SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE

PRESS CLIPPINGS

Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office
as at:
Friday, 4 October 2013

Press clips are produced Monday through Friday.
Any omission, comment or suggestion, please contact
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Local News

International News

New Storm
Friday, 4 October 2013

COMMENTARY

Taylor's Sentence Is a Warning

Judges In The Hague have upheld the 50-year jail sentence of former Liberian President Charles Taylor for aiding murderous rebels in Sierra Leone's civil war.

Taylor, 65, Had earlier been found guilty by the Special Court for Sierra Leone on April 26, 2012, of 11 counts of war crimes and crimes against humanity including terrorism, murder, rape and using child soldiers. He was sentenced to 50 years in prison.

Judges At The Special Court for Sierra Leone (SCSL) on Thursday rejected Taylor's appeal against his earlier conviction. There were griefs in some parts of Liberia as the Special court read out the sentence. Supporters of the ex-Liberians president including family members who had a memorial service last week seeking divine intervention were equally disappointed and bamboozled.

The Judgment Gives a clear signal that leaders at the echelon of power can be held accountable for corruption, misrule and war crimes as well as other serious offenses that violate the rights of the very people that they govern. Some of those who misled Mr. Taylor into this miscellany of tragedy [without properly warning of the consequence ahead] are in government and others in the private sector enjoying the plunder yank fraudulently while the once strong man will only rely on the mercy of GOD.

Like Taylor, We believe those who perpetuate evil against the Liberian people, misled their leaders or allowed the CORRUPT to go free while the JUST are plunged into the abyss of poverty will get political freedom through the ballot, not the bullet. For it is written: "those who live by the sword shall die by the sword."

We Regret The way Mr. Taylor's life is ending, but honestly if he had listened to the advice of Rev. Jesse Jackson and Assistant Secretary of State, Tom Pickering as well as other prominent Liberians [who were not in his government] perhaps the situation would have been different today.

The Truth Of matter is some of those who were closed to the ex-Liberian leader prevented others from reaching him. In the process, we presume that he was misled into taking decisions that hunted him to his 50 years jail sentence today. Even now, some of those around President Johnson-Sirleaf are allegedly doing the same thing that was done to Taylor, Samuel Doe and other ex-Presidents.

We Certainly Regret the last days of Mr. Taylor because he was our former President, but let this be seen as a warning to others that those who are unjust to the people they govern, the ALMIGHTY GOD will bring them down. Be warned that Taylor's judgment must be seen as a warning to those in power and also a lesson for them.

Kingston Law School

Undated

Confronting Mass Murderers

Date:	Thursday 3 October 2013 6:00pm - 7:30pm
Speaker:	Justice King, President of the Special Court for Sierra Leone
Venue:	Room 026, Kingston Business School building, Kingston Hill Campus

Booking Form

Justice King, President of the Special Court for Sierra Leone (SCSL) will discuss his role at the SCSL as well as the recent seminal Charles Taylor judgment, delivered by Justice King on Thursday 26 September 2013.

The SCSL was set up jointly by the Government of Sierra Leone and the United Nations. It is mandated to try those who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996.

Justice George Gelaga King has been President of the Sierra Leone Court of Appeal and of Court of Appeal of the Gambia. He served as Sierra Leone's Ambassador to France, Spain, Portugal and Switzerland from 1974 to 1978, and was at the same time Sierra Leone's Permanent Representative to UNESCO. Between 1978 and 1980 he served as Sierra Leone's Ambassador and Permanent Representative to the United Nations.

Justice King taught law at the Sierra Leone Law School from 1990 to 2005. He is Chairman of both the Sierra Leone Law Journal and the Gambian National Council for Law Reporting, and was a member of the Sierra Leone Council of Legal Education. He holds an LLB degree from London University, and was called to the Bar at Gray's Inn, London.

Justice King has been a Judge of the Special Court for Sierra Leone since 2002. He previously served two terms as President; he was first elected in 2006 and re-elected in 2007.

