

**SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE**



Arial view of Bumbuna Bridge

PRESS CLIPPINGS

Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office

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Thursday, 7 June 2012

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Local News

Charles Taylor and His Demand for My Head / <i>New Vision</i>	Pages 3-5
Sierra Leone Says 'Justice Done' With Charles Taylor / <i>Update</i>	Page 6
Liberia to Pay Salone or Not? / <i>The Exclusive</i>	Page 7

International News

...Does Justice Come at a High Price? / <i>Policimic.Com</i>	Page 8
Liberia: Ivorian Government Foes Wage, Plot Attacks / <i>Human Rights Watch</i>	Pages 9-16
Trial Chamber I Issues First Trial Judgment of the ICC / <i>Lubangatrial.Com</i>	Pages 17-21

New Vision
Thursday, 7 June 2012

...Guest Writer....

Charles Taylor and His Demand for My Head



By Patrick S. Bernard, USA.

On May 30, 2012 former rebel leader, war lord, and President of Liberia Charles Taylor Charles Taylor was sentenced to 50 years in prison. This followed his conviction on April 26, 2012 by the United Nations-backed Special Court for Sierra Leone in the Hague for war crimes and crimes against humanity in the Civil War that engulfed Sierra Leone for over ten years (1991-2002). Taylor was found guilty for having aided and abetted crimes including rape, murder, the use of child soldiers, acts of terrorism, sexual slavery, enslavement and pillage, inhumane treatments including mutilations and amputations in that conflict. However, it should not be forgotten that Taylor also started and oversaw a fratricidal Civil War that killed thousands in his own country, Liberia. His sentence represents for many in West Africa the end of an era that promoted the violent and unredeeming ideology that terrorizing, dehumanizing and murdering innocent citizens on a large scale, an ideology Taylor basked in when he started his internecine war against then Liberian President Samuel K. Doe in December 1989, was the ultimate source and maintenance of power. In Sierra Leone in particular, his sentence is cold comfort for the thousands of people wantonly slaughtered, and countless living others who had their hands, arms, legs, or other body parts hacked, because of Taylor's support of Sierra Leone's rebel leader and bloody-minded war lord Corporal Foday Sankoh (who died in 2003) and his Revolutionary United Front (RUF) rebels who committed some of the most atrocious brutalities in any civil war in recent memory.

I would have been among those murdered by Taylor and his Sankoh-backed rebels. In fact, Taylor declared me a legitimate target, "public enemy number one" as he called me then, to be eliminated because I had dared to publish a letter in 1993 that linked him directly to the civil war in Sierra Leone. In the hey-days of Taylor as the indisputable purveyor of violence in that region, linking him to any strand in the brutal conflict in Sierra Leone amounted to committing a treasonable offence. That exactly happened when I published the letter: Taylor publicly offered a ransom to anyone who would take my head to him in Gbarnga, his rebel headquarters in Liberia, for what he also called my "anti-revolutionary" activities. In Taylor's West Africa of the early '90s, such a proclamation was, obviously, a death sentence.

More to that letter anon. First, the background. In 1992, I was a journalist editing a newspaper in Sierra Leone called Liberty Voice. By the time I became editor, Taylor had overran Liberia and taken over the country (with the exception of the capital Monrovia) then led by Samuel Doe. Doe was later captured and brutally murdered by the rebel faction led by Prince Johnson who had fought alongside Taylor. Taylor's pronouncements as he fought the war in Liberia did not hide his territorial ambitions; nor did they hide his intentions of spreading his brand of rebel warfare to other parts of West Africa to achieve those ambitions. No sooner had Taylor gained ascendancy in Liberia than the major regional players in West Africa realize the destabilizing danger he posed to the region and to their own entrenched authority. They decided that Taylor's influence in the region had to be nipped in the bud or contained to Liberia. To pursue this objective several West African countries, spearheaded by Nigeria and Ghana, started a strategy to contain Taylor by forming in 1990 the Economic Community of West African States Monitoring Group, ECOMOG for short, a multilateral armed force empowered to intervene in Liberia. ECOMOG chose Sierra Leone as its operational headquarters.

Sierra Leone shares a lengthy land border with Liberia. After ECOMOG's intervention in Liberia in 1990, the Civil War in Sierra Leone started along the Sierra Leone-Liberia border in 1991. Taylor had previously threatened to declare war on Sierra Leone before the intervention, so when ECOMOG was deployed in the country he unambiguously stated: "Sierra Leone will taste the bitterness of war." But once the Sierra Leone civil conflict began, Taylor religiously denied that he had anything to do with it. And there was no direct evidence to counter his denials.

Meanwhile, a coup d'état occurred in Sierra Leone in April 29, 1992 led by young military officers some of whom had been deployed in ECOMOG in Liberia and later returned to join the fight against Sankoh's rebels along the border. They overthrew the country's President Joseph Momoh who they said, among other reasons, was inept in fighting the war against Sankoh. (The military leaders were later to be ineffective in pursuing the war as well.) With the change, the new military government vowed to fight the war and crush Sankoh's rebels; in fact, the new government's first proclamation promised unequivocally to forestall the gains Sankoh had made in the country. By now Sankoh had partial control of Kailahun District which bordered Liberia, and was advancing to take the District's Daru Barracks, the largest military base outside of Sierra Leone's capital, Freetown. Sankoh's rebels also had infiltrated the diamond-rich Kono District and seized some territories where they were already mining diamonds which they sent to Taylor in exchange of arms and other military materiel. (Thus started what later became known as "blood diamonds." Revenues from blood diamonds supported the war in Sierra Leone as well as Taylor's unapologetic splendor and flamboyant life-style in Gbarnga.) To pursue their war policies, the new military leaders launched counter offensives against the rebels, and in one such attack they overran Pendembu, a strategic town in Kailahun District which Sankoh had made his headquarters for his RUF rebels. The soldiers drove Sankoh and his rebels out of Pendembu and seized weapons, vehicles, maps, and rebel paraphernalia.

Among the latter were letters from Taylor and Sankoh. At my newspaper we laid hands on the letters of Sankoh to Taylor, and without hesitation published the one that unequivocally showed that both were in touch about the war in Sierra Leone. We published the letter under the caption "Dear Charles Taylor" in the June 16, 1993 edition of the newspaper (PDF file attached). By doing so, we became the first media outlet to show with documentary evidence that Taylor and Sankoh had direct contacts, and that the former supported the latter in the war in Sierra Leone. Here is the letter:

Revolutionary United Front of Sierra Leone
5th May 1992

His Excellency,
CIC Charles Gbankang Taylor
President, P.P.R.A.G.
Gbarnga, Liberia

Dear Brother,

I am thanking you very much for the brotherly help you are rendering me in my struggle. This struggle itself has reached a crucial and sensitive stage wherein I cannot afford to give up. However, there is an urgent need to sit and discuss issues on the current development in Sierra Leone and also on the deployment of ECOMOG at the borders. These events are crucial and we need to address ourselves to them. I am therefore requesting an audience with you before I leave.

I appreciate the five boxes of A.K. 47 raffle [sic] ammunition and ten boxes of R.P.G. gun rockets [sic] which I should receive from you today. But I have just received a radio message from General Depoe that our men have encircled Daru Barracks and they are waiting to do the final assault.

I believe what you have offered is not enough to carry out "Operation Capture Daru." So I am asking you in the name of Almighty God to kindly increase the number of boxes of A.K. 47 ammunition to (20) twenty and that of the RPG

rockets [sic] to (12) plus some baretta [sic] rounds. This will sustain me for some time while awaiting the long term supply that you have promised me. Moreover, it will boost the moral of my fighters who are in top form to advance on the enemies.

Lastly, today I am a common laughter because of lack of vehicle for my mobility. My only jeep is in the garage beyond repairs. I do ride on a Toyota truck for a long distance journey or beg for lift here in town. Such practices pose a high risk on my security but I have no alternative. I am asking you to arrest this situation by providing me even a second hand pick up [truck] to enhance my mobility. While anticipating your usual consideration, I would be grateful to you for your continued support in my struggle to liberate my people.

Kindest regards

Yours sincerely,

Cpl. Foday Sankoh

The letter revealed indisputably the contact between Taylor and Sankoh, and the support the latter was receiving from the former in his war efforts. The letter further exposed the asymmetrical relationship between them (Taylor providing arms and ammunitions while Sankoh could not afford a vehicle, for instance). More significantly the letter demonstrated that Taylor provided military support, weapons, and strategy to Sankoh. On the military side also, the letter showed their awareness of the deployment of ECOMOG forces and the calculations they needed to make to deal with this multilateral force. (One of the counts the UN-backed court found Taylor guilty of in its April 26 judgment reads: Taylor had "aided and abetted the rebels by providing them with arms and ammunitions, military personnel, operational support and moral support.") Sankoh's letter of 1992 had established this indisputable truth.

At Liberty Voice, the letter was a journalistic coup. It was reported in newspapers and radio stations, and its contents traveled far and wide in West Africa and beyond. Taylor could not deny this unambiguous evidence that linked him to the war in Sierra Leone.

