

Impunity on Trial in Africa

In Cases of Ex-Leaders, Justice Shifts From Soldiers to Courts

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JOHANNESBURG -- The arrest in March of former Liberian president Charles Taylor was the latest in a series of tentative steps toward holding political leaders in Africa accountable for alleged crimes including corruption, rape and genocide.

After decades in which senior government officials were largely beyond the reach of national and international law, prosecutors recently have pursued Taylor for war crimes committed in Sierra Leone, a U.N.-backed tribunal has tried former leaders in the 1994 Rwandan genocide, and international investigators have been invited into four other African countries.

National courts have also become increasingly aggressive. In Zambia, former president Frederick Chiluba is battling corruption allegations, as are several top officials in Nigeria, Kenya and Malawi. In South Africa, former deputy president Jacob Zuma, accused of raping a family friend half his age, is awaiting a court judgment.

"There is a very important shift in the way people conceive of power and want to do things on the continent," said Claude Kabemba, who monitors governance issues across Africa for the Human Sciences Research Council in Pretoria, South Africa. "Impunity in many instances is not allowed as it was a decade ago."

The recent series of legal proceedings across the continent has the feel of victors' justice to some observers. Taylor's arrest was facilitated by President Ellen Johnson-Sirleaf, a former political rival. The case against Chiluba has been pushed by his successor. And Zuma, a populist once widely expected to be South Africa's next president, has blamed his legal troubles on a conspiracy to block his ascent to power.

Despite the political flavor of many of the cases, however, analysts, legal experts and human rights activists say the court actions mark a new era in which African disputes increasingly are being resolved by judges rather than soldiers. It may be a necessary first step, these advocates say, toward a more advanced variety of the rule of law in which all citizens -- regardless of political power -- are treated equally by impartial courts.

"What's wrong with victors' justice if this is a better form of justice than was there before?" said Desmond deSilva, chief prosecutor of the U.N.-backed tribunal trying Taylor. De Silva recently announced his resignation from the post but said he hoped to return to the job to lead Taylor's prosecution.

Taylor now waits in a jail cell in Freetown, the capital of Sierra Leone, for trial on 11 counts of war crimes, including crimes against humanity for backing a rebel group that relied heavily on

child soldiers and was known for mass rapes and severing the limbs of civilians. He has pleaded not guilty.

The rise in international tribunals began in the 1990s after the genocides in Rwanda and Bosnia. The movement gained strength with the creation of the International Criminal Court in The Hague in 2002.

The Bush administration opposed the international tribunal, instead supporting special courts such as the one that is trying Taylor. It argued that a permanent international court with broad authority could infringe on U.S. sovereignty and put its citizens in improper legal jeopardy.

Despite U.S. opposition, support for the International Criminal Court is strong throughout most of the world, and it is widely seen as a way to bring the world's worst human rights violators to justice. The idea has grown popular enough in Africa that national leaders, who traditionally have jealously guarded their sovereignty, have turned to the international court for help.

The presidents of Ivory Coast, Congo and Uganda asked the International Criminal Court to investigate the actions of armed groups that control parts of their countries, and in Uganda and Congo arrest warrants have been issued for militia leaders.

In the Central African Republic, President Francois Bozize has asked the court to investigate the actions of his predecessor, Ange-Felix Patasse.

"Politically, it makes sense to be an exponent of justice," said Richard Dicker, head of the international justice program for Human Rights Watch, speaking from the organization's New York headquarters.

As international courts have gained strength, national courts in many nations have grown in clout and independence. With the decline of leaders who rule for life, newer generations of African leaders increasingly have been pressured -- by the international community and their own citizens -- to rely on means other than violence to resolve their disputes.

"There seems to be a movement to say we will not tolerate a situation in which impunity is a norm," said Nobuntu Mbelle, coordinator of the Coalition for an Effective African Court on Human and People's Rights, with offices in both South Africa and Nigeria. "It's not business as usual."

Corruption investigations in Kenya have led to the resignations of three cabinet ministers, and two sons of former president Daniel arap Moi have been accused of wrongdoing.

In South Africa, which in the 12 years since the end of apartheid has become a diplomatic powerhouse and a democratic role model to many other countries, Zuma faces the prospect of years in jail for his rape charge. He also faces corruption allegations.

Many South Africans saw political motives in the prosecutions of Zuma. The same is true in Nigeria, where the anti-corruption campaign led by President Olusegun Obasanjo is seen by

many within his country as an attack on enemies as he clears the way for a possible run for a third four-year term.

One effect of the prominent court cases has been to modestly curb corruption in Nigeria, according to political analysts there, because officials are attempting to insulate themselves against damaging investigations. Another effect is a growing, if grudging, respect for the rule of law, said Chidi Odinkalu, founder of Coalition Against Impunity, a Nigerian-based umbrella group of more than 350 human rights organizations worldwide.

"The motivations are less altruistic than promotion of the rule of law for the heck of it," said Odinkalu, speaking from Lagos, Nigeria. He added, "The politics of the rule of law is having positive consequences for the cause of justice."

There are crucial exceptions, including the longevity of Zimbabwean President Robert Mugabe, who has ruled his southern African nation through increasingly authoritarian means since 1980. Other African leaders have been reluctant to challenge his authority, despite devastating economic decline and extensive evidence of human rights abuses and election rigging.

Even some advocates for imposing international standards of justice in Africa worry that the fear of prosecution has encouraged Mugabe, 82, to resort to any means to stay in power.

Enduring that problem, said John Stremlau, a former professor of international relations in Johannesburg now working at the Carter Center in Atlanta, is better than forgoing justice for the victims of the most brutal of African regimes.

"Putting rogues at risk is a good thing," said Stremlau, speaking from Atlanta. "It's fraught with idiosyncrasies and inconsistencies, but the trend line is right."