierra Leone.

Speaking to reporters on Monday ahead of his departure, Bryant said his transitional government, which was installed in October to lead the west African state to elections in 2005, "will not request that Mr. Taylor be removed from Nigeria."

"His being there is part of this peace process," Bryant, a businessman, told reporters at the presidential palace in the capital Monrovia.

Bryant said his government had received assurances from Nigerian President Olusegun Obasanjo that once an elected government is seated in Liberia he will "favourably consider" any request to hand Taylor over to Monrovia.

Bryant's two-day visit to Nigeria, accompanied by a high-level government delegation, was to include a lecture at the Nigerian Institute of Peace and Conflict Resolution as well as talks with Obasanjo, a statement from the Liberian presidency said.

Taylor rose to power in 1997 at the end of a seven-year rebellion in Liberia. A second civil war began two years later and ended in August with a peace pact predicated on Taylor's flight into exile.

Taylor is wanted by the UN-backed war crimes court in neighbouring Sierra Leone on charges that he armed and trained the Revolutionary United Front (RUF) in their own decade-long rebel war, notorious for the rape and dismemberment of civilians, that was officially declared over in 2002.



ThisDay News

Dateline: 14/04/2004 04:26:58

Liberian Govt Okays Seizure of Taylor's Assets

From Paul Ibe and Iyefu Adoba in Abuja

Chairman of the National Transitional Government of Liberia, (NTGL), Gyude Bryant has lent support to the United Nations decision to confiscate the assets of former President Charles Taylor for use to rebuild the war torn country.

Speaking shortly after delivering a lecture at the Institute of Peace and Conflict Resolution, Abuja yesterday, Bryant described UN's decision to confiscate Taylor's assets as a move in the right direction that would help Liberia in the process of reconstruction.

"That decision is a decision by the UN Security Council to help rebuild Liberia; so long as the Security Council made that decision, our government supports that decision," said Bryant.

Bryant who also called on Taylor currently on exile in Nigeria to do the honourable thing and appear before the Special War Court Tribunal

over crimes committed during his tenure, said, "if the court invites Mr. Taylor, the most honourable thing for him to do is to go there and exonerate himself."

Bryant in his lecture entitled, "From Continuous Conflict to Peace and Sustainable Human Development," commended Nigeria and Obasanjo on the role they played during the resolution of Liberia's crisis.

Calling on all Liberians to pursue peace so that peace will be sustained, Bryant advised his country men to denounce tribal/ethnic bigotry and corruption that could risk the country's quest for peace, stability, democracy and development.

He enjoined all Liberians to strive for peace, maintaining that, "this is the last chance that should not be allowed to be blown away."

Refuting media reports that he plans to contest the 2005 elections, Bryant reinstated his resolve to hand over power in Januray 2006 after the conclusion of general elections in 2005.

Bryant's approval of Taylor's trial is in line with the position of some coalition of human rights groups in Nigeria who have been in the vanguard to bring the former warlord to book and have him pay for atrocities he committed during his reign including those to Nigerians.

Also yesterday former Nigeria military leader, Gen. Abdulsalami Abubakar who was the Chief Mediator during the Liberian crisis adduced reasons for the choice of Bryant as Chairman of that country's National Transitional Government.

Bryant, according to Abdulsalami who represented President Olusegun Obasanjo at the lecture, was a businessman who remained in the country throughout the entire period of 14 years of war, adding that he was nominated by all the opposing factions as a consensus candidate.

Taylor has been on political asylum in Calabar, Nigeria since August 11, 2003 following a deal brokered by African leaders with the backing of the US Government.

Anselm Odinkalu, Programme Director (Africa) of the Open Society Justice Initiative, who confirmed the move by the civil society groups under the aegis of Nigeria Coalition on International Criminal Court (NCICC) Monday, said the project seeks accountability for crimes Taylor is alleged to have committed in Liberia and Sierra Leone.

Odinkalu said that since Taylor is now domiciled in Nigeria and is subject to the country's laws, Nigerians and foreigners resident in the country, who were injured or victimized in the war in Sierra Leone and Liberia would be for the prosecution of the exiled president.

"A refugee such as Mr. Taylor is subject to the regular laws of Nigeria. He is not subject to any extra-protection that other citizens are not subject to," Odinkalu said.

He said that the programme tagged "Charles Taylor Accountability Project," would be pursued on three fronts namely; judicial, legislative and police and prosecutorial actions.



Taylor Opens Up On Slain Nigerian Journalists

Daily Champion (Lagos)

NEWS

April 13, 2004

Posted to the web April 13, 2004

Lagos

FORMER Liberian president, Charles Taylor, Monday said he ordered the court martial and subsequent execution of one of his men responsible for the killing of two Nigerian journalists in the early 1990s in the war-torn West African nation.

He said the journalists did not die in vain.

Messrs Tayo Awotunsin of Champion Newspapers and Krees Imodibie of The Guardian were killed in 1992 during the civil war in Liberia by troops of Taylor's National Patriotic Front of Liberia (NPFL).

The killing of the newsmen who were covering the war outraged Nigerians with calls in some quarters on the Federal Government to take decisive action to punish Taylor.

Taylor is at present on exile in Nigeria.

Opening up on the killing of the journalists during an interview on Lagos-based Channels Television, Taylor regretted the action of his men.

He identified the man who ordered the slaying of the journalists as Col. Tuo Major.

Following the killing, Taylor said, he despatched his then Press Officer, Mr. Reginald Goodrich, to Nigeria to parley with families of the deceased with an offer of compensation.

The angry families, he disclosed, rejected the offer.

On his indictment by a United Nations (UN)-backed war tribunal over the killings in Sierra Leone during the late '90s and early 2004, Taylor denied supporting the cutting of prisoners' limbs by his Revolutionary United Front (RUF) allies in that country.

He also denied that the NPFL, during the Liberian civil war, acted in the same manner as the RUF.

"I was leader of NPFL in Liberia for seven years. There was no incident of cutting limbs. My NPFL conducted themselves within international law. If not, Nigerians in Liberia would not have voted me in as president during the subsequent elections, he stated.

