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:
Tuesday, 8 March 2011

Press clips are produced Monday through Friday.
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Concord Times
Tuesday, 8 March 2011

Taylor defence makes closing arguments on Wednesday

By ***Alpha Sesay***

Charles Taylor's defense team will finally have the chance to make their closing argument on Wednesday this week, bringing an end to an almost one month impasse that plagued the former Liberian president's trial at the Special Court for Sierra Leone in The Hague.

The schedule for the defense to make their closing argument was made this afternoon at a status conference convened by the Trial Chamber. Last week, Appeals Chamber judges of the Special Court for Sierra Leone ordered that the defense be allowed to submit a final trial brief and an expeditious date be set for the defense to make their closing argument.

The Trial Chamber had earlier rejected the defense final brief on the grounds that it had been submitted 20 days late. Defense lawyers therefore decided not to take part in the closing arguments, which were scheduled to commence on February 8, 2011. After an Appeals Chamber decision that the defense final brief be accepted and they be allowed to make their closing argument, Trial Chamber judges convened a status conference to agree on a final schedule that will see the closure of the trial that has already lasted for over three years.

The defense closing argument has now been set for Wednesday, March 9, 2011 commencing at 11:30am. The defense closing argument will continue into Thursday from 9:00 to 11:00am.

Prior to the defense closing argument on Wednesday, the Prosecution will make an oral response to the defense final brief. The prosecution oral submission will take place between 9:00am and 11:00am on Wednesday. The prosecution chose the option to respond orally to the defense final brief. The defense, who chose to submit a written response to the prosecution's final brief will do so by 4:00pm on Thursday, March 10, 2011. Rebuttal arguments to each party's closing argument will take place on Friday, March 11, 2011.

The parties have also agreed to file public versions of their respective final briefs one month after today. Therefore, by April 7, 2011, the public will have access to the final trial briefs of both the prosecution and the defense.

Charlestaylortrial.org (The Hague)
Monday, 7 March 2011

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Deutsche Presse-Agentur
Tuesday, 8 March 2011

Date set for closing arguments for Charles Taylor's defence

The Hague - A court in The Hague has set Wednesday as the deadline for Charles Taylor's defence lawyers to submit their final brief in the war crimes trial of Liberia's former president.

The defence is to provide its closing oral arguments on Wednesday and Thursday. Any rebuttal arguments from the prosecution are to be discussed on Friday, the appeals chamber of the UN-backed Special Court for Sierra Leone ruled.

The three-year trial had been due to close in February, with judges then retiring to consider their verdict.

But judges granted the defence team more time to present its arguments in light of evidence recently published by whistleblower website WikiLeaks.

According to Taylor and his British lawyer, Courtenay Griffiths, diplomatic cables published by WikiLeaks suggest the United States and Britain tried to influence the trial and push through a guilty verdict to prevent Taylor from returning to Liberia.

Taylor and Griffiths had boycotted earlier hearings in protest at judges' refusal to let them submit a lengthy analysis of the trial proceedings.

The maximum length of the defence brief was set by appeal judges at 600 pages.

Taylor faces 11 charges of war crimes and crimes against humanity. He is accused of fuelling a bloody 10-year civil war in neighbouring Sierra Leone and of pocketing a large amount of looted diamonds to deliver weapons to the Revolutionary United Front.

Taylor has dismissed the allegations as a 'pack of lies.'

More than 120,000 people died in the civil war until it ended with the deployment of West African peacekeepers, in 1999.

San Francisco Sentinel.Com
Monday, 7 March 2011
http://www.sanfranciscosentinel.com

Harvard for Tyrants - How Qaddafi taught a generation of bad guys

By Douglas Farah
Foreign Policy Magazine

Col. Muammar al-Qaddafi is well known now for the abuses he has inflicted on his own people during more than four decades of brutal rule in Libya, but few remember the vast campaign of carnage and terrorism he orchestrated across West Africa and Europe when he was at the height of his powers.

Nor are his more recent alliance with Hugo Chávez of Venezuela and his long-standing relationship with Daniel Ortega of Nicaragua — both of whom are busy trampling their constitutions and moving toward dictatorship — well understood. And the fact that all three governments support the Revolutionary Armed Forces of Colombia (FARC), a terrorist group that produces more than half of the world's cocaine and two-thirds of the cocaine entering the United States, is usually ignored.