To say that Taylor was dissatisfied with the letter's publication is an understatement. He was furious, and madly so. His response was swift. From his radio station in Gbarnga and also through other international radio outlets, he categorically denied any such connections that the letter revealed. Specifically, he decried the "false" information I had peddled linking him to Foday Sankoh, whom he said he had never met. (Taylor and Sankoh in fact trained in Libya in the 1980s.) He not only stopped at the denial, but also promised to "eliminate" me from the face of the earth. He declared me an enemy of the rebel cause who must be purged through death by bringing my head to him at Gbarnga. I was scared. All of us at Liberty Voice were scared. In fact, we were so scared that the day and week after the publication we didn't go to the office.

We had to be scared.

By this time, Taylor's rebels, operators, and commandos had infiltrated Sierra Leone, which they had entered furtively, fighting alongside Sankoh's rebels. Also, Taylor had created an efficient network of spies and informants who were as effective as they were ruthless. They crisscrossed Sierra Leone and Liberia murdering anyone they perceived to be a threat to Taylor and his brutal rebel cause. Among their targets were journalists who were critical of or questioned Taylor's agenda. Indeed many journalists disappeared during Taylor's ruthless quest for power in Liberia. (Many were also later killed in Sierra Leone.) His ransom decree following the letter's publication meant that I was not to be an exception. Taylor had a devious and devilish mind when it came to dealing with those he considered his "enemies." This spirit of deviousness animated the barbarously vile vision he trumpeted unapologetically through a monstrosity of violence that was unforbearing as it was ruthless. His devilish mind fed his appetite for power and guided his macabre uses of violence in pursuit of his agenda of revenge.

and retribution. And no site was more central to the vistas of violence Taylor put in place than Gbarnga, where he had asked for my head to be taken.

Taylor enamored West Africa from his headquarters in Gbarnga where he gave charismatic radio interviews, characterized by his exaggerated and calculated mannerisms, assured arrogance, and a flippancy bursting with megalomania. He laced his bombastic rhetoric of self-admiration with insults and intimidation against anyone who questioned his legitimacy or connected him to the war in Sierra Leone. But Gbarnga was not only about flowery speeches: it was there Taylor engineered the tools of dehumanization that Sankoh was to finesse in Sierra Leone.

From Gbarnga, he developed the mechanisms of violence that promoted a reign of terror that flagrantly disregarded the sanctity of human life. It was from Gbarnga that he institutionalized the rituals of violence that were to characterize his approach to power, whose hierarchies, flamboyance, and protocols he simultaneously violated and venerated. Gbarnga represented Taylor's glamorization of brutality as well as the propagation of a brand of violence that was pathological, bizarre and apocalyptic in its vision and practice:

Taylor's rebel war, and its export to Sierra Leone, represented a paradigmatic shift in the spectacle of violence in West Africa, a region by this time that was infamous for its unending military coup d'états and public executions, of mostly politicians. But from Gbarnga, Taylor introduced to West Africa a version of violence that was indiscriminate and mutable; it massacred innocent and helpless civilians for no just cause, other than to promote fear and paranoia. Taylor and Sankoh deployed crude technologies of brutality, torture, and slaughter that desecrated and defiled the human body in ways never seen before in West Africa. The newness and swiftness of this brand of violence and its ritualized strategies of torture, sadism, and

psychosis bordered on the unimaginable for its sheer antipathy toward human suffering and dignity. (My newspaper also became the first media outlet to publish the picture of Foday Sankoh in the June 30, 1993 edition titled "This is Foday Sankoh." When the war started in 1991, there were no known photos of Sankoh, a circumstance the rebels used to construct a phantom aura around their leader that at times claimed he did not exist. Dispelling this myth doubled the death threats against me, this time by RUF rebels. At this stage in the war, disclosing any markers about Sankoh's identity or existence was one of the most serious crimes one could commit against the rebel cause.)

I knew that publishing the letter was fraught with deathly danger for me and my reporters; but I was enthusiastic to take the risk, if not for anything else but to alert the world of the horror Taylor and Sankoh presented to Sierra Leone. I will take that risk again if I have to in the service of humanity. If only the powers that be, particularly the international community, had taken the action they took thirteen years after I published the letter, the thousands of innocent people who lost their lives in that senseless war would be living today. Taylor was indicted in 2006 for war crimes committed against the people of Sierra Leone during its civil conflict. The letter had revealed that truth in 1993!

I left Sierra Leone before the Civil War reached its most brutal stages. Two journalists, a reporter and a cartoonist who worked with me, were later killed in the war. My younger brother was also killed in the war. For me, Taylor's 50-year prison sentence brings a painful closure: I now can breathe a huge sigh of relief, confident that my head will never be taken to Charles Taylor in Gbarnga.

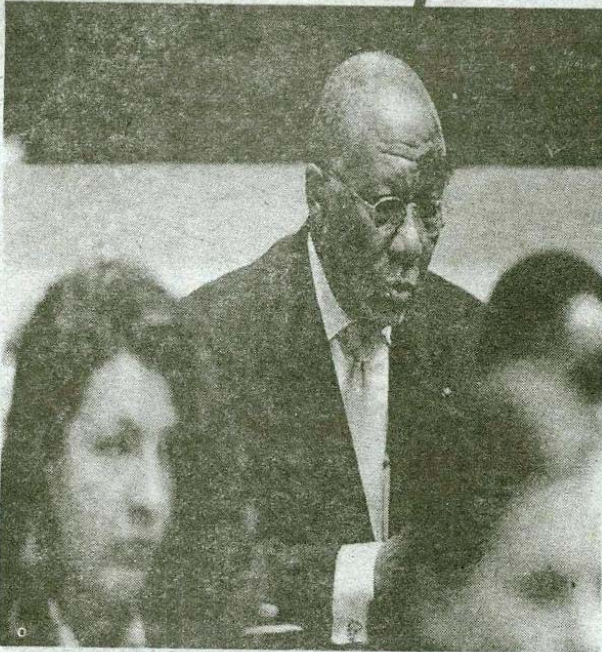
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Editor's note: The Liberty Voice newspaper (now defunct) was the mouthpiece of the NPRC military junta that overthrew the Joseph Saidu Momoh APC government in April 1992.

Update

Thursday, 7 June 2012

Sierra Leone Says 'Justice Done' With Charles Taylor Sentence



Sierra Leone's government on Wednesday welcomed a 50-year prison term handed to former Liberian leader Charles Taylor for war crimes in the country, declaring that justice had been done.

Charles Taylor waits in the courtroom of the Special Court for Sierra Leone in Leidschendam Photo: AP 3:14PM BST 30 May 2012

"It is welcome news to both government and the nation. It is a step forward as justice has been done," said Deputy Information Minister Sheku Tarawali, adding that he hoped victims would find relief even "though the magnitude of the sentence is not commensurate with the atrocities committed."

Taylor, 64, was convicted last month of all 11 counts of war crimes and crimes against humanity for aiding and abetting Sierra Leone's Revolutionary United Front during the country's brutal 1991-2001 civil war.

In return, he was paid in diamonds mined by slave

labour in areas under control of the rebels, who murdered, raped and kept sex slaves, hacked off limbs and forced children aged under 15 to fight, the court found.

Victims who watched the sentencing from Freetown felt relief that a key figure of what was one of Africa's most horrific wars, would spend his life behind bars.

Judge Richard Lussick spent a significant portion of the sentencing reflecting on the atrocities carried out against Sierra Leoneans which he described as "devastating". He noted that women who suffered sexual abuse and former child soldiers continue to suffer from stigma while many had been rejected by their communities. Many amputees were left unable to perform simple tasks, he added.

Sierra Leone has moved on from its traumatic past, a decade after the end of the war, and most are concerned with making ends meet in a country which has yet to reap the full benefit of its enormous mineral wealth.

Source: AFP

The Exclusive
Thursday, 7 June 2012

Liberia To Pay Salone Or Not?

The conviction and sentencing of former Liberian President, Charles Taylor for aiding and abetting the ruinous war in Sierra Leone has brought trepidations at home since it was proven that the ex-president used Liberian territory and highest public office to foment carnage and mayhem in the sisterly country. Much of the fear had bordered on what some skeptics thought would be possible reparations to Sierra Leonean war victims to be underwritten by Taylor, and by extension Liberia. But, according to reports filed by Peter Quaqua from The Hague, Liberians have reason the sigh with relief because it is now made clear that Liberia would not take responsibility for their ex-President's "sins".

The Chief Prosecutor of the UN backed Special Court for Sierra Leone has allayed fears of Liberians that the Country would be made to pay for damages to Sierra Leone following the conviction of their former president, Charles Taylor.

Some Liberian commentators had suggested that the Country would pay reparation to Sierra Leone in the wake of the guilty verdict and sentencing of Mr. Taylor. But responding to a question shortly after the sentencing judgment of Mr. Taylor in The Hague, Ms. Brenda Hollis said, Liberia has no responsibilities in the case. "It's not Liberia versus Sierra Leone, its Sierra Leone [Prosecutor] versus Charles Gankay Taylor."