Taylor challenged his detractors who accused him of encouraging genocide in Sierra Leone in exchange for diamonds from the RUF to "go back to my record for 10 years; if they found money from such trade, then I'm guilty. I've no assets abroad."

The UN, he said, should provide proof of his involvement in such heinous barter arrangement with the RUF "because my honour is at stake."

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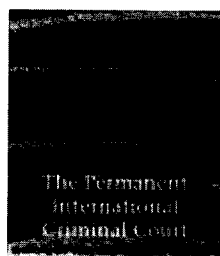
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The Permanent International Criminal Court

Legal and Policy Issues

Edited by Dominic McGoldrick, Peter Rowe and Eric Donnelly

The idea of an International Criminal Court has captured the international legal imagination for over a century. In 1998 it became a reality with the adoption of the Rome Statute. This book critically examines the fundamental legal and policy issues involved in the establishment and functioning of the Permanent International Criminal Court. Detailed consideration is given to the history of war crimes trials and their place in the system of international law, the legal and political significance of a permanent ICC, the legality and legitimacy of war crimes trials, the tensions and conflicts involved in negotiating the ICC Statute, the general principles of legality, the scope of defences, evidential dilemmas, the perspective of victims, the nature and scope of the offences within the ICC's jurisdiction – aggression, genocide, war crimes, crimes against humanity, questions of admissibility and theories of jurisdiction, the principle of complementarity, national implementation of the Statute in a range of jurisdictions, and national and international responses to the ICC. The expert contributors are drawn from a range of national jurisdictions – UK, Sweden, Canada, and Australia. The book blends detailed legal analysis with practical and policy perspectives and offers an authoritative complement to the extensive commentaries on the ICC Statute.

Dominic McGoldrick is Professor of Public International Law and Director of the International and European Law Unit, Liverpool Law School, University of Liverpool. He is a specialist in Human Rights Law. In 1999-2000 he was a Fulbright Distinguished Scholar and a Human Rights Fellow at the Harvard Law School. He is the author of books on the Human Rights Committee and International Relations Law of the European Union. Among his recent works are articles on the Permanent International Criminal Court, Racist and Hate Speech, Human Rights in the European Union, Accommodating National Identity in the Former Yugoslavia, the United Kingdom's Human Rights Act 1998, war crimes trials, the Milosevic trial, jurisdiction over reservations, State Responsibility and the International Covenant on Civil and Political Rights and the European Union Charter of Rights.

*Peter Rowe has been a Professor of Law at Lancaster University since 1995. He is the founding Director of Legal Studies, Cayman Islands Law School and was the Head of the Department of Law, University of Liverpool 1988-93 and the University of Lancaster 1995-2000. He was also the Chairman of the UK Group of the International Society for Military Law and the Laws of War from 1990-97. His principle publications in the area of international criminal law are Rowe, *Defence: the Legal Implications, Military Law and the Laws of War* (1987), Rowe (ed), *The Gulf War 1990-91 in International and English Law* (1993) and Rowe, *War and Armed Conflict in Halsbury's Laws of England*, Vol.49(1) (1996).*



Source: UN Office for the Coordination of Humanitarian Affairs

Date: 13 Apr 2004

Sierra Leone: Humanitarian Situation Report Mar 2004

SECURITY HIGHLIGHTS

UN Security Council recommends security forces to stay behind - The UN Security Council has extended UNAMSIL's mandate for a further six months until 30 September 2004. The Council has also decided that a residual UNAMSIL presence should remain in the country, initially for an additional six month period from 01 January 2005 to ensure a smooth transfer of security responsibilities to the national government. By 28 February 2005, the troop numbers will have been reduced to 3,250 troops, with 141 military observers and 80 United Nations civilian police. UN Secretary General, Kofi Annan, in his report to the Security Council acknowledged the progress that has been made in consolidating the peace, but warns that the peace is still fragile. After 1 January 2005, UNAMSIL will focus on ensuring that the benchmarks for withdrawal of UN troops in Sierra Leone are effectively met.

SLP makes move to minimise illegal trafficking - In a bid to mitigate the illegal flow of goods in and out of the country, the SLP has decided to maintain a 24-hour police presence at the Bellu-Dandou crossing point, in Kailahun District. This is in response to the increasing incidence night-time, cross-border traffic. The National Revenue Authority (NRA) is also trying to expand its activities along the border areas but is severely constrained by limited staff and resources. The NRA is working with the Kailahun District Security Committee to map out strategies to adequately cover the numerous crossing points between Sierra Leone and its neighbouring countries, Guinea and Liberia.

Kissy Tongi Chiefdom is declared safe for resettlement - The Kailahun District Resettlement Assessment Committee (DRAC) has finally declared the last chiefdom in Sierra Leone (Kissi Tongi in Kailahun District) "safe" for resettlement purposes. The decision to declare Kissi Tongi safe for resettlement was postponed due to insecurity along the Liberian border. However, improved security and the presence of the UN mission in Liberia have meant that conditions are now much more favourable, cross border raids have ceased and the Sierra Leone Police (SLP) and Republic of the Sierra Leone Armed Forces (RSLAF) maintain a permanent presence in the chiefdom.

POLITICAL HIGHLIGHTS

Preparations for local government elections progressing - The National Electoral Commission reports that despite the initial low turn out for the voter registration conducted last month, over 2.27 million people registered for the local government elections. The Commission is currently conducting the exhibition of the provisional voters register throughout the country. This is a verification exercise in which necessary corrections are made, so that an accurate final voters register is produced for the election process. Nominations of the candidates to the 19 local councils are to follow. The local government act has been published and is available to the public providing detailed information on the electoral process.

Special Court opens its new building amid ongoing debate - The Special Court opened its newly constructed courthouse on 10 March in Freetown. Security was tight and tension a little fraught with protests over the prosecution of former government minister and Chief of the Civil Defence Force, Chief Sam Hinga Norman. One key development for the trial cases is the removal of the court's chief justice, Geoffrey Robertson, from cases involving the Revolutionary United Front (RUF). RUF defence lawyers accused Justice Robertson of bias against the RUF based on his references to the RUF in his book "Crimes Against Humanity - The Struggle For Global Justice", written prior to his appointment. He referred to the RUF as a gang of thieves that have killed and amputated scores of civilians. After extensive consideration, Justice Robertson was removed from trial cases involving the RUF. He remains as permanent judge of the court and can sit on all other trials of former Civil Defence Force indictees.