Ortega and Chávez are among the handful of leaders to publicly defend the Libyan leader's attacks on his own people and urge him to hang on for one last revolutionary battle. In 2004, Qaddafi awarded Chávez the al-Qaddafi International Prize for Human Rights, created by the Libyan dictator. Chávez, who in turn bestowed Venezuela's highest civilian honor on Qaddafi in 2009 while comparing him to South American liberator Simón Bolívar, has now offered publicly to mediate the Libyan conflict. Thus far, only Qaddafi has reportedly accepted the offer.

The ties that bind Qaddafi to some of the world's most repressive regimes and armed movements began in the 1980s, when he was regarded as one of the premier terrorist threats in the world. Flush with oil money, Qaddafi orchestrated a training campaign for those who became the most brutal warlords in much of Africa, a legacy that has left the region crippled and unstable today.

Qaddafi's World Revolutionary Center (WRC) near Benghazi became, as scholar Stephen Ellis noted in his classic 2001 book The Mask of Anarchy, the "Harvard and Yale of a whole generation of African

revolutionaries," many of them the continent's most notorious tyrants. There, recruits from different countries were hosted in camps in the desert and given training in weapons and intelligence techniques, with some doses of ideological training based on Qaddafi's Green Book. Courses lasted from a few weeks to more than a year, depending on the level of specialization and rank one had.

In addition to the African contingents, Qaddafi's cadres trained the Sandinistas from Nicaragua, along with other Latin American revolutionary movements, and in the process developed an enduring relationship with Ortega. Later Qaddafi developed a close and ongoing relationship with the FARC, becoming acquainted with its leaders in meetings of revolutionary groups regularly hosted in Libya. At the WRC in the 1980s and 1990s, a select group of the students, drawn from the broader group of attendees, formed a fraternity of despots who provided mutual support in their bloody and ruthless campaigns for power and wealth. That durable network still wields considerable influence today through its alumni still in power, including Blaise Compaoré of Burkina Faso and Idriss Déby of Chad.

The one thing that held these disparate thugs together was their broad anti-American agenda, which led Qaddafi to support other dictators. Qaddafi's closest ally in the region was murderous Robert Mugabe, who although he is not a WRC alumnus, has been propped up by direct Libyan donations and subsidized oil shipments, primarily hundreds of millions of dollars in oil shipments. Relations between the two countries have been more strained in recent days when Zimbabwe could not repay its Libyan debt.

Qaddafi seems to have made out well in his investments. After he intervened militarily in the Central African Republic in 2001, the president he protected, Ange-Félix Patassé, signed a deal giving Libya a 99-year lease to exploit all of that country's natural resources, including uranium, copper, diamonds, and oil. In Zimbabwe, Qaddafi acquired at least 20 luxurious properties after riding to Mugabe's rescue; he also got a stake in some of the few still-viable state enterprises.

But West Africa bore the brunt of Qaddafi's early ambitions. Liberia, the U.S. stronghold in West Africa in the Cold War, was of particular interest to Qaddafi, especially after President Ronald Reagan ordered a bombing attack in 1986 against Libya that killed one of his daughters.

To help exact his revenge, Qaddafi recruited Liberia's Charles Taylor, a war criminal now standing trial for crimes against humanity, including the abduction of children for combat, systematic rape, and mass murder. Another Qaddafi recruit, Foday Sankoh of Sierra Leone's Revolutionary United Front (RUF), would be standing trial in the same court for similar crimes had he not died of natural causes.

Sankoh, an illiterate corporal, formed the RUF under Taylor's auspices and together they pioneered their signature atrocity in the 1990s — the amputation of the arms and legs of men, women, and children as part of a scorched-earth campaign designed to take over the region's rich diamond fields. Their atrocities were backed by Qaddafi, who routinely met with Taylor and his closest associates to review the progress of the conflicts and supply weapons. Qaddafi continued sending arms to Taylor even as the latter was being forced from office in 2003.

Another alumnus of the center was Laurent Kabila, whose brutal forces swept to power in the Democratic Republic of the Congo (DRC) in 1997 when the dictatorial regime of Mobutu Sese Seko imploded. Ernesto "Che" Guevara, the Argentine/Cuban revolutionary, had tried to work with Kabila's troops in the 1960s only to give up in despair because of Kabila's incompetent leadership and the massive corruption he enabled. Relations with Kabila's son Joseph, the current DRC president, are not as close.