The New Republic (Liberia)
Thursday, 3 October 2013

"I Will Be Free" …Charles Taylor Tells Supporters, Family Members Not To Worry

On the day he departed Liberia after turning over power to his vice President Moses Z. Blah (May his soul rest in peace), former President Charles Taylor assuaged Liberians' apprehension. He said to them "don't worry, God willing, I will be back." It was difficult to decipher what his reliance was, but after time, he was apprehended in Nigeria where he sought refuge and turned over to the international community to be tried for war crimes and crimes against humanity committed in Sierra Leone and not Liberia. The former president fought tooth to nail to vindicate himself from what he called "international conspiracy" masterminded by the West, but too little and feeble was his defense as he was found guilty of "aiding and abetting" and given a 50- year jail sentence. Again, as hard he fought to overturn the guilty verdict passed by Trial Chambers via the Appeal Chambers, the verdict was upheld much to the disappointment of many Liberians, including his followers, supporters and family members. But the former president is said to be hopeful of freedom in the not too long future. The New Republic looks at his assurance.

Former President Charles Taylor who recently lost an appeal at UN-backed Special Court for Sierra Leone has reportedly informed grieving and disappointed family members and supporters not to worry about him as there are gleams of leeway for his freedom.

Sources closed to the judgment debtor (the former President) confided in this paper as quoting Mr. Taylor as saying that he was not worry about the sentence imposed on him, saying that he was aware of everything unfolding in his current nightmare.

"Don't worry; I will be free. I am aware of happenings here. May be, I will spend less the ten years in jail," Mr. Taylor was quoted as assuring his relatives and supporters few days after his verdict was upheld by the Appeal Chambers of the court.

During the judgments of the initial trial and that of the appeal trial, Mr. Taylor showed big composure and calmness, apparently aware of what lied ahead of him.

His only prayer is for him to placed behind bars in Africa, Rwanda. "I think Africa jail will be better for me as compared to the UK," he was quoted as saying.

Supporters of Mr. Taylor and ordinary have disparaged the judgment passed against him as unreasonable and a mockery to the rule of law, and accused the international community, especially the US and its allies of witch-hunt.

But another source said that Taylor knew his standing already.

"All that happened here was not strange to me. I am not worried at all. But I know I will come out. There is God. I pray regularly here and my faith is becoming stronger by the day. No one should worry about me. Just go about your normal business in Liberia. Let us continue to pray for peace to prevail in our country. But I will be back," the source who declined to be named said.

Taylor's farm revamped:

At the same time, this paper has gathered that Mr. Taylor's farm in Malekee, Bong County, is currently being worked on to have it salvaged.

According to sources in Gbarnga, the former President has provided money for the salvaging of his farm which is located on the outskirts of Suakoko.

Last Thursday, judges of the Appeals Chamber of the Special Court for Sierra Leone upheld Mr. Taylor's conviction that was handed down by the Trial Chamber in April 2012 as well as his 50 year prison sentence.

The verdict brought to an end several years of judicial proceedings during which the former Liberian president called himself a peacekeeper who made efforts to end the conflict in Sierra Leone.

Taylor also called his trial a conspiracy by western countries, led by the United States and Liberia, to keep him out of Liberia.

The former Secretary General of Taylor's party-National patriotic Party(NPP), Chief Cyril Allen told international media after the verdict was upheld last week that the court was only set up to subdue African leaders.

"Only African leaders they target and only a few people from Eastern Europe. That court is all about international gangsterism. The judges only had to do their work for what they are being paid to do. All they did was to hold the planned game."

For his part, former Security Advisor to Mr. Taylor at the time, John T. Richardson also told international media that he was not surprised of the verdict. But added, the he believes Taylor's trial was turning a new page in African mind.

"I think the trail of Mr. Taylor is bringing a new wave of revolution of the minds in Africa today. The AU has taken a stand, Ivory Coast has said that they will put on trial former president's wife; Mrs. Gbargbo, Kenya has taken a stand and Libya has also spoken. Libya has said that they will put on trial the son of former president Gadafi. But history will judge us. From the onset, I never had trust in that court."

Presiding Judge of the Appeals Chamber, Justice George Gelaga-King, a Sierra Leonean said while he (Taylor) served as President of Liberia, West African leaders put him in a position of trust to promote peace in Sierra Leone, but abused that trust by aiding and abetting the commission of crimes by Revolutionary United Front (RUF) and Armed Forces Revolutionary Council (AFRC) rebels in Sierra Leone.

Taylor had raised more than 40 grounds of appeal, arguing before the Appeals Chamber that the Trial Chamber made several mistakes in assessing the evidence against him and that his 50 year jail sentence was "manifestly unreasonable."

He also argued that his fair trial rights were violated and that some aspects of the judicial process were irregular. But the Appeals Chamber today disagreed with Taylor, calling his sentence not only fair and

reasonable, but also that his allegations of the process being unfair and irregular were “unsupported, ingenious, and ludicrous.”