She further advised Sierra Leoneans that they should seek apology and reparation from those who hurt them: "that's how the law works," Hollis said. Adding, "Our job was to prosecute; finding compensation for victims is a different program."

The American lawyer however encouraged the Sierra Leone Government and people to take the court document and pursue other ways of bringing relief to victims of the war by seeking, for instance, to freeze Mr. Taylor's assets and get the money to Sierra Leone.

Hollis said the victims of the brutal war in Sierra Leone should not be allowed to

beg for the rest of their lives.

"The sentence that was imposed today does not replace amputated limbs. It does not bring back those who were murdered; it does not heal the wounds of those who were victims of sexual violence and does not remove the permanent emotional and psychological and physical scars of those enslaved or recruited as child soldiers."

Charles Taylor was indicted for war crimes and crimes against humanity in Sierra Leone while sitting as president of Liberia. He was convicted on 11 charges of aiding and abetting the rebels who committed heinous crimes in the decade long civil war.

At 64, Taylor got a virtual life sentence of 50 years in prison, but the prosecution has given hint that they might appeal the sentence, suggesting that the judges was lenient. The prosecution earlier asked for 80 years sentence.

Brenda argued, "It is important in our view that those responsible for criminal misconduct on a massive scale are not given a volume discount."

Taylor's lead lawyer, Courtenay Griffiths, restated his conspiratorial theory in the prosecution of his client. Mr. Griffiths thinks the prosecution of Mr. Taylor was selective - a view held by many Liberians.

It will perhaps take prosecutors some public awareness campaign to dismiss the notion that western powers [America and Britain] had their hands behind the sentencing of Charles Taylor.

Chief Prosecutor Brenda Hollis is expected in Liberia this week-end to provide some explanation and a bit of convincing - maybe a lot of convincing to 'change the minds and attitudes' of Liberians over what Courtenay referred to as "the white man's justice." The weak and the poor" he says must stand up for their own justice in Africa.

Meanwhile, Mr. Taylor's defense is also preparing an appeal. Indications are that this process might drag for at least another year or so.

Liberian Warlord Charles Taylor's 50 Year Sentence: Does Justice Come at a High Price?



Former warlord-turned Liberian president Charles Taylor was sentenced to 50 years in prison on Wednesday last week by an international criminal court near the Hague. In April, the Special Court for Sierra Leone found Taylor guilty for arming and supplying rebels in neighboring Sierra Leone during the country's tragic civil war. The UN-backed international tribunal charged Taylor with 11 counts of war crimes in supporting and ordering the rebel group that brutally murdered and mutilated thousands during the conflict. Taylor was guilty of "aiding and abetting, as well as planning, some of the most heinous and brutal crimes recorded in human history," said the judge presiding over the sentencing.

The 11-year civil war in Sierra Leone led to the loss of more than 50,000 lives, with thousands displaced and a shattered infrastructure. The complex and brutal conflict was rooted in years of misrule and fueled by diamond wealth. Children and teenagers were forced to join the war as child soldiers and subjected to psychological damage. While the conflict has ended about 10 years ago, the country still has a long way to go towards recovery.

The cost to bring one man to prison for the crimes committed during the war has come at a huge price as nearly \$250 million was spent on the trial proceedings over the last five years. Taylor himself received \$100,000 per month for legal assistance during the trial. This is a stark contrast to the less than \$200 given to those amputated by the rebels he supported. Sierra Leone's entire budget on its domestic justice system is roughly \$13 million per year. Clearly the disparities and absurdity in this are glaringly obvious.

While it's understandable that justice can be an abstract concept, one that's not easily measured or calculated, it questionable if justice was really served in this case. The amount of time and money spent on Taylor's sentence in order to bring some measure of "justice" came at the expense of fair reparations for the victims. Instead of providing much-needed resources towards the poor, the international community was more concerned with Taylor's trial and the end result. And while the trial was an important milestone in the fight against impunity for war criminals, it should not have cost so much or taken so long. More time and money spent should have been spent towards helping the victims of the war, investing in infrastructure and directing rebuilding the country. Justice should not come at such a high price.

Today, Sierra Leone is at peace but is among the world's poorest countries according to the UNDP Human Development Index (HDI). Poverty intensified after the war and continues to be widespread, as income distribution has grown. Sierra Leone's economy has gradually recovered although GDP per capita is ranked as one of the lowest in the world. The most disadvantaged in Sierra Leone are those who were refugees and internally displaced during the war, former child soldiers, sexually abused young women, and single mothers. Nearly half of the working age population partakes in subsistence agriculture as unemployment continues to remain high. The poor and the victims of the war are still in need of desperate help.

Sierra Leone continues to rely on large amounts of foreign assistance, with the largest donations come from the United Kingdom and the European Union. Much of the country's healthcare relies on foreign assistance as well as a large percentage of the population deal with the emotional and physical trauma caused by the war.

The victims of the conflict have welcomed the sentencing, some considering it a fresh start for the country to move on. But the question still remains as to why justice had to come at such a high price. War criminals are not worthy of the huge amount of time, money and resources spent to bring them to justice. The victims are the ones who deserve it much more.

Human Rights Watch

Wednesday, 6 June 2012

Liberia: Ivorian Government Foes Wage, Plot Attacks

For Immediate Release

Investigate, Prosecute War Criminals from Côte d'Ivoire Conflict in Liberia

(Nairobi, June 6, 2012) – Armed militants hostile to the Ivorian government have recruited Liberian children and carried out deadly cross-border raids on Ivorian villages in recent months, Human Rights Watch said today. Liberian authorities have failed to investigate and prosecute dozens of Liberian and Ivorian nationals who crossed into Liberia after committing war crimes during Côte d'Ivoire's 2010-2011 post-election crisis, some of whom have been implicated in the recent attacks, Human Rights Watch said.

Since July 2011, at least 40 Côte d'Ivoire residents, including women and children, have been killed during four cross-border attacks that targeted civilians from ethnic groups who largely support President Alassane Ouattara. In the most recent attack, on April 25, eight people were killed in the Ivorian village of Sakré. The attackers, who told Human Rights Watch they are planning further cross-border raids, are primarily Liberians and Ivorians who fought with the forces of former President Laurent Gbagbo during the Ivorian post-election crisis and remain violently opposed to Ouattara's government.

“For well over a year, the Liberian government has had its head in the sand in responding to the flood of war criminals who crossed into the country at the end of the Ivorian crisis,” said Matt Wells, West Africa researcher at Human Rights Watch. “Rather than uphold its responsibility to prosecute or extradite those involved in international crimes, Liberian authorities have stood by as many of these same people recruit child soldiers and carry out deadly cross-border attacks.”

Between April 25 and May 3, Human Rights Watch conducted field work in the towns of Zwedru, Toe Town, and Tempo in Liberia's Grand Gedeh County, which borders Côte d'Ivoire, as well as in villages and gold mining camps near the Ivorian border. Human Rights Watch interviewed 21 Liberians and Ivorians who fought for forces loyal to former President Gbagbo during the 2010-2011 Ivorian crisis. Human Rights Watch also interviewed police officers, prison officials, prosecutors, and residents of areas with a strong presence of militants involved in committing or planning cross-border attacks.

Human Rights Watch documented the recruitment and use of Liberian children by the armed groups carrying out cross-border raids. A 17-year-old boy said he led a “unit” that included other children and had participated in cross-border attacks. Residents of several Liberian border towns described the presence of children ages 14 to 17 at a training camp, while another resident described seeing several armed boys among those returning from the April 25 attack.

One border town resident said that he had reported the recruitment of child soldiers to Liberian authorities, but that they told him there was insufficient evidence to make arrests.

Human Rights Watch called on the Liberian government to take immediate measures to protect children from recruitment into armed groups. Human Rights Watch urged the Liberian government to ratify speedily the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which it signed in 2004. The protocol prohibits any armed group from recruiting children under 18 and obliges governments to take measures to prevent and criminalize such practices.

Several thousand Liberian mercenaries fought in Côte d'Ivoire during that country's post-election crisis, the vast majority for the Gbagbo side. The mercenaries, recruited and financed by Gbagbo's inner circle, fought side-by-side with local ethnically based militias in western Côte d'Ivoire, where they committed widespread killings targeting perceived Ouattara supporters. After Gbagbo was arrested on April 11, 2011, many of these mercenaries and militiamen crossed into Liberia, in part due to the fear of reprisals by pro-Ouattara forces. Liberia and Côte d'Ivoire

share a 700 kilometer border, but most pro-Gbagbo militants crossed into, and remain in, the Liberian counties of Grand Gedeh, River Gee, and Maryland.

“Liberian fighters have been involved in atrocities across the sub-region for more than a decade and remain a threat to Côte d’Ivoire and Liberia as these countries try to move on from periods of massive human rights violations,” Wells said.