Compaoré, the current president of Burkina Faso, is another illustrious WRC graduate. In 1987, troops loyal to Compaoré, who was then a captain and minister of the presidency, assassinated his best friend, President Thomas Sankara, to pave the way for Compaoré to take power. As president of the tiny, impoverished, landlocked country, Compaoré sent troops and resources to back Taylor's insurgency in

Liberia and the RUF in Sierra Leone. A 2002 United Nations investigation found that Compaoré played a significant role in arming the RUF and Taylor in violation of a U.N. arms embargo. Compaoré has remained a staunch Qaddafi ally through the years.

In Latin America, Qaddafi had been supporting the Sandinistas and Ortega since 1979, and Ortega has still not forgotten the favor. Last week Ortega called Qaddafi his "brother" and this week conveyed his support, promising that "Nicaragua, my government the Sandinista National Liberation Front, and our people are with you in these battles."

The Libyan relationship with Chávez and the FARC dates at least to 2000. A series of email exchanges among FARC commander Raúl Reyes, Qaddafi, and Ortega show how deep that relationship remained in the recent past. The FARC, founded in 1964 and operating primarily in Colombia, is the Western Hemisphere's oldest guerrilla movement. Since Chávez took office he has given the FARC extensive political support and called for the group to be removed from the U.S. and EU terrorism lists. Ortega has long-standing ties to the FARC as well as to Qaddafi and Chávez.

After Reyes was killed in 2008, his computer hard drives were captured by the Colombian police. They contain a trove of correspondence, including a Sept. 4, 2000, letter from the FARC high command to "Comrade Colonel Gaddafi, Great Leader of the World Mathaba." The missive thanked Qaddafi for recently hosting senior FARC commanders in Libya. The FARC went on to request "a loan of $100 million, repayable in five years. . . . One of our primary needs is the purchase of surface-to-air missiles to repel and shoot down the combat aircraft." The aircraft in question were supplied to the Colombian military by the United States.

Reyes wrote a Feb. 22, 2003, letter marked "Hand Delivery" to Ortega, asking for an update on the status of the FARCs earlier request for missiles, stressing the urgency of the petition. "Dear Comrade Daniel," Reyes wrote, "The Libyans said they would answer us but we have not yet received any information. . . . while we were in Libya they explained to us that the political responsibility for Libya's policies in the region were in the hands of Daniel Ortega. For that reason, we are approaching you, in hopes of obtaining an answer." It is unclear whether the weapons were ever delivered.

Chávez pulled out all the stops during Qaddafi's visit to Venezuela in 2009. "What Símon Bolívar is to the Venezuelan people, Qaddafi is to the Libyan people," Chávez said while awarding the Libyan leader the "Order of the Liberator" medal, along with a replica of Bolívar's sword. Qaddafi in turn praised Chávez for "having driven out the colonialists," just as he had driven out those in Libya. "We share the same destiny, the same battle in the same trench against a common enemy, and we will conquer," Qaddafi said.

It seems that Chávez, Ortega, Mugabe, Compaoré, and the rest of Qaddafi's shrinking club of despots desperately hope that the colonel was not right. The support of Chávez and Ortega for Qaddafi has been politically costly and proved to be an embarrassment to many of Latin America's erstwhile revolutionaries who now share a vision of a democratic future. The aging dictators club will likely be one member short soon, and the survivors — and their citizens — will be left to ponder if there is a shared destiny.

Hirondelle News Agency
Monday, 7 March 2011

ICTR to deliver four judgments involving 15 accused by end of June

President of the International Criminal Tribunal for Rwanda (ICTR) Judge Dennis Byron said his Tribunal expects to deliver judgements in four cases involving 15 genocide-accused by the end of June, 2011.

‘'By the end of June this year, we expect judgment to be delivered in four cases, the Gatete, Military II, Butare and Bizimungu cases," President indicated in a speech addressed to the ICTR staff last Friday a copy of which was made available to Hirondelle News Agency.

Jean Baptiste Gatete was former Mayor of Murambi commune in Byumba prefecture whereas Military II case involves four former Rwandan military officers. Among them are two former chiefs of staff, General Augustin Bizimungu of the Rwandan Army and General Augustin Ndindiliyimana of Gendarmerie Nationale. Other defendants are Commander of Reconnaissance Battalion, Major Francois-Xavier Nzuwonemeye and his Deputy, Captain Innocent Sagahutu.

The Butare case is the biggest joint trial at the UN Tribunal with six accused persons. They include the only woman to be indicted by ICTR and former Minister of Family and Women Affairs, Pauline Nyiramasuhuko and her son Arsene Shalom Ntahobali, two former prefects, Sylvain Nsabimana and Alphonse Nteziryayo and two former mayors, Elie Ndayambaje and Joseph Kanyabashi.