Annan requests funding for Special Court - UN Secretary-General Kofi Annan has called for urgent funding to ensure the proper running of the Special Court. In a letter to the Security Council, Mr Annan proposed that one way of addressing the shortfall would be for all or part of the third year costs of the Court to be provided by assessed contributions. Following the exchange with the Security Council, Mr. Annan proceeded to ask the General Assembly for \$40 million for the operations of the Court from July to December 2005. He said \$16.7 million is needed for the period between July and December this year, while another \$23.3 million is being sought for 2005. In the wake of this funding shortfall, Canada, through the Canadian International Development Agency (CIDA), has committed \$1 million to the Special Court, bringing Canada's total financial contribution to the Court to \$3.25 million.

New US Ambassador for Sierra Leone - On 16 March President George Bush announced his intention to designate Mr. Thomas Neil Hull to be Ambassador of the United States of America to Sierra Leone. Mr. Hull would replace current US Ambassador Peter Chaveas. Mr. Hull, a career member of the Senior Foreign Service, has served various diplomatic missions overseas. Prior to joining the Foreign Service, Mr. Hull was a Peace Corps Volunteer primary school teacher in Sierra Leone from 1968 to 1970.

Irish Minister visits Sierra Leone - The Irish Minister of State for Development Cooperation and Human Rights, Mr. Tom Kitt visited Sierra Leone and Liberia from 08 to 11 March with the aim of promoting Ireland's relationship with the two countries. During his mission he revealed that Sierra Leone is among a number of countries that is to benefit from a project worth over €10 million for food, water and other basic relief. Mr. Kitt held meetings with President Kabbah, Vice President Berewa and other government officials. Mr. Kitt also met with UNAMSIL, NGOs and missionaries operating in the country. Since 2000, the Irish Government has provided over €9 million in assistance for Sierra Leone.

British Minister of State also visits Sierra Leone - The British Minister for Overseas Development, Mr. Hilary Benn, paid a two-day working visit to the country and spoke at length on the need for the government to redouble its efforts in the fight against corruption and poverty. He warned that corruption is generally the result of poverty, which cannot be eliminated where corruption is rampant. He recommended the achievements of the nation and promised continued British support. During his mission, the Right Honorable Mr. Benn met with President Kabbah, and his vice, Mr. Solomon Berewa, IMATT, UNAMISL and government security personnel. He also travelled to Kono District and witnessed the official opening of the Special Court.

Meeting of the Development Partners Committee (DEPAC) - The seventh DEPAC Meeting took place on 11 and 12 March in Freetown. The meeting discussed public finance management, micro-finance, private sector privatisation and the status of the Poverty Reduction Strategy Paper (PRSP). The interim report of the presidential commission on the restructuring of the senior civil service was also presented at the meeting. Both Ministers for Development from Ireland and the UK participated in the meeting.

Poverty Reduction Strategy Paper

The Poverty Reduction Strategy Paper (PRSP) was reported to be making gradual progress. The lay out of the document has been developed, identifying five pillars, which will eventually form the major chapters of the document. These include; promoting good governance, peace and stability; macro-economic stability and pro-poor sustainable growth; sustainable livelihoods and community empowerment; child, youth and gender sensitive development programmes; and gender equity through empowerment for national development. In addition, the Government, the UN system and child protection agencies met on 4 and 5 March to outline a Child Poverty Alleviation and Development Framework designed to mainstream children as a separate pillar in the PRSP. The Poverty Alleviation Strategy and Coordination Office (PASCO), responsible for leading the processes of the PRSP, has launched a nationwide sensitisation campaign in Freetown. The office is planning a stakeholders' workshop in May to review the ongoing development while community consultation meetings are currently taking place.

National Human Rights Commission to be established - The Attorney General and Minister of Justice, Eke Halloway, has signed into law a bill, which will lead to the creation of a Human Rights Commission of Sierra Leone. The bill's primary purpose is to protect and promote respect for human rights in the country. The commission will be mandated to raise public awareness and design education programmes aimed at creating a culture of human rights in Sierra Leone. The commission will also review existing laws to check compliance with international treaties.

Campaign for children in war

Three world-renowned football referees Markus Merk of Germany, Anders Frisk of Sweden and Lubos Michel of Slovakia visited Sierra Leone as Ambassadors of "Protect Children in War" campaign. The visit was organised by the International Committee of the Red Cross (ICRC), and Union of European Football Associations (UEFA) as part of a Campaign to Protect Children in War. The campaign is aimed at drawing attention to the specific problems faced by children in armed conflicts and promoting the laws that protect them. The project was funded from a specific account for humanitarian projects, generated from fines imposed in all EUFA competitions since 1999. The Campaign will be officially launched on 21 June during the European nations Cup in Portugal, where the clips of the referees will be shown. The referees witnessed a football match between refugee youths and met with child victims of war and with people and organizations working in their interest.

SUB-REGIONAL HIGHLIGHTS

Liberia

Regionally Liberia remains the focus of attention with events there continuing to pose a potential threat to the peace and stability of Sierra Leone. As UNMIL continues to

expand its sphere of influence, the situation in Monrovia and across Liberia is reported to be stable at present, although there is still concern over the leadership dispute within LURD. Ex-combatants remain restive and are increasingly preoccupied with everyday survival, eagerly anticipating the benefits of the disarmament programme.

UN Security Council and Special Court take action against Mr. Charles Taylor - The United Nations Security Council has unanimously adopted resolution to freeze the assets of former Liberian President, Mr. Charles Taylor, who is currently in exile in Nigeria. The Special Court has also begun gathering evidence against Mr. Taylor for war crimes. To this end, the Court, with support from UN peacekeepers and security forces in Liberia, searched the home of Mr. Taylor on 05 March. This is the beginning of a series of investigations that are expected to continue over the coming months. Reacting to the search, Mr Taylor's lawyers have petitioned the Liberian Supreme Court to block further searches of Mr. Taylor's properties in Liberia.

