

Trying Charles Taylor: Justice Cannot Be Fully Achieved at The Hague

By Alpha Sesay*

On March 29 2006, Charles Taylor was transferred to the custody of the Special Court for Sierra Leone, making him the first former African leader to be brought to trial for alleged crimes committed during Sierra Leone's conflict.

Upon his arrival in Sierra Leone, the Special Court immediately requested the International Criminal Court and the Government of The Netherlands to host his trial at The Hague, fearing potential instability in the sub-region if he is tried in Sierra Leone. His trial would still be conducted by the Special Court, though at a different venue, distant from the victims of the war in Sierra Leone. The UN Security Council is set to discuss a resolution to that effect, permitting The Netherlands to host the trial. The United Kingdom and the United States have expressed support for such a resolution. It is suspected that Taylor's supporters might use his trial in Sierra Leone as a reason to cause unrest in Liberia. As important as these concerns might be, transferring Taylor to The Hague not only poses great challenges for the Special Court, but also undermines the entire rationale for having the Court in Sierra Leone in the first place.

The Special Court is a unique make-up of hybrid justice. Its statute blends domestic and international law. It sits in the country where the conflict took place, gives victims of the conflict access to the justice that they deserve, engages Sierra Leoneans in public interaction with the court and promises a meaningful legacy for the country. Taylor's transfer to The Hague negatively impacts all these objectives. It would deprive war victims of the justice that they deserve. In 2004, at the Victim's Commemoration

Conferences organized by the Outreach Section of the Special Court, many victims said that they would regard the court as having been successful only if Taylor is tried. For many victims indeed, the most meaningful consolation they can get for their sufferings during the conflict is to see the person they consider as being responsible for their sufferings tried in their presence. This has been echoed by the Amputees and War Wounded Association in Sierra Leone, which declares that the opportunity to witness the trial of Taylor would go a long way to heal their wounds.

The victims are the Court's primary constituency and providing some sense of justice and restitution to such victims is one of several important goals for the court. Conducting Taylor's trial in Sierra Leone will greatly satisfy this goal -- a major purpose for locating the court in Sierra Leone. Taking his trial to The Hague makes justice too distant for victims of the conflict. It will also impose undue difficulty for an already financially handicapped Court. Transferring witnesses, prosecutors, judges and defense counsels will be too expensive.

The presence of the court in Sierra Leone has greatly enhanced civil society participation in the justice sector. This stands as one of the meaningful legacies that Sierra Leone can gain from the court's presence in the country. Journalists are able to report on trials first hand, thus informing the ordinary people about the court's proceedings. Victims are able to get a first hand view of how alleged perpetrators are made to answer for their acts. These are all things that Sierra Leoneans stand to lose if Taylor is transferred to The Hague. It might be too demanding for the court to facilitate the presence of such victims,

local media and civil society coverage at The Hague. Sierra Leoneans would be deprived of what they truly deserve.

The Court's outreach program has been doing tremendous work. They now face a harder task to extend the outreach to Liberia, to get Liberians to know how and why their Ex-President is being tried. These are already heavy tasks and taking Taylor to The Hague will make them all the more demanding. Sierra Leoneans and Liberians, especially war victims and Taylor's family, will only get second hand information of the proceedings. Many people do not have access to television and for those who do, electricity remains a problem. How would they be able to watch proceedings taking place in The Netherlands? If given second hand information, would they find the process credible?

If Taylor is moved to The Hague, there is the potential for Sierra Leoneans, particularly those sympathetic to Norman, to see this as unequal justice. Why does Norman sit in Sierra Leone while Taylor gets the plush confines of European jails and what will inevitably be seen as more European justice?

Security has always been a concern since the Court's inception. When guerrilla commanders were indicted, many people feared that their supporters would cause an uprising. When Chief Hinga Norman, former head of civil defense forces and a hero for many people, was indicted, security concerns arose. The Special Court requested the international tribunals for Rwanda and for the former Yugoslavia to provide temporary detention for him and to host his initial court appearance. These institutions refused and

Norman's trial has been held in Sierra Leone ever since. Nothing has happened despite such early fears.

Now if The Hague refuses to host Taylor's trial, would he not be tried in Sierra Leone? Surely, he would. So why don't we just do that job now, increase security and peace keeping efforts in the region and share the numerous benefits of holding his trial in Sierra Leone. The cost of his trial at The Hague will be enormous. So why not use that money to empower and deploy more peace keeping forces in the region? Because its proceedings are held out of Rwanda, the international tribunal for Rwanda has been criticized for having little or no impact on the Rwandan citizenry. This is exactly what the Special Court is meant to avoid. Taking Taylor's trial out of Sierra Leone will defeat this purpose.

It should be noted that Sierra Leone's "hybrid" feel of the court had already been seriously undermined by the Government of Sierra Leone's decision to name a British Deputy Prosecutor and Appellate Judge. Looking back on the foundations of the Court, those appointments were incredibly costly to the perception among Sierra Leoneans that this was truly a hybrid court. In seeing the long impact of an institutional shift away from what was originally promised, we see a precedent for how moving Taylor to The Hague might forever undermine Sierra Leoneans' sense of ownership over this process.

There are compelling reasons for Taylor to be tried in Sierra Leone, in the presence of the numerous victims of the conflict and alongside the other people already being tried by the Court. He must however be given all fair trial guarantees. Coupled with increased security in the region, the process should be a smooth one that will be of good to all.

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