



International Justice and the Prevention of Atrocities

Case Study: Justice and the Prevention of Violence in the Liberian Peace Process of 2003: Lessons from the International Role
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After fourteen years of brutal war, and after at least thirteen previous unsuccessful peace agreements, the Liberian government signed a peace accord in 2003 with the two fighting rebel groups (the LURD² and the recently formed MODEL³). This agreement has held until today, now ten years later, but not without occasional threats to its foundation, and implicit conditions put on the peace by still-powerful former warlords.

Criminal Justice and Conditions for Peace

One of these conditions, rarely stated directly, is that the former fighters expected they would not be put on trial. The 2003 peace agreement included no amnesty, and instead focused on a truth commission, reparations for victims (later little implemented), and vetting of the security forces (implemented by the UN mission in Liberia). But in relation to amnesty, the understanding by the leadership of the fighting groups was otherwise. When the truth commission recommended far-reaching prosecutions and exclusions from political office, several years later, the former warlords joined together to threaten more war if there were to be prosecutorial moves against any one of them. Whether this threat was necessary – as those

¹ This paper was prepared as part of a project of the European Council on Foreign Relations to compare the experience of different situations where international responses to crises involving mass atrocities have faced the dilemma of seeking accountability while trying to bring the crisis to an end. Please cite fully in the event of reference or quotation.

² Liberians United for Reconciliation and Democracy

³ Movement for Democracy in Liberia

with prosecution powers already well-understand the fragility of the peace – there was in any regard no further movement towards individual criminal accountability in the years following.

Ironically, however, the very peace agreement itself was in part made possible by the indictment of the then-president of Liberia, Charles Taylor, by the Special Court for Sierra Leone, a ‘hybrid’ tribunal in neighboring Sierra Leone. In an extraordinary and risky move, the prosecutor of the Special Court, an American, unsealed the indictment for Taylor on the morning of the opening of the Liberian peace talks, which took place in Accra, the capital city of Ghana. Taylor had just enough time to decide to address this in his opening speech: he offered to step aside in order, he said, to allow the peace talks to go forward and a resolution to the conflict to be found.

Taylor returned immediately to Liberia, and soon thereafter formally agreed to his departure from power, although his war tricks also continued and in retrospect he was clearly seeking a military means of remaining in power. Several months later still, a strong urging from a group of African heads of State was required to push him finally to relinquish the presidency and leave for exile in Nigeria, allowing the peace agreement to be implemented. Many Liberians involved in the talks look back on the indictment of Taylor as the single most important element in changing the Accra peace talks from an effort with little chance of success, to a serious meeting where the parties could in fact bargain over the future of the country – and without the ever-present control and manipulation of the seemingly unmovable Taylor.

It must be recognized however that the risk that flowed from the indictment of Taylor was real: some reports from the ground suggested a possible backlash from his supporters (against Ghanaians in Liberia) if he had been arrested in Ghana on that first day. The prosecutor indeed had informed US policymakers of his intentions, and received contradictory reactions from different officials in Washington, ranging from support to worry and a strong urging to defer his plans. The prosecutor’s office had not assessed or considered the risks of a backlash in Monrovia, believing this to be outside of their mandate and their own concerns. In the end, those who were present in Monrovia on that day have different accounts of the severity of the threat of violence during the hours that Taylor’s fate was unclear. The most persuasive accounts are those who describe Taylor’s armed militias acting like “a snake with its head cut off” – not knowing what direction to turn, and thus unlikely to rampage if their leader was arrested overseas.

The Role of ECOWAS and Other Internationals in the Liberian Peace Process

ECOWAS took the lead in the peace talks, as it had for many peace initiatives in the region over the previous years. The appointed mediator, former Nigerian President Abdusalami Abubakar,

did not prioritize justice, and was most interested that this was not an obstacle to an agreement.

African States involved in the process resented the surprise announcement of the arrest warrant for Taylor. Ghana considered it to be entirely inappropriate to ask for the arrest of a visiting head of state, at the start of a peace conference, as this would violate their diplomatic assurances that allowed for the peace conference to take place. They made no effort to detain Taylor on that morning that he was still in Ghana (officially claiming they had not yet received the warrant), and instead facilitated his return home.