Exiled warlord returns to Liberia

Exiled Liberian warlord, Prince Yormi Johnson, who reportedly ordered the death of President Samuel Doe in 1990, and watched while his men tortured him, has returned to Liberia to stand as a senator in the elections set for 2005. Mr. Johnson said he had been invited to return by interim President Gyude Bryant, and has publicly apologized for his wrong doing during the conflict. He said he did not know which political party he would join in Liberia, but said his mission was to bring good governance to the war-torn country.

Events in Cote D'Ivoire

The peace process has been severely undermined by the recent demonstrations and the withdrawal of the opposition from the transitional government. The opposition parties have accused President Laurent Gbagbo of underhand methods and are reluctant to disarm until further political reforms have been made. The disturbances of 24-26 March and the deaths resulting from police and soldiers firing live ammunition to prevent anti-government protestors staging a banned demonstration against President Laurent Gbagbo have upset the peace process in the country. The opposition have denounced the French soldiers, ECOWAS and Military Observers of MINUCI for their inability to contain the situation. The government maintains that only 37 people died in the disturbances, but opposition leaders have put the death toll at between 350 and 500.

UN deployment will not be delayed - Despite this unrest the scheduled deployment of UN peacekeepers to Cote D'Ivoire will proceed as planned. An advance party of the 6,240-strong force has already arrived in Abidjan to prepare for the deployment of the UN peacekeepers whose mandate officially begins on 04 April 2004.

SECTORAL HIGHLIGHTS

Agriculture

Commonwealth assistance to Sierra Leone - A group of five experts from the Commonwealth Secretariat visited Sierra Leone to explore how they can support agricultural activities in the country. The experts have specifically focused on how to improve support to a number of key projects including; the rice milling project in Gerihun, Baoma Chiefdom, Bo District, cashew nut processing in Kambia, Kambia

District; Wood and Timber Processing in Grafton, Western Area; Pepper Processing in Kamalo in the Sanda Loko Chiefdom, Bombali District; and Cassava Processing in Yengema, Bumpeh Chiefdom, Bo District.

Other pilot projects funded by the Secretariat under its small and medium-scale enterprises development programme include palm oil and refined salt projects in selected areas in the country, the Western Area, and Bo, Port Loko, Kailahun and Pujehun districts.

Health

Health end strike

Health workers in the country ended a two-week strike in mid-March, when they came to an agreement with senior health officials over salary payments. The nationwide strike was for a 35-month housing and transport allowance owed to them by the Government of Sierra Leone.

Refugees

To date, the number of Liberian refugees in Sierra Leone is 60,113, of which 54,520 are residing in refugee camps.

Ongoing repatriation

UNHCR has begun the repatriation and reintegration of 13,000 Sierra Leoneans from Guinea and 12,000 from Liberia. So far there has been a relatively little interest in returning home for those remaining in Guinea and Liberia. Initially, UNHCR had planned to bring back up to 800 people per week from Liberia, but numbers are around 100 a week. Since 02 February when repatriation from Liberia began by road across the Mano River Bridge UNHCR has received 859 persons, who have mostly resettled in the south and eastern parts of the country. From Guinea, UNHCR has facilitated the return of 6,276 Sierra Leoneans from Telikoro, Kountaya and Boreah camps via the Belu River crossing point, into Kailahun district. This exercise began on 20 January. UNHCR support to the Sierra Leonean refugees in Guinea is due to end in June.

HCR seeking donor support for reintegration activities - UNHCR Sierra Leone has joined UNHCR Eritrea, Somalia, Sudan, Angola, Liberia, Democratic Republic of Congo, Burundi and Rwanda to seek support from donors for the voluntary return and sustainable reintegration of refugees over the next few years. Their Geneva office organised a two-day session on 8 and 9 March in Geneva on "Dialogue on Voluntary Repatriation and Sustainable Reintegration in Africa".

UNHCR Sierra Leone and Guinea meet to discuss repatriation movement - UNHCR teams from Sierra Leone and Guinea have met together with all their implementing partners to discuss the ongoing repatriation exercise from Guinea to Sierra Leone. It was agreed that repatriation from Guinea to Kailahun will continue until the end of June. From 01 April, one convoy a week will leave Guinea for Kailahun with the capacity to transport 500 individuals at a time. Approximately 5,000 Sierra Leoneans who registered for repatriation remain in the camps in Guinea. The meeting focused on a range of specific operational issues and the general issue of child protection.

Refugee education - UNHCR also convened a sub-regional meeting with its partners

in Conakry to discuss refugee education. The possibility of refugee children in camp schools participating in the 2004 National and International examinations from their country of origin was discussed together with lessons learnt from the Sierra Leone repatriation and family reunification process.

Increasing incidence of fire outbreaks in camps - Due to repeated outbreak of fire in the refugee camps, UNHCR has embarked on a sensitization campaign in all the camps on the prevention of fire accidents. Recently two more houses were burnt down in the Taiama Camp, bringing the total number of fire incidents to 19. UNHCR is also supporting the rehabilitation of 100 shelters for vulnerable families in the Jimmi Bagbo Camp, while repairs are being made to the community structures that were destroyed in a storm that hit earlier this month. Eighty latrine structures that were also damaged are being rehabilitated.

Community reconciliation following clashes - Following the rioting in Jimmi Bagbo refugee camp on 25 February, UNHCR in collaboration with NaCSA and its partners have embarked on sensitisation / reconciliation activities for the camp and host communities and the community school has now reopened. The riot occurred when the headmaster of a Secondary School failed to take action against two Sierra Leonean boys who slapped a refugee girl. The riot left over 30 people injured with some structures destroyed.

CRS to provide equipment for farming families - CRS has assessed farm sites of 566 refugee farm families who have applied for seeds and tools assistance. They hope to render assistance to some 200 families under their FAO supported programme.

OTHER HIGHLIGHTS

NRA raises awareness on taxation

The NRA undertook a weeklong, awareness-raising programme on 21 March aimed at promoting revenue collection in the country. The nationwide event saw the display of posters with slogans demonstrating the need for tax collection and the benefit for the country.