Justice King said that the Trial Chamber had “thoroughly evaluated the evidence according to its credibility,” that they “properly applied the law according to the rules and statute of the Court,” and that Taylor was “fully held liable for his own conduct.”

However, Morris Anyah, who represented Taylor in the appeal process, told journalists at a press briefing after the judgment was announced that Taylor was hopeful that the judges would follow the standard set by the Appeals Chamber at the ICTY. Sadly for him, that was not the case.

As said by a member of his defense team, Taylor himself accepted at this point that most of his life will now be spent in jail.

Dovjacobs.blogspot.com
Thursday, 26 September 2013
Opinion
http://dovjacobs.blogspot.com/2013/09/first-thoughts-on-taylor-appeal.html

Spreading The Jam

First thoughts on the Taylor Appeal Judgment: Sentence upheld and Perisic blasted

As I logged on to the livestream of the SCSL this morning at 10.30, there was a song playing on a loop with the most extraordinary lyrics: "i just can't stand to see you go, i don't understand where we went wrong" (it's a song by Bonnie James called Happy Home). For a second I thought this was a subliminal way for the Court to announce an acquittal... But it turned out not to be the case, as the Appeals Chamber of the Special Court for Sierra Leone has confirmed the 50 year sentence against Charles Taylor. Having followed the reading out of the summary, there is mostly nothing very surprising about the Appeals Judgment. They confirm that crimes against the civilian population were committed by the RUF-AFRC and that Taylor had some role in the events. There are a few points that deserve some comments in my view, until we actually get the judgement.

First of all, the AC discussed the question of evidence. It essentially approved of the Trial Chamber's approach to evidence, specifically rejecting the claim from the defense that uncorroborated hearsay evidence as a sole basis for conviction should not be allowed. I find that quite appalling frankly, but thus is the nature of the international criminal procedure.

Of course, everybody was waiting for the discussion on aiding and abetting after the Perisic appeal judgement at the ICTY on the question of "specific direction". As discussed by Manuel Ventura here, there could have been an impact on the Taylor appeal judgement. It turns out that there wasn't because the Appeals Chamber upheld the Trial Judgment on the fact that you need a "substantial contribution" to the crime for the actus reus of aiding and abetting to be constituted, and that knowledge is sufficient mens rea. The Appeals Chamber seems to have gone out of its way to not just ignore Perisic, but actually blast it. In a separate development of the summary, the judge said that the AC was not convinced by the Perisic judgment which "does not contain a clear and detailed analysis". I'm not sure I see the point of doing that. This little ego contest between international judges has no place in what is arguably one of the most important judgements in ICL. The SCSL is not bound by ICTY case law. If you're not going to use it, just don't use it. Judges should keep this kind of ultimately irrelevant discussion for the cafeterias of their respective tribunals, the problem being of course, that they wouldn't get as much attention if they did... In any case, given the historically low quality of legal reasoning in the SCSL case law, if I were a supporter of the Perisic approach, I would be happy for the SCSL to disagree with me, rather than the opposite...

While we're on modes of liability, I found the way the judge discussed the distinction between the various modes (ordering, planning, instigating, aiding and abetting...) indicative of a certain sloppiness in the way these modes have been approached. Indeed, in rejecting the Prosecution ground of appeal relating to the fact that Taylor was not found guilty under ordering and instigating, the AC found that aiding and abetting and planning were more "fitting" in relation to the conduct of Taylor. However, it's not a question of more "fitting" or not, it's a question of satisfying a legal definition or not. The mode of liability should not depend on the judges' impression of the narrative of the case. It should depend on whether the Prosecutor has proven beyond reasonable doubt that certain necessary criteria are met.

The AC also addressed the question raised by alternate Judge Sow at the end of the Trial Judgment on whether there were adequate deliberations. The judges, taking the opportunity to remind the world that Sow should never have spoken, found that there had in fact been adequate deliberations. I also seem to have understood that the defense claimed that the absence of Sow's name on the cover page of the Trial Judgment is a violation of the rights of the defense... Not their strongest point.