The fourth case namely Bizimungu trial, jointly tried together four former interim government ministers during the 1994 Rwandan genocide. The defendants are Jerome Bicamumpaka (Foreign Affairs), Casimir Bizimungu (Health), Justin Mugenzi (Commerce) and Prosper Mugiraneza (Civil Service).

According to President Byron's speech, five other on going trials were also expected to be completed by the end of this year. These are, joint case of two former Rwandan MRND ruling party leaders, President Matthieu Ngirumpatse and his Vice President, Edouard Karemera, two former ministers, that of Youths, Callixte Nzabonimana and Ex-minister of Planning, Augustin Ngiratabatware.

Other accused in the on going trials include former Mayor Gragoire Ndahimana and ex-military officer, Captain Ildephonse Nizeyimana.

President Byron alongside two other top ICTR leaders including the Prosecutor, Hassan Bubacar Jallow and the Registrar, Adama Dieng were addressing the staff on general issues and the UN Security Council resolution 1966 of December 2010 to establish the International Residual Mechanism which will take care of the remaining tasks of ICTR and that of the Former Yugoslavia (ICTY) when both complete their mandates.

According to the resolution, the Council has decided that the Mechanism for ICTR would commence its operations on July 1, 2012 whereas that of ICTY would kick off one year later, on July 1, 2013.

NI/FK/GF

Voice of America
Monday, 7 March 2011

Criticism as Kenya Lobbies UN for ICC Deferral

Michael Onyiego

Photo: Reuters

International Criminal Court's (ICC) chief prosecutor Luis Moreno-Ocampo speaks at a news conference in The Hague, March 3, 2011

International criticism of Kenya is mounting as a team of top officials travels to the United Nations to seek a deferral of the International Criminal Court's probe into the 2007 and 2008 post-election violence.

On Monday, the government of Kenya began another diplomatic press aimed at deferring trials at the ICC stemming from the violence. Six Kenyans including two prominent politicians stand accused by Prosecutor Luis Moreno-Ocampo of funding and planning the chaos, which left over 1,300 dead in the wake of disputed presidential elections.

Kenyan Vice President Kalonzo Musyoka is now leading a team of seven Kenyan MPs and ministers who will lobby the members of the United Nations Security Council to defer the trial for one year.

In January, the African Union approved Kenya's request to seek a deferral in order to try the violence suspects locally. The first attempt at a local trial came in 2009, when Kenya established a Truth, Justice and Reconciliation Commission to investigate the violence.

But an ethics scandal surrounding the chairman effectively shut down the group's work. Critics within Kenya's government have called the renewed lobbying efforts a waste of taxpayer money, but Kenya's leaders argue the judicial reforms outlined in the country's new constitution will pave the way for local trials.

The director of the Nairobi-based International Center for Policy and Conflict, Ndungu Wainaina, believes efforts to try the perpetrators of Kenya's election violence locally are unlikely to bear fruit.

"It is not possible in this country, maybe in another country but not in Kenya. It is as practical as that. Up to this point in time, the Kenyan government has never set up a credible and tested witness protection mechanism. That is a precondition to be able to carry out prosecutions and a fair trial for that matter," Wainaina said.

Among the six suspects named in the ICC investigations are former Higher Education Minister William Ruto, Finance Minister Uhuru Kenyatta and head of civil service Francis Muthaura. Wainaina told VOA that the high profile and influence of those suspects would make any legal proceedings extremely difficult.

Kenya's move to the Security Council is also being criticized on procedural grounds. Under the Rome Statute - which governs the ICC - the Security Council has the power to suspend a trial for one year if it poses a threat to international peace or security.