International Women's Day - Sierra Leone joined the rest of the world in observing the International Women's Day on 08 March. The day is a reflection of women's struggle for equality, justice, peace and development. The theme for this year's event was "Women and HIV/AIDS"; the local theme for Sierra Leone was 'Reduce Poverty, Eliminate Discrimination and Violence Against Women'.

Sierra Leone to start assembling tractors

On 19 March Presidential Spokesman, Mr. Kanji Daramy announced that Sierra Leone is to start assembling tractors in the country from a new project with the Chinese government. The assembled tractors would be exported to other countries, making way for foreign exchange for the country and employment for Sierra Leoneans.

Sierra Leone Encyclopedia

The Sierra Leone CD Encyclopedia 2004 project is on schedule and data is currently being input into the CD format. The CD should be ready for launching at the end of next month.

REGIONAL HIGHLIGHTS

Eastern Province

RSLAF takes a leads on HIV/AIDS sensitisation - The Republic of the Sierra Leone Armed Forces (RSLAF) in collaboration with a popular, local musician Steady Bongo undertook a sensitisation campaign on HIV/AIDS at a night disco in Kailahun. During the session a newly released HIV/AIDS album was distributed as part of the outreach campaign. This is a timely and appropriate initiative as the level of HIV/AIDS awareness level in the Kailahun District is extremely poor.

Rebuilding health structures

CRS has undertaken sensitisation activities for the construction of Community Health Posts in the Kailahun District, under the USAID-funded Developmental Relief Programme. CRS is to conduct refresher training of trainers for 25 Maternal Child Health (MCH) Aides and basic and refresher trainings for 250 Traditional Birth Attendants (TBAs) in the Kailahun District.

NaCSA's community-financing underway

NaCSA has begun implementing projects funded under their direct community-financing scheme. This month they appraised six projects in Peje West and Luawa Chiefdoms, Kailahun District. Project management committees have already been formed and communities are currently mobilising locally available resources while awaiting funding. Most of the identified projects are schools and health centres. The Nixon Memorial Hospital in Segbwema will be among those rehabilitated. Once this hospital begins to function, the referral problems and pressure on the Kailahun Government Hospital will be minimised, as the hospital will serve Njaluahun, Malema, Mandu, Upper Bambara and Dia Chiefdoms.

Organising farmers to increase production - A local NGO - Christian Community Development Programme (CCDP) - is engaged in activities that will ensure food security for the country. CCDP, one of WFPs partners, is working with farmers to increase their productivity level while plans are underway to introduce fishpond development to farming groups in the district.

IRC & CCF support to the agricultural sector - The International Rescue Committee (IRC) plans to introduce a food security project in 26 communities in six chiefdoms in the Kailahun District. Activities will include provision of high yielding short duration seeds, swamp development, tree crop rehabilitation, animal husbandry and the establishment of seed banks. Similarly the Christian Children's Fund (CCF) plans to undertake agricultural activities in five chiefdoms - Penguia, Dia, Luawa, Malema and Yawei in the Kailahun District. Strategies to improve marketing will include provision of seeds and support in food processing, vegetable gardening, construction of drying floors and seed stores and fishing.

Enabling the disabled - Cause Canada and Handicap International have begun training field workers and supervisors ahead of its socio-economic reintegration project for disabled persons. The Norwegian Refugee Council (NRC) is undertaking a shelter project in Luawa Chiefdom, Kailahun District for which 10 beneficiaries have been identified. The Kissi Chiefdoms will also benefit from this intervention.

UNHCR hands over its newly rehabilitated structures - During the reporting period,

UNHCR have handed over community structures, including a Court Barrie, a community market, nurses quarters, a pre-school and a police post to residents of Jimmy Bagbo. UNHCR has also completed its shared office with NaCSA, a WFP warehouse, and an office for Peace Winds Japan.

Shelter reconstruction - CRS has started construction of 300 houses and three community structures in Kailahun District using UNDP/SIDA funds. A shelter-training project is currently ongoing in the area. They have provided ex-combatants who have completed the first half of their training with a first three-month payment. CRS is also conducting 100 houses in Mafindo, Kailahun District with support from World Bank through NaCSA.

Northern Province

Completion of a gender based nutritional survey - WFP in collaboration with the Ministry of Health and Sanitation (MOHS), UNICEF, WHO and CARE, undertook a nineteen day assessment of nutrition baseline survey in the Tonkolili District. The main objective of the survey was to ascertain the prevalence of malnutrition among women and children in the district, focusing on anaemia prevalence, dietary intake, immunization status and cultural beliefs/customs.

NaCSA support to Koinadugu District The National Commission for Social Action (NaCSA) in collaboration with the Sierra Leone Roads Authority (SLRA) and the District Recovery Committee in Koinadugu have identified 22 possible community feeder roads for rehabilitation with NaCSA's support. Under their Public Works Project, NaCSA will construct two roads from each Chiefdom, using local contractors who will be hired from within the beneficiary communities. NaCSA is also implementing other projects in the district under their Community Drive Programme (CDP). In Kassunko Chiefdom NaCSA is currently rehabilitating the Kufogo gravity water system, reconstructing the Faduya DEC Primary School and constructing the Kagbasia Community Health Post.

Southern Province

OCHA field office in Bo closed

As part of OCHA's transition in Sierra Leone, the OCHA field office in Bo, which has overseen coordination activities in the Southern Province, has been finally closed. The Regional Field Coordinator has relocated to the Kenema office (just 60 km from Bo) and will still oversee relief and recovery issues in the South, while also taking on responsibilities for Kenema District. OCHA assets from the Bo office have been disbursed to bolster OCHA's satellite offices based with UNHCR in Kailahun and Kono Districts.

Western Area

Final meeting of National Recovery Committee at the district level - On 25 March, the final meeting between the National Recovery Committee and District Recovery Committees took place in Waterloo. The meeting focused on issues facing the Western Rural Districts of Koya, Mountain, Waterloo and York. Present at the meeting were a cross-section of representatives from UN, NGOs, chiefdom elders and the Government of Sierra Leone, including Vice President Berewa who chaired the meeting. The meeting focused on the most pressing needs of the Western Rural District.