The involvement of Liberian mercenaries in the Ivorian conflict was noted in the December 2011 report of the United Nations Panel of Experts on Liberia, mandated by the UN Security Council to report on sanctions imposed on Liberia. The panel expressed concern about recruitment and mobilization in the border area and concluded: “[T]he Government of Liberia has demonstrated an inadequate response to the issue of Liberian mercenaries returning from Côte d’Ivoire, and the infiltration of Ivorian militia.”

Although a few Liberians were arrested after returning from active hostilities in Côte d’Ivoire, Liberian authorities have failed to follow through with prosecutions for atrocities there – despite provisions in Liberia’s Penal Code that would allow for the prosecution of crimes like murder or rape that are recognized both under Liberian law and as war crimes under international treaties to which Liberia is a state party. The Liberian Penal Code also criminalizes “mercenarism” under Section 11.13, which could apply to a number of its citizens who fought in Côte d’Ivoire.

Liberia has a duty under international law, including the Geneva Conventions it has ratified, to detain, investigate, and prosecute or extradite suspected war criminals on its territory. Human Rights Watch called on Liberia to fulfill its responsibility as a member state of the International Criminal Court and pass legislation to enable the domestic prosecution of atrocity crimes committed anywhere in the world.

At least two infamous Liberians credibly implicated in atrocities in Côte d’Ivoire have been released by Liberian authorities after originally facing charges of “mercenarism.” One is Isaac Chegbo, better known as “Bob Marley,” whom Human Rights Watch implicated in overseeing two massacres in Côte d’Ivoire in which more than 100 people were killed; and the other is A. Vleyee, better known as “Bush Dog,” who was a deputy under Chegbo and likewise oversaw forces who committed widespread violations. According to reports by the UN Panel of Experts, both of these men fought as mercenaries in the 2002-2003 Ivorian civil war and its aftermath. Liberian forces where they were based were credibly implicated in war crimes, including summary executions and the recruitment of child soldiers, during that period as well.

Several former combatants told Human Rights Watch that “Bush Dog” was actively engaged in recruiting and training fighters, including Liberians and Ivorians who participated in recent cross-border attacks. Officials with the United Nations Mission in Liberia (UNMIL) expressed similar concern about “Bob Marley.”

Based on interviews with people involved with the armed groups, who described the number of mobilized fighters in their village or training camp, Human Rights Watch identified between 100 and 150 people who have either participated in past cross-border attacks or are organizing for future attacks. The true number could be larger, however. Those interviewed reported close to an even split between Ivorians and Liberians.

UN officials monitoring the border area told Human Rights Watch that they did not think the armed groups hostile to the Ivorian government had sufficient strength to carry out a large-scale attack. However, they said the armed militants have the ability to continue conducting cross-border raids that target and kill perceived Ouattara supporters. Moreover, the militants openly say they want to carry out larger attacks – a real concern in a sub-region marked by insecurity, armed conflict, and grave crimes over the last two decades, Human Rights Watch said.

A level of organization among those involved in cross-border attacks is evident in the manner the recruitment and mobilization are financed. Many of those involved in the attacks are engaged in artisanal gold mining along the Liberian border, and they told Human Rights Watch that profits go up a chain of command. Several people involved in planning attacks also told Human Rights Watch that they receive financial support from people in Ghana, where much of the Gbagbo political and military elite are in exile. Ivorian authorities have issued arrest warrants for people in Ghana alleged to have been involved in post-election crimes – and made extradition requests through Interpol for some of them – but Ghanaian authorities have not acted on them.

On May 2, following the April 25 attack, high-level government officials from Côte d'Ivoire and Liberia met in Abidjan to discuss border security issues. Liberian officials promised to increase security forces along the border and to cooperate with Côte d'Ivoire regarding the Ivorian militiamen who have been in detention in Liberia since June 2011.

“This regional problem demands a regional response,” Wells said. “Ghanaian and Liberian authorities need to demonstrate greater willingness to prosecute or extradite to Côte d'Ivoire people who committed or oversaw atrocities during the Ivorian crisis.”

Details about recent attacks, the Liberian authorities' failure to prosecute those involved, and the plans and organization of those involved in cross-border operations follow.

For more Human Rights Watch reporting on Côte d'Ivoire, please visit:
<http://www.hrw.org/africa/cote-divoire>

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Failure to Prosecute Suspected War Criminals Living in Liberia

The Liberian government has failed to extradite Ivorians or ensure the prosecution of Liberians and Ivorians implicated in grave crimes during Côte d'Ivoire's post-election crisis. This has allowed people suspected of war crimes to find refuge near the border, where many have conducted cross-border raids and recruited and mobilized for larger-scale attacks.

Section 1.4 of Liberia's Penal Code gives “extraterritorial jurisdiction over an offense” when, among other things, “conferred upon Liberia by treaty.” This would include crimes under the Geneva Conventions and Rome Statute, to which Liberia is a state party. Section 1.5 of the Penal Code, however, limits jurisdiction to crimes specifically enumerated under the Penal Code “or another statute of Liberia.” This would encompass crimes like murder and rape, but not the international crimes of war crimes or crimes against humanity. In addition, Liberia's Penal Code criminalizes “mercenarism,” defined in part as the “enlisting, enrolling or attempting to enroll in ... armed forces partially or wholly and [sic] consisting of persons not nationals of the country being invaded ... for money, personal gain, material or other reward.”

The Liberian government should ensure that the provisions of the Rome Statute and other international treaties are fully incorporated into domestic law. This would make clear that people suspected of serious international crimes, including war crimes and crimes against humanity committed anywhere in the world, can be prosecuted in Liberia. However, even without modifying the current Penal Code, there remain ample provisions to investigate and prosecute the serious crimes committed in Côte d'Ivoire by people in Liberia.

The March 2012 Special Report from the Secretary-General on the United Nations Operation in Côte d'Ivoire noted that of “88 suspected armed elements, mainly from Côte d'Ivoire ... detained in Liberia in April 2011 ... two Ivorians remain in detention, as well as three suspected Liberian mercenaries. The other detainees were released on 13 March.”

An additional 39 Ivorians were arrested in June 2011 after the discovery of a large weapons cache in Fishtown, Liberia, near the Ivorian border. Human Rights Watch interviewed a prison official at the Zwedru correctional facility who said that the 39 Ivorians, as well as four Liberians, have been held there in pre-trial detention since their arrest. The Zwedru prison official said that the Ivorians had been charged with “mercenarism,” a crime that, as noted by the UN Panel of Experts, “seemingly would not apply to Ivorian combatants fleeing to Liberia.”

Human Rights Watch called on the Liberian authorities to clarify the status of these detainees, and to prosecute them for applicable crimes under the Liberian Penal Code, extradite them to Côte d'Ivoire if requested by Ivorian authorities, or release them.

The UN Panel of Experts said in its December 2011 report that there were “numerous instances in which mercenaries and Ivorian militia entered Liberia and evaded Liberian authorities.” Those who “evaded Liberian authorities” far outnumber those in detention, and include prominent mercenary and militia leaders whom Human Rights Watch and the United Nations Operation in Côte d'Ivoire (UNOCI) implicated in overseeing serious crimes in Côte d'Ivoire.

For example, the 39 Ivorians arrested in June 2011 were part of a convoy of more than 100 people who crossed into Liberia in May. The rest of the convoy members remain at large. The Panel of Experts reported that “almost all of the individuals ... were combatants.... Several of the Ivorian leaders had served in FANCI [the armed forces] or the gendarmerie, while others were ranking members of the Jeunes Patriotes [militia group]. Many of the detainees are hardline, pro-Gbagbo combatants who had continued to fight in Yopougon, Abidjan, after the former President was captured.”

Several high-profile Liberian fighters who were arrested for “mercenarism” after crossing into Liberia have since been released, either on bail or due to insufficient evidence. In interviews with Human Rights Watch, prosecutors in Grand Gedeh and Montserrado counties described difficulties in building cases, even when they believed people had been mercenaries or had been involved in related criminal activity. Part of the problem appears to be that prosecutors have not collaborated with Ivorian authorities or civil society to gain what would be, in certain cases, access to considerable evidence on these individuals’ crimes in Côte d'Ivoire.

Two cases underscore the larger failure of the Liberian authorities. Vleyee, or “Bush Dog,” was arrested by Liberian authorities in April 2011. Research by Human Rights Watch and the Panel of Experts indicate that, during the crisis, Vleyee was in a command position with mercenary and militia forces implicated in atrocities in and around the Ivorian town of Bloléquin. Soon after his arrest in Liberia, Vleyee was released. The Panel of Experts said the investigation was “hampered by a lack of proper evidence-gathering and contradictory statements by Liberian Government officials.” The investigation focused on whether Vleyee brought military material into Liberia, rather than his possible command responsibility for killings in Côte d'Ivoire.