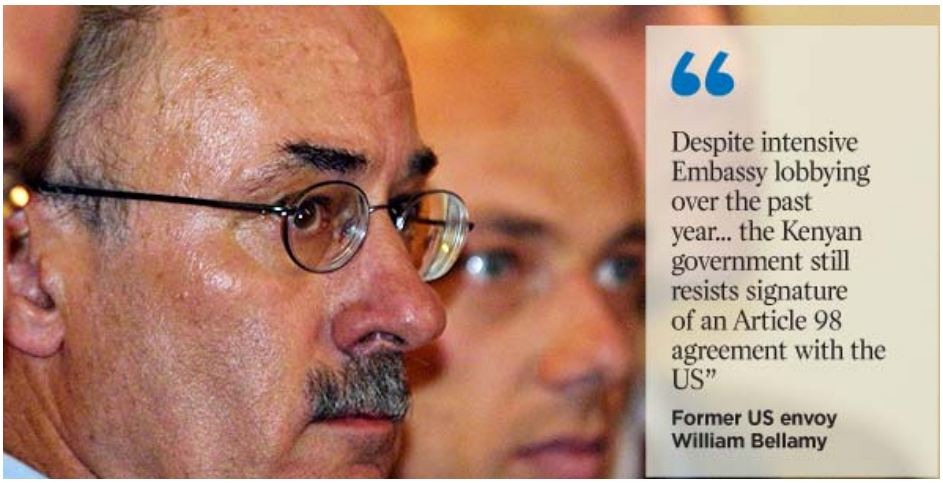
According to Human Rights Watch Researcher Elizabeth Evenson, Kenya's case does not meet such criteria. "When it comes to Kenya there is just absolutely no indication that the ICC's investigations or prosecutions pose any threat to international peace and security. In fact, the investigations in Kenya have really been welcomed," she stated.

Human Rights Watch is part of a coalition of organizations which have petitioned the Security Council's African members to reject Kenya's request and allow the ICC case to continue.

Daily Nation (Kenya)
Tuesday, 8 March 2011

How Kenya rejected America's ICC plot

By Macharia Gaitho mgaitho@ke.nationmedia.com



In Summary

- The US cut military aid and imposed travel curbs in bid to seal deal protecting its soldiers

The American government tried for years, without success, to pressure Kenya into signing an agreement to protect Americans who might be wanted by the International Criminal Court.

Documents released by the whistle-blower website WikiLeaks show US frustration that Kenya resisted all types of inducements, arm-twisting and threats to sign the so-called Article 98 agreement.

That is a bilateral agreement by which Kenya would undertake not to hand over to The Hague any American citizen sought for war crimes, crimes against humanity, genocide, mass murder or other crimes of that nature.

Ironically, the US is now at the forefront in pressing the government to accede to ICC trials for key officials facing possible indictment for the post-election violence.

The US is itself not a party to the ICC and has over the past six years waged a worldwide campaign to protect its military forces and civilians from jurisdiction of the international court.

The pressure applied by the US included visa bans against ministers and other officials, cutbacks in military cooperation and development aid; and travel warnings that adversely affected the flow of American tourists to Kenya by depicting the country as unsafe because of terrorism threats.

A confidential October 27, 2005 memo by then Ambassador William Bellamy set out the frustration US was facing: "Despite intensive Embassy lobbying over the past year, and the cutoff of [military assistance], the Kenyan government still resists signature of an Article 98 agreement with the US. Academics, journalists, foreign

governments and many Kenyan Members of Parliament regularly reinforce — through speeches and public statements — the GoK's 'brave' stand against USG 'arm-twisting'".

The US even expected that the Armed Forces would lobby the government to sign the agreement in order to ensure continued military aid, but finally concluded that there was little that could be done to soften the Kenyan position.

"While APSA (American Service-members' Protection Act) sanctions penalise the Kenyan armed forces by… cutting back on valuable bilateral interaction between our respective forces, the Kenyan military is loathe to lobby its political leadership. Within the GoK there is No/No constituency in favour of an Article 98 agreement, and little concern over the impact our sanctions are having on Kenya's defence capabilities. While influential Kenyan Cabinet figures would doubtless be interested in exploring some kind of quid pro quo with regard to Article 98 (lifting the travel warning on Kenya, for example) there is little we can, or should, offer as inducements for signing an Article 98 agreement beyond continuing to treat Kenya as a good and worthy ally."

Mr Bellamy recounts meetings with senior government officials opposed to the agreement.

A discussion during the run-up to the 2005 referendum with Public Service head and Secretary to the Cabinet Francis Muthaura confirmed that the bilateral agreement was not even on the government agenda.

Immunity agreement

In mid-August 2005, Mr Bellamy tried to press the then Justice and Constitutional Affairs Minister Kiraitu Murungi on the immunity agreement, and "was told there was little chance the GoK would conclude a non-surrender agreement with the US."

Mr Murungi, however, tried to offer the Americans a way out in the form of an existing agreement covering US soldiers already stationed in Kenya who might fall foul of the law, and "oral assurances from the highest level of the GoK that no USG persons would be surrendered to the ICC".

According to the memo, Mr Murungi felt this would give the US what it wanted, while sheltering Kenya from accusations that it was succumbing to pressure.