Assessment of the post-war situation - WANEP, a war-torn society project in Sierra Leone, conducted a consultative meeting following a three-month survey aimed at assessing the structure and dynamics of the relationships among and between internal and external actors in post-conflict Sierra Leone

Engaging the PRSP - CRS's peacebuilding unit conducted a sensitisation meeting on the Poverty Reduction Strategy Paper (PRSP) with Network Movement for Justice and Development (NMJD) and Action Aid. Participants brainstormed on ways to get the general public more engaged in the process at the community level.

World Vision launches child programme

World Vision (WV) has launched a new programme in Freetown for children. The child sponsorship programme is a global strategy of WV International geared towards enhancing equitable and sustainable livelihoods, especially in post conflict communities. With this project WV aims at implementing a development plan that complements the overall development and strategic priorities of the government of Sierra Leone for poverty alleviation.

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Africa and the Crisis of Instability

By Okechukwu Emeh

Vanguard

March 30, 2004

Inter-state conflicts have added to the sources of violence and instability in Africa.

In the 1960s, 70s and 80s, most of Africa was battling with the destabilising and debilitating forces of colonialism, neo-colonialism (imperialism), apartheid, the Cold War and political authoritarianism. With the disappearance of these centrifugal forces, except neo-colonialism and political authoritarianism, several African states have started to recover their souls and move towards normality.

For example, while the Cold War inspired brutal armed conflicts in Southern Africa (Mozambique and Angola) and the Horn of Africa (between Ethiopia and Somalia) have ceased, the post-apartheid South Africa has made sufficient progress towards becoming the economic and techno-industrial powerhouse of sub-Saharan Africa. Ghana, Mali, Nigeria, Niger, Benin Republic, Togo, Cote d'Ivoire, Chad, Guinea, Equatorial Guinea, Malawi, Zambia, Zimbabwe, Kenya, Cameroun, Gabon and others - though in some of these countries, the process of democratisation has been captured under the guise of competitive elections (sometimes bitter and divisive), by the authoritarian groups already in control of power.

Despite the hopes and dreams brought by the end of the Cold War and apartheid in Africa, the new era could as well be described as tumultuous times on the continent. Capturing this development that seems like taking one step forward and two steps back are the enduring dilemma of political, social, and economic crises in many African countries today. These crises include maladministration, political repression and instability, electoral fraud, virulent ethnic nationalism, religious fundamentalism, civil unrest, armed conflict, proliferation of illicit arms, violent crimes, economic crunch, famine, hunger, poverty, emerging and reemerging diseases (AIDS, Ebola, malaria and tuberculosis), environmental degradation and underdevelopment.

Somalia is a profile in the crisis of instability in contemporary Africa. Since after the popular upheaval that snowballed into the overthrow of the oppressive regime of Mohammed Siad Barre by various notorious clan

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warlords and their militias, this Horn of African state has been in turmoil and fragmented into self-recognised independent republics of Somaliland, Puntland and South West Somalia.

Today, due to the civil war, chaos, anarchy, bloodshed, horror, barbarism and devastation in Somalia, many watchers of African politics, including this writer, have seen the country as a clear indication of the extreme difficulty of state building in Africa. This is the only political society on the continent (that is, Somalia) which is a nation in the real sense of the word because of ethnic, religious and cultural homogeneity of her people, but yet, she is atomised across the fault line of clan. In the light of this, many Western analysts have come to associate Somalia with an egregious example of a failed state. When extrapolated and explained, the term depicts a polity where political, economic and social institutions have crumbled, as a result of longstanding and protracted crises like intra-state conflict, war, maladministration, corruption, mismanagement, economic distress, deepening poverty, violence, crime, social chaos, anarchy and so on.

Failed African States

Disturbingly, the scenario of a failed state presented by Somalia is being replicated by other Horn of African states, namely Ethiopia, Eritrea, Djibouti and Sudan, which are plagued by disastrous armed conflicts that have caused catastrophic breakdown of law and order and opened the floodgate of carnage, social dislocation, hunger and famine. Mindful of the political and communal turmoil of the recent years in Rwanda, Burundi, Democratic Republic of Congo, Congo-Brazzaville, Central African Republic, Liberia, Sierra Leone, Cote d' Ivoire and a host of others, one can surmise that these countries have the potentials of inching their way to the status of a failed state à la Somalia.

Rwanda and Burundi have been bogged down by the vicious cycle of revolt by Hutus and repression by Tutsis. In Rwanda, the communal feud led to the world-shaking genocide of April- June 1994, in which about 800,000 Tutsis, along with moderate Hutu politicians, were slaughtered by Hutu extremist militias (the Interahamwe) and members of the former Hutu-led national army.

The Democratic Republic of Congo (formerly Zaire) is not immune to the widening battlefields in the Great Lakes or Central African region. At present, the country is recovering from a devastating civil war that ensued the violence and unrest that led to the downfall of the corrupt, despotic and tyrannical regime of Mobutu Sese Seko in May 1997. The war, seen as Africa's "First World War," on account of the involvement of Uganda, Rwanda, Burundi, Zimbabwe, Namibia, Angola and Sudan on the side of different groups in the country, claimed an estimated three million lives and depleted vast mineral resources there.

From the sombre and dire picture of catastrophic armed conflicts in Africa's Great Lakes region, one cannot dismiss suggestion that the pernicious ideologies of Hutu supremacy (or power) and Hima-Tutsi empire, which have found vent in the fierce communal rivalry in the putative states of Rwanda and Burundi, could have convulsive impact on the region and beyond. Noticeably, the seemingly intractable crisis has already spawned a culture of xenophobia, deep-seated resentment, extremism and ethnic cleansing in the neighbouring DR Congo, where the Banyamulenge (Tutsi of Rwandan extraction) who provided the bulk of the fighters that ousted the Mobutu regime in 1997, are restive.

In Congo's Northeastern Ituri region, the Hema and Lendu tribesmen have been entangled in mutual assured killings and destruction. Another anxiety over Hutu-Tutsi animosity is that the conflict in Rwanda and Burundi could seep into the laps of Uganda and Tanzania, which have a sizable population of the two antagonist ethnic nationalities as immigrants. So far, Uganda is struggling to contain the atrocious rebellion of the millennial cult guerrillas of the Joseph Kony-led Lord's Resistance Army (LRA), which is operating in the North from Sudan. In Congo-Brazzaville and Central African Republic, the nefarious activities of heavily armed militia groups, supported by insurgents from DR Congo, have paralysed governments and institutions in the two countries, just as the insurrection of the rag tag rebels in the neighbouring Chad.