Finally, on sentencing, the Appeals Chamber found that the Trial Chamber had erred in considering that aiding and abetting should carry a lower sentence. The reasoning was a little circumvoluted, but it seemed to have several dimensions, 2 of them striking me as unconvincing. One of them is that the Statute does not distinguish the different levels of commission. That's true, but the statute does not distinguish much of anything. It does not contain Joint Criminal Entreprise, nor does it discuss the criteria for aiding and abetting, so it's not in my view a real argument. The second argument that struck me, is that creating a hierarchy between modes of liability would somewhat be unfair for the defense. I can't even start imagining how that argument works, so I'll just leave it at that.

More generally on sentencing, this confirms my impressions from the Trial Judgment: I really don't see the point of all those discussions on sentencing in international law, when all the practice shows that it is essentially a random guessing game. There is no indication of what crime or count carries what sentence, so we are left with a lump sum assessment that cannot be analyzed. For example, some municipalities were removed from the conviction in Taylor, without any impact on his sentence. I think this is probably contrary to the nulla poena sine lege principle, but in any case, we should stop commenting on sentencing criteria in the abstract until judges are required to specifically explain what sentence is given for what crime and what reduction or increase comes from mitigating and aggravating circumstances.

Possibly more to come when I see the actual judgment. Stay tuned...

Dov Jacobs
Assistant Professor in International Law and International Criminal Law at Leiden University. Specialist in most general topics that allow for reinventing the world around a good bottle of wine (preferably Bordeaux...). contact: dovjacobs@gmail.com

SenseTribunal
Sunday, 29 September 2013

A Proper Lesson to 'Older Brother'

Charles Taylor's judgment rendered last week by the Special Court for Sierra Leone was a real lesson for its 'older brother', the International Criminal Tribunal for the former Yugoslavia

Once upon a time, not so long ago – only a year or two – the Tribunal for the former Yugoslavia was held up as an unattainable ideal for all the other international criminal courts: ad hoc tribunals, special and mixed courts, and indeed for the International Criminal Court. Then, almost overnight the ICTY became an 'ugly duckling' of international criminal justice, the subject of criticism and ridicule, not only among its opponents. Its erstwhile supporters, mainly human rights activists and humanitarian law NGOs throughout the world, and war crime victims' associations in the region, were just as disaffected. And then, last week, the ICTY's 'younger brother' – Special Court for Sierra Leone (SCSL) – gave the Tribunal a proper lesson.

The Appeals Chamber of the SCSL in its Judgement on the conviction of Charles Taylor unanimously and utterly rejected the ICTY highly controversialinjection of a "specific direction" requirement into the form of criminal responsibility known as Aiding and Abetting in fully acquitting Momčilo Perišić earlier this year. The Taylor Appeal Judgement, delivered 26 September, upheld the judgement and 50-year sentence handed down by the Trial Chamber in April 2012 for war crimes and crimes against humanity. The SCSL Appeals Chamber, which is required by its statute (also created by the UN Security Council) to be guided by decisions of the ICTY Appeals Chamber, found significant fault with the Perišić appeal analysis in bold and pointed language.

To recap the Perišić appeal, the Appeals Chamber presided by Judge Meron, set aside years of ICTY precedent on whether it was necessary to show that the assistance (or aiding and abetting) given by an accused toward the crimes with which he is charged must be "specifically" – rather than "in some way" – directed. Several ICTY appeal judgements, especially Brđanin, Krstić, and Blagojević and Jokić, had found that such specific direction was not a necessary element of proof, and that an accused's acts need only have a substantial effect on the commission of the crimes with which he is charged. Meron's Chamber (except for Judge Liu), in a judgement known more for its brevity than its analysis, returned to the well-worn pages of the Tadić appeal judgement to discover – as though it held some secret wisdom long hidden from the eyes of lesser judges – crucial language which imposed a specific direction requirement.

As we have noted earlier, the Perišić appeal judgement was no aberration in terms of judicial "creativity", but only the final chapter of the 'Meron Trilogy' overturning trial chambers in both the ICTY and ICTR in Gotovina and Markač (Judges Fausto Pocar and Carmel Agius dissenting) and Mugenzi and Mugiraneza (Judge Liu also dissenting) to the tune of 129 years confinement for serious violations of international humanitarian law in the former Yugoslavia and Rwanda.