The Americans also examined the possibility of having a high-ranking State Department official meet Attorney-General Amos Wako on the issue, but had little faith in the outcome.

"Ambassador Bolton should meet with Attorney-General Wako but without illusions as to his ability to sway the internal debate. Wako will be aware of the state of play within the GoK, and may provide some additional insights into the GoK's resistance, but he does not have the standing, or the inclination to break the current stalemate".

The cable noted that the US legislation (the Nethercott Amendment) which limits financial assistance to countries that recognise the ICC “will soon sharply limit current US capacity-building support to Kenya’s Department of Public Prosecutions, which falls in Wako’s bailiwick,” but still concluded that the A-G would not be able to do much.

The ambassador hoped, at least, that “Wako can be counted on to carry back a strong message from the highest levels of the USG. This would be a welcome addition to the pressure the Embassy has applied these past months”.

Earlier, on June 29, a political officer at the US Embassy had discussed the issue with the then Deputy Speaker David Musila, where he was particularly concerned about a Motion by then Kikuyu MP Paul Muite urging the government not to sign any immunity agreement with the US.

Mr Musila told the American ambassador that the Muite Motion “would almost certainly pass”.

The Hague Justice Portal
Tuesday, 8 March 2011

Does gender matter at the International Criminal Court?

Danya Chaikel reflects on gender justice and crimes against women on the 100th anniversary of International Women's Day.

On the 100th Anniversary of International Women's Day, Danya Chaikel, an advocate for women's rights and justice, analyses the treatment of sexual violence by the institutions of international justice. She examines the development of gender-based crimes, outlines the current proceedings and looks at the methods used by the courts to ensure representation of women both as lawyers and as victims.

"It is now more dangerous to be a woman than to be a soldier in modern conflict"
- Maj. Gen. Patrick Cammaert, 2008, former UN Peacekeeping Operation Commander in DRC

According to UN Women, an estimated 250,000–500,000 women and girls were raped during the 1994 Rwandan genocide[1]; 20,000–50,000 women and girls were raped during the Bosnia-Herzegovina war in the early 1990s[2]; and 50,000–64,000 internally displaced women in Sierra Leone were sexually attacked by combatants during the 10 year conflict of the 1990s[3]. The crisis continues today with an average of 40 women and girls raped every day in South Kivu, DRC,[4] bringing the total number of women and children having been raped in the country's decade long conflict to over 200,000.[5]

These crimes are now broadly understood to be used as a strategy by armed groups to systematically terrorise enemies and devastate community life, with the aim of achieving military or political victory.[6] The horrifying recent examples of widespread sexual violence are not new to the scourges of war and conflict, but the brutality of these shocking events were well publicised and has finally resonated with the international legal community. The argument that sexual violence during conflict is inevitable is no longer acceptable. It is now unfeasible to ignore these atrocities or be passive about punishing crimes of sexual violence. Rape of women and girls is at last being recognised and prosecuted as a weapon of war.

And yet most sexual violence during conflict falls under the radar, because of weak national protection measures, inadequate investigative and judicial procedures and few direct services for survivors.[7] Even at the ICC, according to Prosecutor Luis Moreno-Ocampo, an obstacle to prosecuting gender crimes is that these crimes are frequently underreported.[8] Due to fear and social stigma, relatively few affected women find the strength to come forward with their stories of sexual violence or rape. UN High Commissioner on Human Rights Navanethem Pillay claims the international community "is only addressing the tip of the iceberg in terms of cases examined, and merely scratching the surface in terms of our understanding of how women experience violence".[9]

ICTY, ICTR and SCSL

Gender crimes have only been seriously prosecuted internationally during the past decade. The 1990s saw the establishment of the three flagship international criminal institutions – the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone (SCSL). Several other ad-hoc and hybrid international criminal courts have subsequently been formed. These three institutions were set up to try those individuals most responsible for genocide, crimes against humanity and war crimes committed during particular armed conflicts. These three general categories of atrocity crimes may include sexual violence committed against civilians.[10]

The ICTR led the way in this field, breaking ground with the Akeyesu[11] decision of 1999, which was the first decision defining rape as an act of genocide. The ICTR Chamber I held that "rape and sexual violence certainly constitute infliction of serious bodily and mental harm on the victims" and that "these rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction". An important theme arising from this case and other ICTR decisions is that sexual violence against civilians, mostly took the form of rape which was an instrument of genocide committed against the Tutsis.

