SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE

Justice Philip Waki took the Solemn Declaration today as Alternate Judge of the Appeals Chamber. For more photos of the ceremony, see today's '*Special Court Supplement*'.

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:
Monday, 27 February 2012

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

PRESS RELEASE

Freetown, Sierra Leone, 27 February 2012

Justice Philip Waki of Kenya Sworn in as Alternate Appeal Judge

Justice Philip Nyamu Waki, a prominent Kenyan jurist, was sworn in on Monday as an alternate judge of the Special Court's Appeals Chamber.

Justice Waki made his solemn declaration before Registrar Binta Mansaray at a special ceremony held in the Special Court's courthouse in Freetown. Special Court President Justice Jon Kamanda then gave the closing address.

The solemn declaration was witnessed by Attorney-General and Minister of Justice Franklyn Bai Kargbo on behalf of the Government of Sierra Leone, and by Acting Head of Mission, UNIPSIL Berhanemeskel Nega representing the United Nations.

Justice Waki joins the Appeals Chamber in advance of any appeal which may follow judgement in the trial of former Liberian President Charles Taylor. He was appointed jointly by the United Nations and the Government of Sierra Leone.

Justice Waki became a judge of the Kenya Court of Appeal in 2003, after having served as a Judge of the High Court of Kenya for nine years. Prior to 1995, he was in private law practice in Kenya since being called to the Bar in 1975. Justice Waki has worked actively for reform within the Kenyan judiciary. In 2008 he was named to head the Commission of Inquiry into Post-Election Violence in Kenya, also called the "Waki Commission," to look into the political violence committed during Kenya's 2007 elections.

In 2008 the International Commission of Jurists (Kenya) presented Justice Waki with the "Jurist of the Year Award."

#END

BBC Online
Friday, 24 February 2012

Ivory Coast rivals Soro and Gbagbo welcome ICC move

Laurent Gbagbo's lawyers blame the rebels for taking up arms in 2002

Rebuilding Ivory Coast

Rival politicians in Ivory Coast have welcomed the International Criminal Court's decision to extend its investigation into abuses back to 2002.

Former President Laurent Gbagbo is in The Hague awaiting trial on charges of crimes against humanity during the dispute after 2010 elections.

One of his allies called the ICC move "a step in the right direction", as has the prime minister - a bitter rival.

But a BBC correspondent says it could cause considerable disruption.

The BBC's John James says that in public, the Ivorian political class is trying to put a brave face on this but the newly extended ICC investigation is likely to dig up abuses by both sides, including the former rebels led by Prime Minister Guillaume Soro.

He became the political head of a group of former soldiers who mutinied in 2002, seizing control of the north and leading the country to be divided for nine years.

The much delayed 2010 election was supposed to finally reunify the country but instead led to a conflict in which some 3,000 people died after Mr Gbagbo refused to accept defeat.

With the help of UN and French forces, Alassane Ouattara, widely acknowledged as having won the election, was installed as president.

Like Mr Soro, he is from the largely Muslim north, where many people had complained of discrimination by the government in the mainly Christian south.

“Start Quote

The president was the rightful president when, on the night of 18-19 September 2002, his country, his army was attacked”

End Quote Augustin Guehoun Laurent Gbagbo's FPI party

Mr Soro's communications adviser, Toure Moussa, said: "The Ivorian government, notably its head, has always wanted light to be shed on all the allegations made... He puts a real importance on the need for an inquiry that's truly credible and impartially considers the indicated period."

Our correspondent says that lawyers working for Mr Gbagbo have always argued that focusing on the post-election period was a purely political move designed to put the blame on the former president.

A spokesman for Mr Gbagbo's FPI party, Augustin Guehoun, says the rebels started the chain of events by taking up arms.

"The president was the rightful president when, on the night of 18-19 September 2002, his country, his army was attacked. He had the right to put his army into action - the army of the country that had been attacked. Those who attacked - did they have the right to an army? That's the problem."

Ouagadougou accord

A report by the ICC prosecutor, submitted in November, outlines a number of alleged crimes over the past decade that can now be investigated more fully.

These include the killing of 131 government gendarmes and their families in the former rebel headquarters of Bouake in early October 2002 by the rebels and the massacre of more than 50 northerners in the town of Daloa by government forces in mid-October 2002.

Other incidents include mass killings, attacks on unarmed protest marches and other abuses - often ethnically motivated - by government and rebel forces, militias and Liberian mercenaries.