Enter the SCSL Appeals Chamber, five international and independent Appellate Justices including Presiding Judge George Galaga King of Sierra Leone and an American judge of no small distinction in international courts, Justice Shireen Avis Fisher, formerly of the War Crimes Chamber in the Court of Bosnia and Herzegovina. This Chamber spent at minimum 25 pages (compared to a mere few pages in the Perišić appeal) analysing at length the issue of "specific direction" as a non-requirement of Aiding and Abetting law. Here are the key passages forthose who prefer to consult the direct text: paragraphs 362-385

and 466-486 of the unanimous decision, and then paragraphs 709-721 of the Concurring Opinion by the women judges, Justice Fisher, joined by Justice Renate Winter.

To summarise, the Taylor Appeal Chamber considered the Meron-led Perišić appeal judgement to be no more than "persuasive, not binding, authority", meaning it did not have to legally follow it, but was free to use its own reasoning. It then found, in five stunning paragraphs (476-480) that the "Perišić Appeals Chamber did not assert that 'specific direction' is an element under customary international law" (customary international law being the gold standard of international law at large), noting that the phrase "customary international law" does not even appear in the Meron-led Perišić appeal judgement, apart from Judge Liu's dissent. This was a heavy blow, but only the first of many blows. For example, that the ICTY Appeals Chamber has not conducted a "clear, detailed analysis" of the authorities supporting the conclusion that "specific direction" as an element of aiding and abetting under customary international law. This was followed by many instances of "not persuaded", "further not persuaded", "does not agree", and a not-so-ringing endorsement of Meron-led ICTY law as "novel".

The SCSL Appeals Chamber found further that the Tadić Judgement not only ignored customary international law, but that "its discussion of aiding and abetting was limited to explaining the differences between aiding and abetting liability and joint criminal enterprise liability" and therefore useless for the novel purposes of Perišić Appeals Chamber.

The SCSL Appeals Chamber considered the ICTY failure to apply customary international law to the question of "specific direction" as just another form of judicial creativity, recalling the words of former ICTY Judge Shahabuddeen of Guyana that "the danger of legislating arises not only where a court essays to make law where there is none, but also where it fails to apply such law as exists; the failure may well be regarded as amounting to judicial legislation directed to repealing the existing law".

The Concurring Opinion of Justice Fisher, joined by Justice Winter, particularly found it to be an affront to international criminal law the Defence suggestion that "the Judges of this Court would be open to the argument that we should change the law or fashion our decisions in the interests of officials of States that provide support for this or any international criminal court". This is exactly is what Perisic's defence openly suggested in the appellate proceedings, but the majority - with notable exception of Judge Liu - did not felt offended but, on the contrary, showed that it was indeed open to such arguments.

What it will mean for the remaining ICTY appeals cases remains to be seen. Cases yet to be decided by the ICTY (and even the so-called MICT) Appeals Chamber will undoubtedly include issues of aiding and abetting responsibility. While the Taylor Appeals Judgment will not be binding on ICTY appeals judges, it will be hard to deny the persuasive effect of its thorough and detailed analysis under binding customary international law, what the Perisic Appeal Judgement failed to undertake.

Christian Science Monitor
Thursday, 3 October 2013

Revenge or retribution: Is it possible to prosecute war crimes for Syria?

A blue-ribbon panel of veteran legal experts is to unveil a blueprint for a war crimes tribunal for post-war Syria. Realistic? Naïve? Premature? Or just plain ol' essential?

By Mike Eckel, Correspondent

Survivors from what activists say is a gas attack are seen along a street in the Duma neighborhood of Damascus, Syria, August 21, 2013.

Bassam Khabieh/REUTERS

The videos of people writhing and crying in a Damascus suburb – civilian victims of an apparent sarin gas attack – prompted international outrage and nearly resulted in missile and air strikes by the US against Syria.

Yet while there is little doubt that a war crime was committed in the Aug. 21 event, the perpetrators remain unknown and unpunished. The same is true for the litany of atrocities committed during the brutal two-plus years of the Syrian war, which has left more than 100,000 people dead and more than a million people displaced.

But an influential group of international legal experts is working to make sure that justice will come eventually to Syria. On Thursday, an elite group made up of prosecutors, judges, and law professors closely involved in creation of similar courts for Rwanda and Yugoslavia will unveil in Washington the first substantive proposal for a war crimes court for a post-conflict Syria.

RECOMMENDED: Syria's refugee crisis

Informally called the Chatauqua Blueprint, the 32-page proposal is being circulated among US government officials and has been in the works for two-plus years, engineered and supported by figures like Richard Goldstone, the chief prosecutor of the International Criminal Tribunal for the former Yugoslavia; David Scheffer, the former US ambassador-at-large for war crimes; and Cherif Bassiouni, an

eminent human rights scholar who helped set up the legal infrastructure of the International Criminal Court. The group also includes veteran jurists of other war crimes tribunals like Sierra Leone, and Iraq, and includes Syrian opposition members.