In May 2012, Human Rights Watch interviewed three Liberian fighters and two border town residents who said that the same “Bush Dog” was recruiting Liberians and Ivorians for attacks in Côte d'Ivoire. At a time when Vleyee should be on the radar of Liberian authorities – given his alleged role in atrocities and previous arrest – a resident near Zwedru decried authorities’ failure to respond to his ongoing recruitment:

I informed security [forces] about the recruiters, including General Bush Dog.... His training camp is in the bush near the border; it’s a few minutes’ walk to Côte d'Ivoire. I have not been to the training camp to see for myself, but a small boy by the name of [redacted for security reasons] came when he was seriously sick in the training camp. He explained everything to me because I was a friend to his late father, who died last year....

Chegbo, better known by his nom de guerre “Bob Marley” and “Child Could Die,” is of equal concern. Human Rights Watch and UNOCI found evidence indicating his participation and commanding role in a unit responsible for grave crimes, including two massacres in western Côte d'Ivoire in which a total of more than 100 people were killed. Liberian authorities arrested Chegbo after he returned to Liberia in April 2011, but quickly released him.

After pressure from Ivorian authorities, Chegbo was re-arrested in late May 2011 and transferred to Monrovia’s central prison, charged with “mercenarism.” In February 2012, however, Chegbo was quietly released on bail. The Associated Press reported that the prosecutor for Montserrado County (Monrovia) “had no knowledge” that Chegbo had been released, until the journalist raised the issue. The prosecutor was unsure about Chegbo’s whereabouts, but said he still wanted to prosecute Chegbo. The UN Panel of Experts reported that, after Chegbo’s 2011 transfer to Monrovia, “key evidence, such as Chegbo’s pistol, [went] missing from police custody.” Several Zwedru residents told Human Rights Watch that as of early May, Chegbo was back in Grand Gedeh County.

The UN Panel of Experts report showed that, although the precise command structure of Liberians who fought in Côte d'Ivoire was volatile, “Bob Marley” appeared to occupy a command position above “Bush Dog.” Both fighters were based out of Bloléquin.

Failure to Investigate Cross-Border Attacks

In the four cross-border attacks since June 2011, the motivation appears to have been both political vengeance and related to land conflict – issues that overlap in Côte d’Ivoire’s volatile west. Those killed or whose houses were burned predominantly belong to ethnic groups that largely voted for President Ouattara.

The 40 deaths in these attacks have all been along the border near the Ivorian town of Taï. During previous field work in Côte d’Ivoire, Human Rights Watch documented the first two cross-border raids, in July and September 2011. The recent attacks, on February 20 and April 25, displaced thousands from villages in the area.

Liberian authorities have failed to investigate those involved in the attacks. Section 1.4.2 of the Liberian Penal Code provides jurisdiction over the attackers, stating: “A person is subject to prosecution in Liberia for an offense which he commits partly within Liberia. An offense is committed partly within Liberia if either the conduct which is an element of the offense or the result which is such an element, occurs within Liberia.” For the cross-border attacks, both the preparation for the attacks – which have each included murder – and the intent to carry out the attacks have occurred within Liberia.

A Liberian resident of Tempo described how the town and its surrounding area have been used as a base for some of the cross-border attacks:

All the attacks taking place in Ivory Coast are being done by both Ivorians and Liberians, but the heads are Bush Dog and Oulaï Tako. These guys are training and sending youth to fighting zones. This recent time [April 25] there was an attack in Ivory Coast, and civilians – adults and children – were killed.... They’ve attacked Ghabli, Sakré, Taï, and Nigré, and we hear them say they are planning to launch a heavy attack later this year.... [We saw] many of the fighters... come back to Tempo [after the Sakré attack] wounded, and they have gone to their training camp [outside town].

The Panel of Experts reported that Vleyee and Tako fought in close proximity in Côte d’Ivoire. Tako was the Bloléquin commander of the Front pour la libération du grand ouest (FLGO), a notorious pro-Gbagbo militia formerly based in western Côte d’Ivoire.

A 33-year-old Liberian former combatant in Toe Town, who told Human Rights Watch that he had on several occasions been approached to join those conducting and planning cross-border attacks, said the recruitment of fighters was an open secret in the region. He also said that those involved in planning attacks had told him that they had moved a considerable quantity of arms from Côte d’Ivoire to Liberia “without anyone blowing the alarm,” concluding: “Either the border patrol in Liberia is poor, or security officers are part of this deal.”

An official with UNMIL said he believed that at least some local and regional officials had to be acquiescing to the activities of former Liberian mercenaries – hypothesizing that it could be due to revenues from gold mining or to a perceived fear of “stirring the hornet’s nest.”

On at least one occasion, Liberian security forces tried to thwart a cross-border attack. But they did not follow through with successful investigations and prosecutions. In late January, Liberian security forces arrested 76 Ivorians and Liberians near the border, believing they were planning to attack Côte d’Ivoire. A police officer in Zwedru said:

Joint security forces in Grand Gedeh County discovered sometime in January what was described as a dissidents’ training base in Konobo district. Following the discovery, the Liberia national police assigned to the county stormed the area and arrested 75 of the suspect dissident forces. The men were arrested while en route to neighboring Ivory Coast, [we believe] with the aim of invading and toppling the government.... The dissidents included Ivorians and a few Liberians. They were intercepted and arrested at the double bridge crossing point near the border. They were carried to the Monrovia correctional palace, but all of them were later freed because of lack of evidence.

Human Rights Watch interviewed one of those arrested in January. The 27-year-old Liberian made clear the groups’ intentions:

Our group is organized.... We have attempted to enter Ivory Coast once in January at the double bridge to the border, but the mission was unsuccessful because the secret was exposed to the security [forces]. We were arrested, but later released.... We have different support from different persons, but we are aiming at one goal. The goal is to go back to Ivory Coast to fight when we are called upon from [his gold mining camp].

Neither the police officer involved in the raid nor a Grand Gedeh county prosecutor interviewed by Human Rights Watch could explain why they lacked evidence to bring charges since both believed firmly the men had been planning to carry out an attack.

A Tempo resident, who works in a border gold mining camp, blamed the police's lack of experience in investigating such issues as well as residents' fear in denouncing those involved:

This is where the fighters were [first] interrogated... The security personnel don't know how to investigate issues like this, so they made the situation [look] false when it was true. These guys talk about their training camp in our territory, we know where it is, but we can't say it, because we fear for our safety and our mining activities.... They have guns you have not even seen before and some of us are now planning to move from here to find a better location for our mining.

Child Soldier Recruitment

Human Rights Watch documented the recruitment of Liberian boys for recent and future attacks on Ivorian villages. The scale of child recruitment was unclear. However, several Liberian residents as well as a 17-year-old fighter described the recruitment effort, which they said was led in part by "Bush Dog." Residents said they had seen children – recruited from villages and towns near the Ivorian border – in training camps and returning from recent cross-border attacks.

A 17-year-old Liberian near Tempo who was recruited to fight with armed militants hostile to the Ivorian government told Human Rights Watch that he took part in at least one cross-border raid. He said other boys around his age had also been recruited and fought:

They call us "small boys unit" and we are always safe when we go to the war zones in Ivory Coast. I am a Liberian and I never fought the Liberian wars, but I am going to Ivory Coast to help my friends, whatever they want us to do for them. I have [carried out] some attacks with my unit, and we were able to succeed by knowing the territory. I don't know the total that we have killed.... In this mission, we have our bosses who train us and follow us to the field. The bosses are Bush Dog and Oulaï Tako....

A 25-year-old resident near Tempo said that he had seen boys ages 14 to 17 in a training camp in the area, as well as among those who returned from the April 25 attack. The Tempo resident said that he seen Bush Dog and Tako involved in the training camp from which boys have been sent to carry out cross-border attacks. Bush Dog has been previously linked with recruiting child soldiers. A 2005 report from the UN Panel of Experts noted: "UNMIL reported that on 22 March, MODEL General Amos Vleyee, also known as 'Bush Dog,' had recruited 10 children in Grand Gedeh County."

A 32-year-old trader from a town just outside Zwedru decried the failure of the Liberian authorities to respond to the recruitment of child soldiers:

There are so many things and activities that are happening in our communities that concerned citizens like me don't like. There are some guys in our community who have started recruiting small boys, who the police cannot allow to even ride motorbikes because of their age. Their age is between 14 and 16 years. We have been complaining to the security [forces], but they are always saying they don't have evidence to prove it.

In 2004, Liberia signed, but has not yet ratified, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The protocol prohibits any recruitment of children under 18 by armed groups distinct from the armed forces of a state and obliges governments to take measures to prevent and criminalize such practices. The recruitment and use of child soldiers under 15 is also considered a war crime.

Plans for Further Attacks

The Liberian government's failure to investigate and prosecute those involved in cross-border attacks has appeared to embolden the pro-Gbagbo militants and the Liberians who support them to envision further attacks into Côte d'Ivoire. Several people involved with the armed groups, as well as residents in border villages, described arms caches and a clandestine training camp in the Konobo district of Grand Gedeh.