Following the historic Akeyesu ruling, the ICTY followed suit with many decisions adding to the jurisprudence of gender-related atrocity crimes. Of note are the tribunal's judgements related to individual liability in mass rape crimes. The ICTY judgments show that gender-based violence was an instrument of 'ethnic cleansing' against civilians during the conflicts in the Balkans. There was also sexual violence in detention centres, sometimes involving the sexual slavery of women and girls.

The SCSL further broadened the prosecutorial scope of gender-based crimes by expanding crimes against humanity to include forced marriage under the appropriate circumstances. Cases involved combatants kidnapping women and girls and forcing them into marriages. These women and girls, branded as the militia's 'bush wives', were further subjected to rape and to other forms of sexual violence.[12]

Collective jurisprudence from the three judicial bodies confirms that sexual violence committed during armed conflicts may amount to various forms of atrocity crimes. Assuming all other legal requirements are satisfied (including the collaboration of evidence, the elements of the crime are proven, the appropriate standard of proof is met, etc.) then rape can amount to a crime against humanity and a war crime; rape can amount to torture as a crime against humanity and a war crime; rape and/or other sexual violence can be an instrument of genocide if it amounts to acts causing serious bodily or mental harm to members of the targeted group; rape and/or other sexual violence can form part of persecution and enslavement as crimes against humanity; and sexual violence can form part of outrages upon personal dignity and inhumane treatment as war crimes.[13]

This jurisprudence paved the way for a new conception of sexual violence against women beyond the private or national context, to a widespread recognition that these acts may constitute grave breaches of international criminal law. Yet the global condemnation of sexual violence as an atrocity crime is a very recent advancement, and one that is still in the making. Only in June 2008 did the UN Security Council adopt Resolution 1820 connecting gender-based crimes with the maintenance of international peace and security, insisting on the "immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians".[14]

ICC

The movement towards ending an era of impunity for widespread gender crimes continues with the ICC, both in terms of the substantive law as well as with the very structure of the Court. There has been dramatic progress, but there is still much work to do.

The Rome Statute, establishing the permanent International Criminal Court, was adopted by the UN diplomatic conference in Rome on 17 July 1998. The Statute marks the first time an international treaty codifies heinous forms of violence against women as crimes against women as crimes against humanity, war crimes, and in some situations, genocide. Under these three principal crimes the ICC Elements of Crime extensively codify specific crimes against women including rape, sexual slavery, enforced prostitution, forced pregnancy, forced sterilisations, sexual violence, gender-based persecution and trafficking of persons particularly of women and children.

Cases before the ICC

All present situations before the ICC include charges of sexual violence or rape. Of the 17 indictees, 12 have been charged with gender-related crimes. There is no denying that the Court is taking these issues seriously. Last year the ICC saw many judicial firsts for gender justice. For the first time charges of genocide were brought in the situation of Sudan, which is found in the second arrest warrant of Omar Hassan Ahmad Al Bashir, including alleged acts of rape.[15]

Central to the highly publicized case *The Prosecutor v. Jean-Pierre Bemba Gombo* are charges of rape as both a war crime and as a crime against humanity.[16] The trial opened in November 2010 with the Court's first ever all female bench of judges – presiding over the case is Judge Sylvia Steiner from Brazil who has expertise in women's rights. By her side are Judge Joyce Aluoch from Kenya and Judge Kuniko Ozaki from Japan. This means female judges from Latin America, Asia, and Africa are trying the first ICC trial which is largely focussed on sexual violence against women during conflict.

Looking beyond these advancements, Brigid Inder, Executive Director of Women's Initiatives for Gender Justice, claims there is still room for improvement. She says last year 40% of charges for gender-based crimes before the ICC were dismissed in cases for which confirmation hearings had been held, with judges mostly finding there was insufficient evidence in these applications. Moreover she claims there is

an under-representation of women participating as victims, even though all the situations before the Court include gender-based crime allegations to various degrees.[17]

Gender Sensitive Rules & Procedures

When the ICC was designed in 1998, serious attention was paid to ensuring court procedures are gender sensitive and women are not re-traumatised during court proceedings.