Under the Ouagadougou peace accord signed in March 2007, the Ivorian politicians declared a general amnesty for all crimes committed since September 2000.

But the ICC doesn't recognise such deals and says there can be no amnesty for the crimes they investigate - war crimes, crimes against humanity and genocide.

Our correspondent says that victims will now have the chance to get at the truth of what happened, while some powerful people here who previously considered themselves untouchable, may soon be taking a flight to The Hague.

The Jurist
Friday, 24 February 2012

Potential Perils of Localizing International Criminal Justice

JURIST Guest Columnist Gregory Gordon of the University of North Dakota School of Law says atrocity justice localization may not work for countries, such as Cambodia, so thoroughly lacking in justice culture and infrastructure and that localization may ultimately contribute more to the culture of impunity than to the rule of law...

The UN and the government of Cambodia have recently locked horns in a confrontation over installing, on a permanent basis, an international investigating judge at the Extraordinary Chambers in the Courts of Cambodia (ECCC). The Swiss jurist at the center of the controversy, Laurent Kasper-Ansermet, whom the Cambodian government opposes, has been filling in on a temporary basis after the recent resignation of German Investigating Judge Siegfried Blunk. Blunk's resignation was prompted by allegations that, in concert with Cambodian Investigating Judge You Bunleng, he was blocking the investigation of Cases 003 and 004, focusing on lower-level Khmer Rouge officials with ties to Cambodian leader Hun Sen. For his part, Blunk claimed interference from the Cambodian government. Kasper-Ansermet has publicly indicated his support for pursuing the 003 and 004 investigations and ostensibly that is why the Cambodian government will not give him its blessing (claiming he has unethically used Twitter to publicize his stance). There is no doubt that Hun Sen is trying to kill cases 003 and 004. Unfortunately, this is not the first time the ECCC has had to deal with transparency issues related to the Cambodian government. For example, among other things, there have been reports of kickbacks from ECCC Cambodian employees to Cambodian officials in return for their jobs, a system that reflects a common practice in Cambodia.

These transparency issues call into question one of the central tenets of evolving conventional wisdom in international criminal law circles: rather than dispense remote justice in The Hague, efforts should be more localized. There are certainly many compelling reasons for this approach. Among others, trials within the atrocity jurisdiction permit easier access to evidence and witnesses, furnish the victim population with direct and proximate access to proceedings that touch them directly, allow for local norms and traditions to be integrated into the proceedings, and, looking beyond the immediate case at hand, help establish a local justice infrastructure and culture that can be developed over time and possibly inspire long-term domestic rule of law reform.

Perhaps it is time to reevaluate conventional wisdom, however. It may be well to recall what prompted the trend toward the more exclusively *international* justice paradigm that was established in Nuremberg in 1945 and culminated in Rome with the adoption of the International Criminal Court's statute in 1998. In particular, it might behoove us to consider the aftermath of World War I.

As world leaders reflected on the war crimes committed in that horrendous conflict, they resolved to bring German perpetrators to justice. But those efforts were derailed by local interference.

Article 228 of the Versailles Treaty provided for the prosecution of German war criminals by Allied military tribunals. Pursuant to this provision, the UK initially requested the surrender and British-jurisdiction trial of 854 men accused of war crimes. Among them were some of Germany's most venerated military leaders: Ludendorff, von Moltke, von Tirpitz and von Hindenburg. The Germans refused. However, they did agree to try themselves a limited number of lesser ranking men. The trials were conducted under German law in Leipzig's Criminal Senate of the Imperial Court of Germany. But German legislation permitted a British delegation to participate as co-prosecutors. Succumbing to local resistance, the British ultimately indicted only seven German military officials (one, a submarine commander, disappeared and evaded trial).

And what was the result of these trials? Three officers charged with mistreating prisoners of war were sentenced, respectively, to prison terms of a whopping two, six and 10 months respectively. Two submarine officers, the subordinates of the commander who vanished, were convicted of sinking a British hospital ship and sentenced to four years each. These two ultimately escaped from prison through the help of their jailers. The French and Belgians also participated in the prosecution under the same conditions. Of the five French prosecutions, only one resulted in a conviction; none for the Belgians. The French and Belgians withdrew from the trial process before its completion due to the Germans' lax prosecution of the cases.