“The only way for the country to move forward, and for the people to regain their society and lifestyle and be welcomed into the international community, is if they embrace justice,” says Michael Scharf, a law professor at Case Western Reserve University in Cleveland and co-chairman of the proposal’s drafting committee.

“If the conflict ends and you have groups seeking nothing but revenge, that’s not good. This is so that Syria doesn’t remain a basket case, or become a lawless country like Somalia. That’s not good for anybody,” says Mr. Scharf, who advised some of the judges at the Iraqi court that tried Saddam Hussein.

The proposal, which will be distributed to Security Council members, UN agencies, human rights groups, and others, lays out a rough outline for a special court similar to others that have been created in recent years, such as in Sierra Leone, to try Charles Taylor, or in Cambodia, to prosecute top members of the Khmer Rouge. But it leaves unresolved some essential details, such as whether judges would be Syrians, foreigners, or both; who would be targeted for prosecution; whether the death penalty would be included.

The possibility of setting up a Syrian-based tribunal, or one that has participation of international legal experts, reflects the fact that Syria isn’t a member of the ICC and it is unlikely that the UN Security Council would authorize the ICC to open a criminal case.

The open details also reflect divergent opinions between Western legal experts and Syrians, which included judges and prosecutors who currently work for the government of President Bashar al-Assad. Some of the Syrian judges participated in discussions with members of the drafting committee, for example, sneaking across the border into Turkey for meetings, Scharf says.

David Crane, a Syracuse University law professor and former chief prosecutor of the Special Court for Sierra Leone, says the fact that the war was continuing, with no foreseeable end in sight, didn’t preclude coming up with a framework for “judicial accountability” now – for either top members of the Assad regime or rebel groups.

Being prepared ahead of time, he says, also would help avoid the “Libyan result” – when Libyan leader Muammar Qaddafi was beaten and gunned down while fleeing rebel fighters in 2011.

“We’re trying to say you can get your revenge and retribution by using the rule of law, not by using the barrel of the gun,” Mr. Crane says, who also works with the Syria Accountability Project, which has been gathering evidence and laying the groundwork to help any future prosecutions.

“I’m very aware that this could be a fool’s errand, and I may wake up and Assad could end up getting asylum in Russia or Iran…. It’s certainly a real possibility,” he says.

The US State Department had no comment on the proposal on Wednesday.

Ahead of Thursday’s unveiling, some legal experts and Syrian activists voiced doubt about how realistic the tribunal would be, given how ruthless some of the documented crimes and attacks committed by government forces have been.

“We would need a new Syrian government to set up and carry out this proposed statute,” wrote Hofstra University law professor Julian Ku, on the legal blog Opinio Juris. “And to get that new Syrian government, would we have to promise some sort of immunity to the old Syrian government that committed all those horrible crimes we want to prosecute?”

Mohammad al-Abdallah, a Syrian exile who is executive director of the Hague-based Syrian Justice and Accountability Centre, says the proposal stands to be labeled as a US proposal, which would undermine its legitimacy in the eyes of many Syrians.

“The US is not the best country to announce judicial accountability mechanism for Syria,” Mr. al-Abdallah says. “It will be looked as the US version of accountability. We need accountability for everyone.”

“It’s not the right time to do this,” he says. “There’s no way to speculate what will come next, what will happen with the war…. Such a big tribunal will have big question mark about legitimacy, justice on behalf of whom?”

Last month, an investigative panel set up by the UN Human Rights Council released its latest report, documenting instances of government troops of massacring civilians, bombing hospitals, and committing other war crimes, as well as opposition forces committing executions, hostage-taking, and shelling civilian neighborhoods.

“The perpetrators of these violations and crimes, on all sides, act in defiance of international law. They do not fear accountability,” the panel’s report said. “Referral to justice is imperative.”

Voice of America
Thursday, 3 October 2013

Gambia Withdraws From Commonwealth

By James Butty

President Yahya Jammeh of The Gambia has unilaterally taken his country out of the Commonwealth, becoming the first African leader to do so since President Robert Mugabe took Zimbabwe out in 2003.