In Cote d'Ivoire, formerly seen as a haven of peace and economic stability in the emerging volatile West Africa - as observed in the chaos and madness of the horrific civil wars of the recent past in Liberia, Sierra Leone and Guinea Bissau - political intolerance, nationality question and xenophobia have ignited a divisive civil war.

There are valid fears that the potentially expensive crisis in that French-speaking country could have severe repercussion in other parts of the region if the fragile peace plans of ECOWAS and France aimed at defusing the problem hit the hurdle.

Nudging other states in Africa towards the precipice of a failed state is the new potential grave danger of religious extremism, which has gathered sheer momentum on the continent since the end of the East-West rivalry (the Cold War) in 1989. In Egypt and Algeria, wild bearded Islamic zealots with AK-47 assault rifles and bombs are waging vicious campaigns to wrest power from their secularist governments.

Kenya and Tanzania have become the centres of Al-Qaeda inspired anti-Western, anti-Israeli struggles in Africa, as buttressed by the spate of suicide bombings by hardline Islamic militants in the East African countries in the recent past.

Ethnic Nationalism

Ethnic/micro nationalism is also a potent force to reckon with in the crisis of instability in Africa. In this regard, Nigeria is, in recent years, becoming volatile, a kind of powder keg, on account of frequent nasty inter-ethnic and religious riots, fuelled by years of bubbling communal discontent and frustration across the country.

In Western Sahara, Sudan (in the South), Senegal (in Casamance), Angola (in Cabinda), Ethiopia (in Oromoland, Ogaden and Haud), Comoros (in Anjouan), Niger (in Agadez) and Mali (in Alawak), disaffected ethnic nationalities have been waging armed separatist struggles for autonomy or outright independence. In recent years, Namibia and Cameroun have increasingly become volatile since the beginning of the agitation for national self-determination by San people of the Caprivi Strip and English-speaking Camerounians respectively.

Inter-state conflicts have added to the sources of violence and instability in Africa. Such conflicts include the long time standoff between Nigeria and Cameroun over the oil-rich Bakassi Peninsula and the continued tension between Ethiopia and Eritrea over the Badme territory. Such conflict has often had the ominous implication of undermining African unity.

There is no question that political and social crises that inform the unfolding failed state syndrome in Africa are partly responsible for afro-pessimism, the notion by western scholars and commentators that the future of the continent is bleak, gloomy and depressing because of multiple and endless crises. Karl Maier, in his book *Midnight in Nigeria*, This house has fallen, has captured such pessimism, painting a gory picture of the uphill task of nation-building in Nigeria, bedevilled by a medley of political, ethnic and religious turbulence.

In a similar vein, Robert D. Kaplan, in his widely read but controversial essay *The Coming Anarchy* (1994), has gazed into the crystal ball and predicted the fragility of many African states because of political and social chaos and instability. Currently, Zimbabwe, Swaziland, Malawi, Togo and Guinea encapsulate such grave assumptions of doom and gloom about the continent, considering the dire prospects of political and social implosions in these countries due to creeping dictatorship and violation of the basic tenets of democracy and constitutionality. In South Africa, despite the routing of the tangential forces of apartheid, the subversive rise of white Afrikaner nationalism, under the aegis of the Boeremag (or Warriors of the Boer Nation) and Zulu militancy, reminiscent of those of the 1980s and early 1990s, has ignited fears about the return of the terrible racial tension and divisions of the apartheid years.

Economically, the outlooks for some of the African states are bleak, as some

of them are being relegated in international finance and trade of the post-Cold War era, as well as in the emerging order of globalisation and information and communication technology (ICT).

Oddly enough, except, to some extent, South Africa, Egypt, Tunisia, Libya, Botswana, Mauritius, Senegal and Uganda, the economies of many political configurations on the continent are not dynamic and booming.

Efforts to combine the requirements of Western-induced reforms with the demands of democratisation in some of the countries have also met a brick wall. Worse still, the United States and countries of the European Union (EU) have been tempted to reduce their level of official development aids for African states because of doubts about their efficacy, and this is more so in the post-East-West rivalry when Russia is no longer a diplomatic player in Africa. Consequently, loans and grants by these Western countries to African states are tied to conditions like inauguration of Western style democracy and market reforms, human rights and support for "war on terror" -- a situation that has impinged on the national sovereignties of such states.

Not helping matters are the literal kleptocracies in some African states, which, sometimes, have taken the form of a veritable economy of loot and plunder of Mobutuesque proportions. And this development has contributed to serious problems of sluggish economy, debt overhang, human suffering, social unrest and political quagmire in some of the states, especially those in the sub-Saharan Africa.

In the face of the unmitigated political, social and economic crises and woes that have made many African countries to face uncertain future, the immediate task before African leaders is how to use the opportunities offered by the end of the destabilising Cold War and apartheid to confront the harsh realities of independence, reinvent their national entities and satisfy the welfare demands of law, social justice, peaceful coexistence, economic reconstruction, human welfare and African brotherhood. Interestingly, former President Nelson Mandela (the Madiba) of South Africa and his successor, Mr. Thabo Mbeki, are today championing the 'idea of African renaissance, a project of renewal to bring the continent 'back from the brink, strengthen its possibilities, raise hope and optimism and reposition it as an important centre of human civilisation.

Therefore, there is a growing sense of urgency to transform the failed' states' of Somalia and DR. Congo into stabilised, modernised and pro-active states, guided by justice, peace, security and development. The same is required from other war-subsidies.

Coupled with the AU's agenda for federal African state, conflict resolution, peace building, security, good governance, human rights, the rule of law and sustainable development, there is hope that, with commitment, courage and

dedication, a stable Africa will emerge out of the chaos and rubbles of crises. No doubt, the pressure and onus for the realisation of these Afro- optimistic expectations are on African leaders and the stake is too high for them to fail in helping provide certainty and stability to the distraught continent.