In the end, international justice was thwarted by local obstruction. It was too much to ask the defendants' fellow citizens to try their own. Mere participation by outsiders could not compensate for the insiders' bad faith. So world leaders opted for an international approach after World War II (justified as well, granted, by domestic capacity deficits). After a Cold War hiatus, the international approach carried the day again with the creation of the ad hoc tribunals for the former Yugoslavia and Rwanda, in 1993 and 1994, respectively, as well as the International Criminal Court in 1998.

At the dawn of the new millennium, after the "tribunal fatigue" of the 1990s, the trend toward local took hold. The international community worked with domestic leaders to create "hybrid" judicial mechanisms for Sierra Leone in 2002 (Special Court for Sierra Leone or SCSL) and Cambodia in 2003 (the ECCC). They were considered "hybrid" since, while situated in the countries where the crimes took place, they included international staff and international laws. The SCSL looked more international, with the lead prosecutor being a non-Sierra Leonean (the deputy is a native) and the judicial chambers consisting of a majority of international judges. The court itself is outside of Sierra Leone's domestic court system. While the ECCC has co-prosecutors and co-investigating judges who are Cambodian and international, the judicial chambers have a majority of Cambodian judges. The chambers are also embedded within the Cambodian court system.

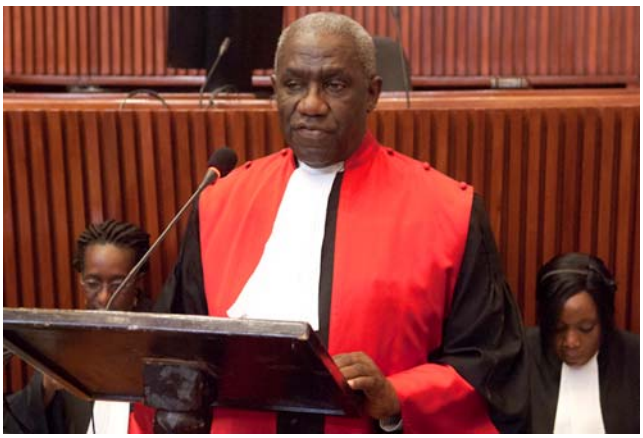
At the time the ECCC was created, the trend toward localization was in full swing. But given the problems with domestic interference and corruption in Cambodia, it might have made sense to buck the trend. The ongoing ECCC debacle is a cautionary tale about the potential consequences of blind devotion to localization. The lessons learned from this experience ought to have special significance for the Democratic Republic of the Congo, scene of some of the worst mass atrocities in the past 15 years. Congolese officials have been considering creation of a hybrid court to try the individuals most

responsible for those crimes. But the proposed court would only provisionally employ international personnel who would be phased out over time. Even during the period of participation by foreigners, as with the ECCC, there would be a majority of Congolese judges in chambers. The court would be similarly ensconced within the municipal judicial system. Given DR Congo's high degree of corruption and judicial dysfunction, the Cambodian experience suggests this may not be a viable proposal. Perhaps a more internationalized hybrid court, along the lines of the SCSL, would make more sense. Given the complete shambles that is the DR Congo justice infrastructure, and the need for timely justice, even the SCSL model may not be realistic. For the trial of high-level Congolese perpetrators, establishment of a tribunal in The Hague or Arusha may be the only realistic answer for now.

The point is that the existence and extent of atrocity justice localization should be considered on a case-by-case basis. In addition to the SCSL, we are seeing success stories in the countries that represent the republics of the former Yugoslavia. The hybrid War Crimes Chamber in the Court of Bosnia and Herzegovina, for example, appears to be doing an exemplary job of trying cases transferred to it from the ICTY. But that model may not work for DR Congo or other countries, such as Cambodia, so thoroughly lacking in justice culture and infrastructure. The ghosts of Leipzig remind us that localization may ultimately contribute more to the culture of impunity than to the rule of law. We ignore them at our own peril.

Gregory Gordon is Director of the University of North Dakota Center for Human Rights and Genocide Studies. He teaches in the areas of international and criminal law. He worked with the Office of the Prosecutor for the International Criminal Tribunal for Rwanda, where he served as Legal Officer and Deputy Team Leader for the landmark "media" cases, the first international post-Nuremberg prosecutions of radio and print media executives for incitement crimes.

Special Court Supplement
Photos from the Swearing-in Ceremony of Justice Philip Waki
Monday, 27 February 2012

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