The Rome Statute and the ICC's Rules of Procedure and Evidence (Rules) include strong protective measures for victims and witnesses, especially those who survived gender-based violence. It is the explicit responsibility of each organ of the ICC to ensure the safety, psychological health, dignity and confidentiality of female victims and witnesses.[18] The Rome Statute established the Victims and Witnesses Unit to provide counselling, protection, and other forms of support for female victims.[19] To avoid re-traumatising sexual violence survivors, the ICC is mandated to carefully protect women who testify in court by requiring the Prosecutor to be sensitive to their interests during investigations and prosecutions.[20] Experts on traumatised women are called as witnesses, and judges are tasked with preventing counsel from harassing or intimidating women on the stand. Female witnesses and victims can have legal representatives, a court-appointed support person, and the presence of a psychologist or family member during testimony. Women and girls do not have to testify in front of their assailant, and their voice and image can be altered to protect their identity. To protect their confidentiality and to avoid further frightening experiences, Chambers may authorise women to testify in closed hearings, through video, or by other means.[21]

The Rome Statute and Rules also permit extensive direct participation of victims in ICC proceedings which is a first for international criminal law. Even when not called as witnesses, those approved as victims may express their views in court through a designated representative. There are also provisions in the Rome Statute for victims to be awarded reparations, compensation and rehabilitation.[22] The Statute also established the Trust Fund for Victims (TFV) which provides assistance to victims of crimes within the jurisdiction of the Court.[23] The TFV estimates that approximately 42,300 victims are benefiting directly from their general assistance, and an additional 182,000 of their family members are benefiting indirectly through the improved wellbeing and reduced stigma which their programs promote.[24]

Gender Sensitive Staffing Policies

For there to be real progress in ending impunity for gender crimes, ICC founders also thought to include in the Rome Statute, and later in the Rules, appropriate gender sensitive policies at an operational level. The Statute requires that judges, legal advisors in the Prosecutor's Office, and Registry staff will have expertise in issues pertaining to violence against women and children.[25]

For the election of ICC judges, the Rome Statute requires States Parties to take into account the need for fair representation of female and male judges,[26] and requires that the prosecutor and registrar do the same when hiring staff. Particularly Rule 19(e) of the Court's Rules of Procedure and Evidence requires staff with "Gender and cultural diversity" in the Victims and Witness Unit. Under Article 42(9) of the Rome Statute, the Office of the Prosecutor must appoint a Special Gender

Adviser to the Prosecutor, and Prof. Catharine A. MacKinnon was selected as such in 2008. She is mandated to provide strategic advice on sexual and gender violence.

The policies on gender equity are ostensibly working and today more than half of the ICC's Judges are women – 11 of 19. In terms of staffing, the ICC fared well in 2010 with women representing 47% of all Court staff and 50% of all professional staff. However, women remain underrepresented in most senior management positions.[27] The ICC's governing body, the Assembly of States Parties recognised this disparity and recommends the Court "continue to build on the strides it has made in the recruitment of female staff, particularly at senior levels."[28]

Even though all situations before the ICC include gender-based crimes committed in Africa, as of January 2010, only 61 of the total of 335 counsel registered to practise before the ICC were women and less than four percent of counsel were African women. As a result, the ICC launched a "Calling African Female Lawyers" campaign in cooperation with the International Bar Association with the aim to increase the number of African women lawyers permitted to represent victims and defendants before the ICC. These efforts resulted in an increase in the number of female African counsel on the defence counsel list.[29]

The way forward

Gender certainly matters at the ICC. The Court has arguably been a catalyst for a wide range of positive changes for women under international criminal law – the recognition of and codification of gender-based crimes as atrocity crimes, the protection and participation measures for female victims and witnesses in the lead up and during ICC trials, the provisions for reparations for female victims and the hiring practices requiring gender expertise and aiming for equal gender representation for both judges and Court staff.

There is much to commemorate for women's international criminal justice in the 100th year since the first International Women's Day. Yet there remains much to improve upon in the face of continued systematic and brutal sexual violence in several conflict situations around the world. International criminal laws and judicial institutions have come a long way in just over a decade, but the particular effects of atrocity crimes on women need further attention. It is time for a transparent accounting of these heinous crimes, in order to bring about better judicial accountability of perpetrators and proper redress for victims.

Conference on Systematic Sexual Violence

For those who would like to learn more or become involved, there is an upcoming international Conference on Systematic Sexual Violence in The Hague from 7-8 April 2011. The focus of the Conference will be causes and responses to systematic sexual violence, and the rights and perspectives of victims, and will bring together various participants, including ICC, international and national court officials and personnel; government officials; academic specialists; those working with victims, NGOs, journalists, medical personnel and activists. To register (no fee) for the "Hague II: Colloquium on Systematic Sexual Violence and Victims' Rights" click here.

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