-SNIP-

Gambian-born Sulayman Nyang, senior professor and former chair of the African Studies Department at Howard University in Washington, D.C. said some western governments' rejection of Jammeh's anti-gay rhetoric and dismal human rights record might be two reasons behind his decision.

-SNIP-

"When all the facts come to light, you are going to see people looking at Jammeh at two levels. Those who are fighting for human rights will tell the story of Jammeh and his dictatorship. So, what I am emphasizing once again is that this decision of Jammeh is also occasioned not only by his state the UN against gay groups, but also because of the fact that he is very much aware of the fact that those who opposed to him are going to connect the dots, and some of those dots will lead him to [to former Liberian President] Charles Taylor and all the dictators in Africa," he said.

-SNIP-

BD Live (South Africa)
Friday, 4 October 2013
Opinion

Africa's animosity to ICC goes beyond justice, into politics

by Dan Kuwali

TEST CASE: Kenyan Deputy President William Ruto, right, reacts as he sits in the courtroom before his trial at the International Criminal Court in The Hague in September. Picture: REUTERS

KENYA's parliament voted to withdraw from the International Criminal Court (ICC) last month, raising the prospect of a sovereign state removing itself from the court's jurisdiction for the first time. Nairobi's intended action may lead to the irretrievable breakdown of the relationship between the ICC and Africa, especially if other African governments follow suit.

The continuing prosecution of Kenya's sitting president, Uhuru Kenyatta, and his deputy, William Ruto, by the ICC has clearly worsened the court's turbulent relationship with Africa. There is a perception that the ICC is a western court employed to try African crimes, given its apparent obsession with prosecuting Africans and portraying Africa as the theatre of atrocity crimes.

This "Africanisation" of prosecutions seems to arise from geopolitical pressures for the court to avoid confrontation with major powers and its non-African funders. The ICC has turned a blind eye to serious crimes in other parts of the world — such as Chechnya, Palestine and Sri Lanka — only hunting Africans as soft targets.

The speed with which the United Nations (UN) Security Council referred the situations in Sudan's Darfur region in 2009 and Libya in 2011 to the court — but not, so far, Syria where more than 100,000 people have died — supports the suggestion that there is an anti-African bias at work here.

Criticism that the ICC jeopardises political settlements to make and keep peace in its pursuit of justice was recently raised at a public dialogue held by the Centre for Conflict Resolution in Cape Town to discuss the court's role on the continent.

For example, despite the concerns raised by the African Union (AU), the ICC proceeded to issue an arrest warrant for the Sudanese president, Omar al-Bashir, in March 2009, a move which was vehemently criticised by the continental body.

Sudan is not a member of the court and three of the five members of the UN Security Council — China, Russia and the US — are themselves not members of the ICC either.

The selection of cases by the court — particularly under its previous chief prosecutor, the Argentinian lawyer Luis Moreno Ocampo (2003-12) — has also tended to favour "victor's justice". For instance, in the case of Côte d'Ivoire, the vanquished presidential contender, Laurent Gbagbo, is now in the dock, while the victor in the violent aftermath of the 2010 national poll there, Alassane Ouatarra, remains free, despite his fighters also being involved in atrocities.

In all the cases before the ICC, the prosecutor has focused on alleged abuses by rebel fighters to the exclusion of those reportedly committed by government troops.

The other problem is whether trying suspects in Europe — at The Hague in the Netherlands — can deter potential perpetrators in Africa. Justice delivered where the evidence is, and where the witnesses and victims reside, has a cathartic effect, promoting healing and post-conflict reconciliation more effectively than justice delivered in the remote confines of the court's European dock.

However, the ICC's new chief prosecutor since June last year, the Gambian jurist Fatou Bensouda, contends that the court is protecting Africans rather than "targeting" them, since all the victims are Africans. She maintains that her choice of cases is based on the relative gravity of abuses and that the crimes committed in Africa are among the world's most serious. She also argues that the majority of cases — such as in the Democratic Republic of Congo, Central African Republic, Mali, and Uganda — have been referred by African states themselves, and that she is also analysing situations outside the continent.

As to why the ICC has only focused on rebels and not government troops, she contends that only particularly serious cases can be considered by the court, given its budgetary constraints. ICC supporters also argue that national legal systems in Africa are weak, which has allowed the court to assert its jurisdiction on the continent more effectively than elsewhere.