More Information on Nations and States
More Information on Failed States

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Ensuring justice is universal

GORDON DARROCH

SEBASTIEN Nzapali had every reason to fear persecution when he claimed asylum in 1998. A former colonel in the Congolese army during that country's brutal civil war, he was accused of committing rape and murder on a massive scale, and acquired the nickname "King of Beasts" for the inhuman way in which he was alleged to treat prisoners.

Nzapali fled the country following the overthrow of its dictator, Mobutu Sese Seko, and sought refuge in the Netherlands, but any hopes he held of putting the past behind him were dashed when other Congolese asylum seekers denounced him as a war criminal.

Following a four-year investigation which saw investigators travel to Congo to take statements from alleged victims, Nzapali was sentenced to two and a half years for torture in a landmark case.

The court's verdict last Wednesday makes Holland one of a handful of nations to have secured a conviction under the United Nations Convention on Torture for crimes committed in a foreign country.

It also raises the issue of whether universal jurisdiction - the principle that serious charges such as genocide or crimes against humanity can be prosecuted anywhere in the world - is the appropriate tool for dealing with those implicated in such atrocities. Human rights campaigners have long argued that crimes against humanity committed under oppressive regimes should not go unpunished because those countries lack the means to bring the perpetrators to justice.

The nature of political asylum means that the worst offenders can escape extradition by making a credible case that they risk persecution in their own country, particularly when a brutal regime has been overthrown by armed insurgents.

Tharcisse Muvunyi, one of the highest-ranking army officers implicated in the Rwandan genocide, spent two years as a refugee in London fighting deportation to face the International Criminal Tribunal for Rwanda. He eventually dropped his case after securing guarantees he would be protected while awaiting trial in Africa.

Universal jurisdiction often represents the only chance of bringing a conviction in such cases, but in practice, bringing charges for crimes committed in other countries has been beset with difficulties.

Only one man, Anton Sawoniuk, has been convicted in Britain under the War Crimes Act since it was passed in 1991. In Scotland, the Crown Office was heavily criticised for its handling of the case of Anton Gecas, a Lithuanian accused of ordering the killing of thousands of Jews as commander of a Nazi police battalion during the Second World War.

Gecas, who lived in Edinburgh until his death in 2001, was second on the Simon Wiesenthal Centre's "most wanted" list, having been publicly named in 1986, but the Crown Office decided there was insufficient evidence against him.

Investigating war crimes has proved an expensive, frustrating task, with Sawoniuk's conviction the only tangible fruit of a process which has cost more than £6 million.

Similarly, while the Nzapali case is widely seen as a benchmark, it comes 15 years after the

Dutch passed the law granting universal jurisdiction in torture cases.

Attempts to bring cases of crimes against humanity to court also risk running up against fierce political opposition, as was shown by the furore which followed the arrest of General Augusto Pinochet in 1998.

Bill Bowring, a professor of Human Rights and International Law at London Metropolitan University, says: "These issues are always going to be political because they involve international relations. All you can do as a lawyer is establish principles that are as clear and as fair as possible."

While universal jurisdiction may be appropriate in some cases, Prof Bowring is adamant that the best chance of ensuring international justice lies with the International Criminal Court (ICC), established by the Rome Statute in 2002.

Taking the example of Saddam Hussein, the deposed Iraqi leader, he says: "There clearly is not a legitimate court system in Iraq at the present time and I think it would be extremely dangerous to try him there."

"That leads on to the second issue, which is that wherever he is tried, international standards have to be applied. The best thing would be an international tribunal with the authority of the United Nations."

Prof Bowring points to the experience of Belgium, which introduced wide-ranging powers of universal jurisdiction in 2002, only to backtrack under international pressure last year. The Belgian law allowed defendants to be tried in their absence and led to a string of lawsuits being filed against world leaders including Tony Blair, the Prime Minister, George Bush, the United States president, and Ariel Sharon, the Israeli prime minister, prompting accusations the Belgian courts risked turning into a political theatre.

It had some notable successes, such as the conviction of four Rwandans for their role in the 1994 genocide, but when General Tommy Franks was indicted over allegations of violations by US troops in Iraq, the Bush administration saw red. Amid thinly-veiled threats by its defence secretary, Donald Rumsfeld, to move NATO HQ out of Brussels, Belgium agreed to water down the law.

Prof Bowring argues the Belgian experiment "went too far" and showed the problems which arise when countries try to tackle such wide-ranging cases in isolation.

"The case against Ariel Sharon showed the difficulties it raised," he said. "If he were to visit Belgium or Britain then the evidence could be brought against him under the Geneva Convention. It throws up all sorts of problems and it's hard to see how it would have been enforced."

It's a view shared by Steven Crawshaw, the London director of Human Rights Watch, who says: "The Belgian jurisdiction has been fraught with enormous complications. You quickly get all sorts of political arm-twisting and pressures going back and forth which turns into quite brutal realpolitik."

"That's why, with all the good intentions which the Belgian legislation had, we need an international court where there is no longer any issue about where someone should be prosecuted."

The ICC's effectiveness has been curtailed by the refusal of the world's most powerful nations - the United States, China, Russia and India among them - to ratify the Rome Statute. Despite the US government's insistence that all countries which ratified the court must sign a bilateral treaty protecting its soldiers from prosecution, Prof Bowring says the court is a vital piece of the jigsaw. But he cautions it will only succeed if its rules are clearly defined to prevent it becoming tainted by political agendas, a charge which he levels at the

Slobodan Milosevic trial in The Hague: "Neither the judge nor the prosecutor has been particularly competent and the trial has become completely politicised. The general view is that it has been extremely badly handled."

Prof Bowring says universal jurisdiction has become more widely accepted in the last decade, but the acid test for the ICC is whether it can overcome US scepticism. He says: "It's desperately important that it becomes an issue in the American presidential election, because if the Americans ratify the court, it puts pressure on others to follow suit."

"I don't know if anyone is arguing for complete universal jurisdiction, but I think if it is qualified, and there is a strong emphasis on it being complementary with the ICC, that's as good as we're going to get."

The ICC has survived a difficult birth, but the jury is still out on whether it will be any more effective in bringing war crimes suspects such as Sebastien Nzapali to justice.

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