A 25-year-old Liberian, who lives near the border town of Tempo, told Human Rights Watch that the militants in that area speak openly about their intentions: "What we are observing now in this community is that most of the youth have real arms and ammunition in their possession and are talking of launching an attack on Côte d'Ivoire." Residents near the gold mining sites, where pro-Gbagbo militants have a particularly strong concentration, made similar statements.

Those plotting additional attacks appear to have established at least one training camp and to have stockpiled arms and ammunition. The 17-year-old Liberian, who had taken part in previous cross-border attacks, described the level of organization and support they receive:

Our [training] camp is located in Konobo district ... and we have arms and ammunition, food, medicines, and nurses that can take care of us when we have minor sickness. When the sickness is worse, and you need to be admitted and you are Liberian, then money will be available [from our supporters] and you will be transferred to the government hospital.

Several others involved in planning cross-border attacks described the Konobo training camp, in the same district where police officers had raided another camp in January. The area has dense vegetation and is near the Ivorian border. It also appears to be where a large quantity of weapons, brought from Côte d'Ivoire at the end of the crisis, is stored. A 33-year-old Liberian told Human Rights Watch: "The guns are kept in Konobo district, near the border areas."

In describing their motivations, most of the Ivorian militants speak of "revenge" – revenge for Gbagbo no longer being president, or, more often, revenge for killings and other abuses committed by pro-Ouattara forces in western Côte d'Ivoire. Both sides committed atrocities, including war crimes and likely crimes against humanity, in western Côte d'Ivoire. A 36-year-old at Sloman (also referred to as Solomon) gold mining camp, who said he had not fought with pro-Gbagbo forces during the crisis but had joined the plans for future attacks, explained his reasons: My family members were killed by Ouattara's forces, and I am frustrated that [the crisis] forced me to leave Côte d'Ivoire and come to Liberia. Many of my [Ivorian] brothers have joined the Liberians in order to get revenge.... There are two possibilities: either we will kill them, or they will kill us.

The historical cross-border links between the Ivorian region of Moyon Cavally and the Liberian region of Grand Gedeh is crucial to understanding the continued role of Liberians. The Guérés in Côte d'Ivoire and the Krahn in Liberia, who are considered the "natives" in these regions, come from the same ethnic group. They speak a highly similar language, and extended families often cross national boundaries. MODEL, a rebel group from the later stages of the 1999-2003 Liberian civil war, was a predominantly Krahn fighting force that also included a significant number of Ivorian Guérés. Thus, while some Liberians expressed primarily financial reasons for mobilizing, citing the lack of jobs in Grand Gedeh, most spoke instead of vengeance and assisting those who fought with or housed them in the past.

A 45-year-old Liberian, who said he had been fighting in regional conflicts for more than a decade, explained his motivation and plans for larger-scale attacks:

We are helping [the pro-Gbagbo Ivorians], because they helped us during the time our war was ongoing and we need to help them in return.... Let no one fool you that the war is over in Côte d'Ivoire. Anytime from now, we are planning to launch an attack.... We have guns that we brought back from Côte d'Ivoire and other support that will help facilitate this process – businesses are established and the supply line is stronger than ever before.... Grand Gedeh alone had more than 12 unofficial entry points to Côte d'Ivoire, and we have access to them all.

Financial Support from People in Ghana, Côte d'Ivoire

Two Ivorians and one Liberian who had fought with pro-Gbagbo forces told Human Rights Watch they were receiving outside financial support for attacks into Côte d'Ivoire. The scale of the support was unclear, as were the specific financiers, but those interviewed said that the money came regularly – monthly according to one interviewee. This system of regular financial assistance from people in neighboring countries suggests at least some level of organization among those committed to carrying out additional attacks, which have almost exclusively targeted civilians, according to the evidence documented by Human Rights Watch.

A 30-year-old from western Côte d'Ivoire, who fought with Gbagbo militia groups during the crisis, said that, in their effort to recruit and mobilize, "we are receiving support from [people in] Côte d'Ivoire, Liberia, and Ghana." Two other former combatants, one Ivorian and one Liberian, likewise specifically mentioned receiving money from people in Ghana. Those interviewed by Human Rights Watch in Liberia would not provide the names of their financiers. However, a 35-year-old former non-commissioned officer in the Ivorian military, now a refugee in Liberia, said, "Former fighters and former Ivorian politicians are all key players in these activities, making money and other resources available."

A number of high-level military and political leaders from the Gbagbo camp remain in exile in Ghana. Several of them – including the longtime Young Patriots militia leader, Charles Blé Goudé, and the former head of the gendarmerie's armored vehicle squadron, Jean-Noël Abéhi – are subject to arrest warrants by the Ivorian justice system. Ghanaian authorities have failed to arrest and extradite them. A May 8 article in *Jeune Afrique*, based on

interviews with the pro-Gbagbo leaders in Ghanaian exile, reported that many still speak of revenge and of toppling the Ouattara government. In its December 2011 report, the UN Panel of Experts discussed its concerns about external financial support for groups planning cross-border attacks from Liberia:

External financiers could seek to supply weapons and ammunition, which could be easily smuggled into Liberia using existing trafficking networks, such as those already used to trade in illegal Liberian gold and Guinean artisanal weapons.... Considering that the Ivorian crisis only recently ended and that the Ouattara Government has increasingly solidified military control, if such support for Liberian mercenaries and Ivorian militia from abroad does exist, it would likely be in its initial, “exploratory” and planning stage.

Gold Mining Indicative of Organization in Recruitment, Mobilization

At least scores of those involved in cross-border attacks are engaged in artisanal gold mining along the Liberian border. In interviews with Human Rights Watch, they spoke openly about using gold revenues to fund attacks into Côte d’Ivoire. The structure of the gold mine financing efforts demonstrates a level of organization among these armed militants.

Human Rights Watch visited five informal artisanal gold mining camps – CVI, Bentley, Golo, Dark Forest, and Sloman – along the Liberian-Ivorian border. Liberian and Ivorian former combatants worked side by side in these camps. Those interviewed said that the gold mining camps serve as bases for recruitment, mobilization, and the financing of violence in Côte d’Ivoire. A 30-year-old Ivorian in CVI mining camp said:

We came to CVI to mine gold to empower ourselves. The plan is to mine and sell gold to get money in order to get revenge against [pro-Ouattara forces] who killed our family members and burned our houses.... We are more than 45 Ivorians living in this mining camp, but only 37 have agreed to mine in the interest of this mission.... We have reorganized ourselves to go back with force this year.

The CVI miner’s statement shows that not all of the gold miners there see mining as an opportunity to fund attacks; a minority of Ivorians had no “interest” in the “mission.” In other mining camps, however, those who refuse to be recruited reported being threatened and forced off the land. A 27-year-old Liberian at Sloman gold mining camp told Human Rights Watch:

I have been at this mining camp since December 2011. Some of us came here to look for money to support our family ... but others have different intentions with the money they are receiving. I was here when some people came to this mining zone to recruit some youth for a mission at the border. All of us who refused to join them were driven away from the camp. They even threatened to kill us.

The statements of several armed militants involved in gold mining along the border indicate a command structure for collection of money potentially used to finance recruitment and mobilization. A 26-year-old Liberian mining at Dark Forest mining camp said:

[Revenge] can only be done when we’re financially equipped. Liberian and Ivorian ex-combatants are working hand to hand in this mining zone. Gold is being found in abundance.... Our bosses always visit us here at night to carry away the gold.

People mining gold at a different camp mentioned the name of one the same “bosses,” saying he came by frequently to collect the gold.

In addition to gold mining, some people involved in efforts to attack Côte d’Ivoire have used motorcycle transport to raise money for recruitment and mobilization. A 37-year-old Sierra Leonean, who had fought in wars in Sierra Leone, Liberia, and Côte d’Ivoire, said:

Fifteen motorbikes have been offered to us [by our bosses] for easy transportation, [as well as] phones for easier communication. These motorbikes are also used for commercial purposes to generate money for our mission.... All our guns are along the border with Côte d’Ivoire, kept safe while we’re mining.

Lubanga Trial Website (The Hague)

Wednesday, 6 June 2012

Congo-Kinshasa: Trial Chamber I Issues First Trial Judgment of the ICC - Analysis of Sexual Violence in the Judgment

The following commentary first ran in a Special Issue of the Legal Eye on the ICC, a regular eLetter produced by the Women's Initiatives for Gender Justice, an international women's human rights organization that advocates for gender justice through the International Criminal Court (ICC) and works with women most affected by the conflict situations under investigation by the ICC.

This Special Issue is the first in a series of four Special Issues reporting on the first trial Judgment handed down by Trial Chamber I in the case against Thomas Lubanga Dyilo on March 14, 2012. The views and opinions expressed here do not necessarily reflect the views and opinions of the Open Society Justice Initiative. To read the full version of the first Special Issue Legal Eye eLetter, [click here](#).