The animosity directed towards the ICC by the AU is partly inspired by the UN Security Council turning a deaf ear to its request in 2009 to defer the al-Bashir indictment. The continental body's official position is not to co-operate with the court in the arrest and surrender of Sudan's president. The AU has also rejected the ICC's bid to establish a liaison office at its headquarters in Addis Ababa. The AU has highlighted "the need for international justice to be conducted in a transparent and fair manner, in order to avoid any perception of double standards, in conformity with the principles of international law". However, the continental body has made little or no mention of the interests of victims in its public arguments against the court.

Perceptions of the ICC in Africa have been damaged by insufficient efforts on the part of the court, especially by Ocampo, to clarify the basis for its prosecutions on the continent, which led the AU to conclude that the ICC was handing out "Ocampo's justice" in Africa.

The "Bensouda effect" of an African jurist at the court's helm has not yet eroded the acrimony between the ICC and the continental body. The pressing need for some kind of rapprochement between the two

bodies has been highlighted by Kenya's plan to withdraw from the court, although such a move would have no bearing on the cases against Kenyatta and Ruto since it could not be applied retroactively.

ne way to improve relations might be for the AU to allow the court to open an African liaison office in Addis Ababa, which could help to demystify the ICC's work on the continent and keep open the lines of communication between the two institutions.

The court should extricate itself from the entanglements of global power politics and demonstrate its independence in order to achieve reconciliation with the AU and its 54 member states, 34 of which are members of the ICC. The court also needs to show genuine support for the principle of complementarity by assisting African states in building domestic initiatives to prosecute perpetrators of international crimes in national courts. If African governments make concerted efforts to facilitate the arrest, extradition, and prosecution of their own, they can force the ICC to focus elsewhere.

The crimes under the jurisdiction of the court often emanate from internal conflicts in which perpetrators may also be victims.

In this context, judicial proceedings, which are adversarial in nature and aim to declare guilt or innocence, will often fail to settle questions pertaining to the root causes of conflicts in which neither side is wholly innocent nor entirely guilty.

To remedy this problem, more attention should be paid to the factors that trigger the crimes in the first place.

The causes of the atrocities that lead to ICC prosecutions are generally political in nature and require political, rather than judicial, solutions. Since the prevention of atrocities may often be regarded as more worthwhile than penalisation of perpetrators after the fact, the international community should help Africa to address the roots of the political, religious, ethnic, social, and economic problems that spark the conflicts, which lead to the crimes being investigated by the ICC.

Meanwhile, if African leaders do not want the ICC to represent victims and pursue perpetrators of crimes on the continent, they should stop committing, or apparently supporting the commission of, such crimes.

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US Sanctions Five Nations Over Child Soldiers

The United States moved to block military assistance to five countries, including three in Africa, over their use of child soldiers in armed conflicts, U.S. officials said on Thursday.

The sanctions affect Central African Republic, Rwanda and Sudan as well as Burma (also known as Myanmar) and Syria, according to the U.S. State Department.

"Our goal is to work with countries who have been listed to ensure that any involvement in child soldiers — any involvement in the recruitment of child soldiers — stop," U.S. Assistant Secretary of State for African Affairs Linda Thomas-Greenfield said.

Three other countries whose militaries are known to recruit and use child soldiers, however, received waivers — Chad, South Sudan and Yemen, another State Department official said, speaking on condition of anonymity.

The Democratic Republic of Congo and Somalia received partial waivers, the official said, adding that the Obama administration has decided such exemptions "would be in the national interest of the United States."

By law, the U.S. State Department must keep track of nations whose governments recruit and use children as soldiers as part of its annual report on human trafficking. The 10 countries affected by Thursday's actions were all cited in the State Department's latest findings, issued in June.

Those countries can then be denied some types of U.S. funds for military assistance unless the White House grants a waiver. The 2008 law also allows U.S. officials to block licenses needed for those nations to buy military equipment.

It was not immediately clear how much U.S. funding would be blocked because of Thursday's action.

Rwanda was not granted a waiver because of its role backing the rebels in nearby Democratic Republic of Congo, Thomas-Greenfield, the top U.S. diplomat for Africa, said in an online forum with reporters broadcast on the State Department website.

U.N. investigators and the Congolese government have accused Rwanda of sponsoring the rebellion, a charge Rwanda denies.

"Any support of those rebel groups is seen as contributing to conflict in the region," Thomas-Greenfield told reporters, adding that U.S. officials will continue to discuss the issue with the Rwandan government.

The United States will still support peacekeeping efforts in Rwanda, the other official added.