The international community played a very important role in encouraging the active involvement of Liberian civil society in the peace negotiations, where they greatly affected the agenda for justice. Among these was an important contingent of Liberian women who pushed for the end of violence as quickly as possible. Those with a justice agenda proposed a truth commission and the removal of a briefly-considered amnesty provision.

In the course of the talks, as fighting continued back in Liberia, the explicit threat of justice was used at least once to deter war crimes. After a US Embassy-owned compound in Monrovia was shelled, killing some Liberian civilians who had sought refuge there, the US representative at the talks sat down with a rebel leader in Accra. The message, which came directly from Washington, was clear: if there were another such incident, that group would be tried by an international war crimes tribunal. The exact nature of such a threatened tribunal was not clear, but the message was, and there was no further shelling of US property.

The US Ambassador in Monrovia, meanwhile, stayed in place long after many other embassies had closed. He met with rebels leaders on the front lines, on the outskirts of Monrovia, and helped to dissuade any attempt at a military conquest the city, which was expected to cause significant civilian casualties and, if successful, to lead to a much less democratic future. A negotiated resolution that included all parties was much preferred. Working with both sides on the ground as well as at the peace talks was an important part of the strategy of at least some in the international community.

The final Comprehensive Peace Agreement created a transitional government that shared the ministerial posts between the leadership of two rebels groups and representatives of the Charles Taylor government. After two years, elections brought Ellen Johnson Sirleaf to the presidency, with the agreement that those who had served in the interim government could not run for the presidency.

Two years after the peace agreement and Taylor's departure for Nigeria, the international community again played a role in pushing for Taylor's arrest and transfer to the Special Court to stand trial. His reportedly continuing involvement in regional political affairs, especially efforts

to undermine the Liberian government, worried many. Ultimately, Nigeria detained and extradited him; he was tried by the Special Court in The Hague, and in 2012 convicted and sentenced to fifty years in jail. Because the charges against Taylor related to events in Sierra Leone, many Liberians were unsatisfied that Taylor's crimes at home were not yet subject to any trial.

Truth and Reforms

The Truth and Reconciliation Commission, in operation from 2005 to 2009, became an important national process, though it was plagued with significant internal troubles that spilled over into the public discourse and media coverage. Its report recommended prosecutions of those most responsible for war crimes and economic crimes, both through domestic courts and through the creation of a new hybrid criminal court (an "an internationalized domestic court"). It listed 160 persons recommended for prosecution for gross human rights abuses, and another 26 for economic crimes. As noted above, these recommendations went nowhere.

The Commission also recommended that many senior officials, including serving President Johnson Sirleaf, be excluded from running for election for thirty years. Needless to say, this was controversial, in part because of the lack of information from the Commission to substantiate its individual-specific findings. In 2011 the Liberian Supreme Court found this specific recommendation to be unconstitutional. Other aspects of the report, however, were seen as important, and several years later there are still efforts to implement reforms suggested by the Commission, in relation to natural resources, the media sector, national dialogue programs, and other areas, with the assistance of the UN Mission in Liberia and others.

Liberia Today

Observers have noted that war in Liberia engaged the country's elite, who founded, commanded, or supported the various armed factions. Many of these persons remain in positions of power, and thus a serious justice or victim-focused program remains difficult. In the two national elections since the end of the war, prominent former warlords have been voted into the Senate or House of Representatives with high numbers; at any given time, between ten and twelve persons who were named in the TRC report as among the most serious perpetrators (of human rights or economic crimes) have sat in the 87-member legislature.⁴

While known perpetrators have gained electoral support (typically from their historical or ethnic support base), there is simultaneously a national undercurrent of frustration for the lack of attention to the crimes of the war, including almost complete silence on individual

⁴ As tracked by Aaron Weah, interview September 2013.

accountability and little further attention to broader reconciliation or memory issues. The accommodation granted to warring parties in the Accra peace agreement was perhaps accepted as a practical necessity to end the war. That peace still depends on the power of these former warlords should perhaps not be read as a stable political outcome, but rather a post-war context still frozen in the de facto constraints that continue from the war.

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