On March 14, 2012, Trial Chamber I issued a judgment in the ICC's first case, *The Prosecutor v. Thomas Lubanga Dyilo*, convicting Thomas Lubanga Dyilo (Lubanga) of the war crimes of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities within the meaning of Articles 8(2)(e)(vii) and 25(3)(a) of the Statute from early September 2002 to August 13, 2003 (Judgment).[i] Lubanga is the former President of the Union des patriotes congolais (UPC) and Commander-in-Chief of the Forces patriotiques pour la libération du Congo (FPLC). In a 624-page judgment, including two separate or dissenting opinions, the Trial Chamber addressed Lubanga's liability for the crimes charged, and also included a detailed discussion of the arguments of the parties, addressing issues such as the Prosecution's use of intermediaries in its investigations, and the Defense claims of abuse of process.[ii] These issues will be discussed in more detail in forthcoming Special Issues in this series. Judge Fulford issued a separate opinion on the scope of Article 25(3)(a) of the Statute, regarding an individual who is alleged to have committed a crime 'jointly with another'. Judge Odio Benito issued a separate and dissenting opinion concerning three particular aspects of the Judgment: (i) the legal definition of the crimes of enlistment, conscription and using children under the age of 15 to directly participate in hostilities; (ii) the manner in which the majority dealt with the dual status victims/witnesses in evaluating their status as victims participating in this case; and (iii) the evidentiary value of video evidence.[iii] A sentencing hearing will be held for Lubanga on June 13, 2012.[iv]

Background on Sexual Violence in the Context of the Lubanga Case

As noted above, Lubanga was tried for and convicted on the limited charges of enlistment, conscription and use of child soldiers, and was not charged with rape or sexual violence. During the trial proceedings, however, Prosecution witnesses gave extensive testimony concerning sexual violence committed against child soldiers by the UPC. In the trial Judgment, the majority of Trial Chamber I found that it was precluded from considering this evidence, pursuant to Article 74(2),[v] because factual allegations concerning sexual violence had not been included in the Pre-Trial Chamber's confirmation of charges decision. While not making any finding of fact on the evidence of sexual violence, the Chamber did discuss the sexual violence testimony in some detail. In her Separate and Dissenting Opinion, Judge Odio Benito found that sexual violence was an 'intrinsic' aspect of the legal concept of 'use to participate actively in the hostilities'.[vi] The Judgment and Judge Odio Benito's Separate and Dissenting Opinion are discussed further, below.

The Democratic Republic of the Congo (DRC) is known to have one of the highest rates of sexual violence in the world,[vii] and there is significant evidence, gathered by local and international organizations including the Women's Initiatives for Gender Justice, of rape and other forms of sexual violence taking place in the Ituri region in eastern DRC.[viii] In a number of statements prior to and at the time of the opening of an investigation in the DRC Situation, the Prosecutor made multiple references to the commission of gender-based violence by militia groups under the alleged command of Lubanga.[ix] From the early stages of the investigation, the Women's Initiatives for Gender Justice has advocated for the Office of the Prosecutor to both investigate and include charges for gender-based crimes in the DRC Situation and in the case against Lubanga.

Nonetheless, the Prosecutor's Arrest Warrant for Lubanga did not include charges for gender-based crimes.[x] On August 16, 2006, the Women's Initiatives submitted a letter and confidential report to the Office of the Prosecutor, outlining concerns that gender-based crimes had not been adequately investigated in the Lubanga case, and encouraging the Prosecutor to investigate further. The confidential report presented the Prosecutor with documentation of 55 interviews of individual victims/survivors of rape and sexual violence; of these 31 interviewees were victims/survivors of rape and sexual slavery committed by the UPC.[xi] The letter further underscored that the selective charges brought by the Prosecutor would have a significant impact on the scope of victims that could be authorised to participate in the proceedings. On September 7, 2006, the Women's Initiatives became the first NGO to file before the Court, in respect of the absence of charges for gender-based crimes in the Lubanga case.[xii] However, no further charges were brought, and the Lubanga case proceeded through the confirmation proceedings, and to trial, on limited charges.[xiii]

Despite the absence of charges of gender-based crimes in the case against Lubanga, extensive evidence on sexual violence was heard throughout the trial proceedings. In its opening statement in January 2009, the Prosecution described the use of rape during recruitment, and that child soldiers were encouraged to rape women as part of their training, and were sent by their commanders to look for women and to bring them to the camp.[xiv] Girl soldiers, some as young as 12 years, 'were the daily victims of rape by their commanders' and they were used as 'cooks and fighters, cleaners and spies, scouts and sexual slaves'. The Prosecutor acknowledged the multiple roles of girl soldiers, and also underlined that sexual violence was part of their daily lives: 'One minute they will carry a gun, the next minute they will serve meals to the commanders, the next minute the commanders will rape them. They were killed if they refused to be raped.'[xv] A Legal Representative for participating victims, including a former girl soldier, confirmed these facts in her opening statement, asserting that 'rape began as soon as they were abducted and continued throughout their stay with the UPC. In fact, often the abuses were greatest in the initial stages of their abduction and in the training camps where they were trained to become militia soldiers.'[xvi]

The Trial Chamber also heard a significant amount of direct testimony on sexual violence from Prosecution witnesses.[xvii] While not all of this testimony was relied on by the Chamber in convicting Lubanga, the crimes described were exemplary of the experiences of girl soldiers within the UPC. Among the Prosecution witnesses relied upon by the Chamber, Witness 38 described the roles performed by girls in the camps, which included providing sexual services.[xviii] Witness 299 testified that 'the PMFs [girl soldiers]' job was to take the commander's bags, and their other job was to be their wives'.[xix] Witness 7 confirmed that 'commanders took girls who were recruits and said "[t]oday you will come and sleep with me"', and that the girls were not allowed to say no.[xx] In response to questions from Judge Odio Benito about sexual violence committed against girl soldiers during the initial training phase, Witness 16 confirmed that 'out of here, being in the centre for the first time, the trainers and other guards in the centre took advantage of the situation and they would rape the recruits'.[xxi] Witness 89 also stated that rape and sexual violence were commonly committed against girl soldiers. He testified that 'there were commanders who took girls as women. They would get them pregnant, and these girls then had to leave the camp and go to the village.' He also testified that this 'had to be accepted' when a commander wanted a girl.[xxii]

On the basis of the testimony presented by Prosecution witnesses, the Legal Representatives of Victims, acting on behalf of participating victims in the case, made an additional attempt to broaden the charges faced by Lubanga, and to specifically include gender-based crimes. In May 2009, the Legal Representatives filed a joint submission requesting the Trial Chamber to consider modifying the legal characterisation of the facts pursuant to Regulation 55 of the Regulations of the Court,[xxiii] to add the crimes of sexual slavery and inhuman and cruel treatment to the existing characterisation.[xxiv] In their filing, they argued that the evidence and witness testimony in the case could support additional charges of sexual slavery and inhuman and cruel treatment of recruits, including girl recruits who were pregnant as a result of rape. While a majority opinion[xxv] found that Regulation 55 permitted the Trial Chamber to modify the legal characterisation of facts to include facts and circumstances not originally contained in the charges, the Appeals Chamber reversed this decision on procedural grounds. The Appeals Chamber held that 'Regulation 55(2) and (3) of the Regulations of the Court may not be used to exceed the facts and circumstances described in the charges or any amendment thereto'.[xxvi]

Reference to Sexual Violence in the Judgment

With no amendments to the charges, and the unsuccessful attempt by the Legal Representatives to use Regulation 55, gender-based crimes received limited mention in the final Judgment. The Trial Chamber held that, given the Prosecution's omission of factual allegations regarding sexual violence in its document containing the charges and therefore its exclusion from the confirmation decision, the Trial Chamber was precluded from taking allegations of sexual violence into consideration in the Judgment. The Chamber was careful to limit the basis for its consideration of this evidence, stating that, 'given the prosecution's failure to include allegations of sexual violence in the charges [...] this evidence is irrelevant for the purposes of the Article 74 Decision save as providing context'.^[xxvii] As a result, the Trial Chamber noted that it had 'not made any findings of fact on the issue, particularly as to whether responsibility is to be attributed to the accused'.^[xxviii] In doing so, it recognised the accused's right to be fully informed of the charges against him under Article 67(1)(a) of the Statute. Despite not taking the evidence of sexual violence into consideration to determine the responsibility of the accused, as described in more detail below, the Chamber stated that it would consider 'in due course' whether evidence of sexual violence 'ought to be taken into account for the purposes of sentencing and reparations'.^[xxix]

The Trial Chamber's Formulation of the Crimes

Thomas Lubanga was convicted of the three separate war crimes of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities.^[xxx] Since 2008, based on our documentation and analysis, the Women's Initiatives for Gender Justice has advocated that sexual violence is an integral component of each of the three crimes for which Lubanga was charged and convicted. Sexual violence is often used against child soldiers, especially girl soldiers, to demonstrate control and ownership and to sever any attachment with their lives prior to abduction.^[xxxi] This was also recognised in the expert testimony of Radhika Coomaraswamy, UN Special Representative for the Secretary General (UNSRSG) for Children in Armed Conflict. She highlighted that girls recruited into armed groups play multiple roles, including combat, scouting and portering, in addition to sexual slavery and forced marriage. UNSRSG Coomaraswamy urged the Chamber to consider 'the central abuse perpetrated against girls during their association with armed groups after they have been recruited or enlisted, regardless of whether or not they mostly engaged in direct combat functions during conflict'.^[xxxii] She added that 'though some are mainly combatants, others may be mainly sex slaves [...] they have all been recruited and enlisted into this group [...]'.^[xxxiii]

Speaking for the Prosecution in the closing arguments, Deputy Prosecutor Fatou Bensouda told the Chamber that girl soldiers, in addition to the tasks that they performed identically to boy soldiers, were subjected to specific abuse, such as rape by fellow soldiers. She maintained that the enlistment and conscription of children under the age of 15 encompassed 'all the acts suffered by the child during the training and during the time they were forced to be a soldier. This interpretation is particularly relevant to capture the gender abuse, a crucial part of the recruitment of girls'.^[xxxiv] Bensouda urged the Chamber to make clear that the girls forced into marriage with commanders were not the wives of commanders but victims of recruitment, and should be particularly protected by demobilization programs and by the ICC.^[xxxv]

However, the Trial Chamber's formulation in the Judgement of the crimes of conscription, enlistment and use of child soldiers did not explicitly address sexual violence. At the outset of its analysis of the legal findings, the Trial Chamber briefly considered relevant jurisprudence, including that of the Special Court for Sierra Leone, to find that the crimes of conscription and enlistment constituted a violation of the Rome Statute's protection of vulnerable children, and to determine that children under the age of 15 were unable to consent to any manner of recruitment.^[xxxvi] The Chamber's analysis of the legal findings for the most part focussed on the correct interpretation to be given to the crime of using children under the age of 15 years to participate actively in hostilities.^[xxxvii] Taking into account the relevant provisions of the Statute and the Elements of Crimes, as well as previous international criminal jurisprudence on the issue, the Chamber came to the following formulation of 'active participation':

Those who participate actively in hostilities include a wide range of individuals, from those on the front line (who participate directly) through to the boys or girls who are involved in a myriad of roles that support the combatants. All of these activities, which cover either direct or indirect participation, have an underlying common feature: the child concerned is, at the very least, a potential target. The decisive factor, therefore, in deciding if an "indirect" role is to be treated as active participation in hostilities is whether the support provided by the child to the combatants

exposed him or her to real danger as a potential target. In the judgement of the Chamber these combined factors - the child's support and this level of consequential risk - mean that although absent from the immediate scene of the hostilities, the individual was nonetheless actively involved in them. Given the different types of roles that may be performed by children used by armed groups, the Chamber's determination of whether a particular activity constitutes "active participation" can only be made on a case-by-case basis.[xxxviii]

The Chamber did not make any definitive legal finding on whether sexual violence could or should be properly included within the scope of the separate crimes. In fact, it specifically left the question open.[xxxix] The Chamber did cite to both the written submissions and the in-court testimony of expert witness for the Chamber, UNSRSG Coomaraswamy, and noted that 'Ms Coomaraswamy suggested that the use for sexual exploitation of boys and girls by armed forces or groups constitutes an "essential support function"'.[xl] The Chamber also stated that 'Ms Coomaraswamy gave relevant background evidence that children in this context frequently undertake a wide range of tasks that do not necessarily come within the traditional definition of warfare', which exposed them to risks, including 'rape, sexual enslavement and other forms of sexual violence'.[xli]

Judge Odio Benito's Separate and Dissenting Opinion

In a Separate and Dissenting opinion, Judge Odio Benito dissented from the majority's findings on several issues, including on sexual violence as it related to the concept of enlistment, conscription and use of child soldiers. Judge Odio Benito argued that the prohibition against the recruitment of children under 15 should be applied to any type of armed group, regardless of the nature of the armed conflict--national or international. She also argued that the majority's failure to ensure that sexual violence was included within the concept of 'use to participate actively in the hostilities' rendered this aspect of the crime invisible.

Judge Odio Benito characterised sexual violence as inherent in the use of child soldiers. In her view, 'sexual violence committed against children in armed groups causes irreparable harm and is a direct and inherent consequence to their involvement with the armed group'.[xlii] She added that 'sexual violence is an intrinsic element of the criminal conduct of "use to participate actively in the hostilities"'.[xliii] She further underscored the different and disparate impact that sexual violence had upon female child soldiers. Judge Odio Benito explained: '[s]exual violence and enslavement are the main crimes committed against girls and their illegal recruitment is often intended for that purpose'.[xliv] She also emphasised the different experiences and consequences for girl and boy child soldiers, noting 'a gender-specific potential consequence of unwanted pregnancies for girls that often lead to maternal or infant's deaths, disease, HIV, psychological traumatisation and social isolation'.[xlv] Judge Odio Benito further argued for a broader definition of the concept of 'risk', with clearly gendered implications. She asserted that risk could emanate from both the opposing party to the conflict as well as the armed forces into which the child had been recruited.[xlvi] In this regard, she emphasised that:

Children are protected from child recruitment not only because they can be at risk for being a potential target to the "enemy" but also because they will be at risk from their "own" armed group who has recruited them and will subject these children to brutal trainings, torture and ill-treatment, sexual violence and other activities and living conditions that are incompatible and in violation to these children's fundamental rights. The risk for children who are enlisted, conscripted or used by an armed group inevitably also comes from within the same armed group.[xlvii]

Thus, Judge Odio Benito found the majority's approach to be discriminatory, as it failed to take into account the full range of human rights violations pursuant to Article 21(3).[xlviii] She argued:

[i]t is discriminatory to exclude sexual violence which shows a clear gender differential impact from being a bodyguard or a porter which is mainly a task given to young boys. The use of young girls' and boys' bodies by combatants within or outside the group is a war crime and as such encoded in the charges against the accused.[xlix]

Judge Odio Benito asserted that the majority 'confuse[d] the factual allegations of the case with the legal concept of the crime'.[l] In her view, the Chamber itself had 'a responsibility to define the crimes based on the applicable law, and not limited to the charges brought by the prosecution against the accused'.[li] She stated:

I deem that the Majority of the Chamber addresses only one purpose of the ICC trial proceedings: to decide on the guilt or innocence of an accused person. However, ICC trial proceedings should also attend to the harm suffered by the victims as a result of the crimes within the jurisdiction of the Court. It becomes irrelevant, therefore, if the

prosecution submitted the charges as separate crimes or rightfully including them as embedded in the crimes of which Mr Lubanga is accused. The harm suffered by victims is not only reserved for reparations proceedings, but should be a fundamental aspect of the Chamber's evaluation of the crimes committed.[lii]

While Judge Odio Benito's statement envisions a role for the judges in interpreting the crimes regardless of the charges submitted by the Prosecutor, the long and complicated procedural history of the Lubanga case demonstrates the difficulties and obstacles of attempting to account for gender-based crimes at a later stage in the proceedings, such as through the use of Regulation 55 or judicial interpretation. Indeed, the emphasis in the Judgment on the importance of such crimes being included in the decision on the confirmation of charges, in order to be taken into account in the trial Judgement, underscores that gender-based violence must be addressed at the earliest stages of the proceedings, the investigation and charging phases, by the Prosecution.

Implications for Reparations

The Chamber explicitly deferred making any decision on whether evidence of sexual violence 'ought to be taken into account for the purposes of sentencing and reparations'.[liii] At an earlier stage of the proceedings, the Prosecution had argued that sexual violence should be taken into account in sentencing.[liv] However, it remains unclear whether sexual violence can be considered as an aggravating factor for the purposes of sentencing under the statutory framework.[lv] In respect of reparations, a filing by the Registry[lvi] in response to a request from the Chamber specifically included sexual violence as a type of harm caused as a result of child conscription.[lvii] In an introductory section regarding the nature of the charges, the Registry noted that as a result of conscription, child soldiers 'may also have endured sexual violence. In some cases girls may have had a child as a result of being raped, experiencing stigmatization as a result.'[lviii] The Trust Fund for Victims also recognised the prevalence of gender-based crimes against child soldiers in its First Report on Reparations, in which it noted that sexual violence was perpetrated widely against girl and boy soldiers during their conscription, enlistment and/or participation.[lix] The Trust Fund further noted that in interviews carried out by the Trust Fund in 2010 with former child soldier beneficiaries of its assistance projects, over 48 percent of former child soldiers (of whom 66.7 percent were girls and 32.2 percent boys) indicated they had been subject to sexual violence and 35 percent of former boy child soldiers indicated they had been forced to commit sexual violence.[lx]

In a March 14, 2012 scheduling order concerning the timetable for sentencing and reparations, the Trial Chamber invited other individuals or interested parties to apply for leave to participate in this phase of the proceedings. As discussed in more detail below, on April 20, 2012 the Women's Initiatives was granted leave to participate in the reparations proceedings.