

**Accountability in South Sudan – the African Union steps up** Adama Dieng, United Nations Special Adviser on the Prevention of Genocide

23 April 2014

Images of Charles Taylor being arrested and indicted in 2006 for his crimes in Sierra Leone's brutal civil war were splashed over the front pages of global news sites. When he was convicted in 2012, the spectacle was widely broadcast around the world. Elsewhere, the wheels of justice at the International Criminal Tribunal for Rwanda have been grinding away steadily since 1995. Out of 95 indictments, and some 49 convictions later, complaints continue that génocidaires are still at large. While the International Criminal Court continues to pursue cases against several African leaders, a remarkable attempt to step into the breach by an indigenous African institution goes largely unnoticed.

In recent times, some parts of Africa have witnessed violence on a scale that has shocked its people, drawn international condemnation and, in some cases, resulted in a call for intervention by the international community. Recent atrocities in the Central African Republic and South Sudan have made news, but there have been other violent eruptions in Cote d'Ivoire, the Democratic Republic of Congo, Kenya, Libya and Mali. The African Union (AU) has been criticised for not doing enough to address impunity on the continent and for failing to expressly condemn and reject impunity.

On 30 December 2013, the African Union Peace and Security Council took an unprecedented step. For the first time in the history of the regional organization or its predecessor, the Organization of African Unity, the Peace and Security Council established a Commission of Inquiry. It is to investigate human rights violations and other abuses committed during the armed conflict in South Sudan, the African Union's newest member and the world's newest nation.

Against a backdrop of criticism by some African leaders of the International Criminal Court's focus on African cases and repeat calls for the African Union to take the lead in prosecutions, this is a ground-breaking development and a policy watershed.

The Commission has a challenging mandate including investigating human rights violations and abuses by all parties to the conflict and the identification of those most responsible, who will be held to account. The Commission will also make recommendations on ways to foster reconciliation and healing among all South Sudanese communities.

South Sudan's conflict, which started as a power struggle within the ruling party, the Sudan Peoples' Liberation Movement (SPLM), now has ethnic undertones, pitting the two main ethnic

groups against each other, President Salva Kiir's Dinka and his former deputy, Riek Machar's Nuer. Both factions are alleged to have committed atrocities, including acts of ethnic cleansing and targeted killings. Many South Sudanese, who endured decades of a brutal civil war between the south and the north, now find themselves back in the same situation. Thousands have fled to neighbouring countries or are displaced internally. The humanitarian situation is dire.

The Commission of Inquiry will be carrying out its work in the context of a grim, ongoing human rights crisis. Establishing the truth about what has happened and bringing those who have committed atrocities to justice will be a critical step towards bringing this fractured young nation together. The rejection of impunity cannot be simply a catch phrase; justice must be seen to be done.

The establishment of this Commission rides on the back of major developments in the fight for accountability in Africa. In 2013, exiled former Chadian President Hissène Habré was arraigned before the Extraordinary African Chambers, a hybrid court established within the Senegalese legal system, for crimes against humanity allegedly committed during his presidency. Multiple actors, among them the African Union, first recommended his trial by Senegal in 2006 demonstrating that the African Union can be innovative and effective in pursuing criminal accountability.

Efforts like these are not on the global radar screen but they are critical to the equally important objectives of seeking justice and accountability on the one hand, and peace and stability on the other; they are mutually reinforcing. There is no regional court with a mandate to try criminal cases - the African Court for Human and Peoples Rights is not mandated to do so. Few national courts currently have the jurisdiction or capacity to try such cases, including South Sudan's courts. To overcome the challenges that may arise from the recommendations of the Commission, the South Sudanese, the African Union and their partners must be creative and be committed to achieving justice for the victims. A peaceful and unified South Sudan must have the confidence to confront this dark moment of its history and ensure justice for the victims.

Mwalimu Julius Nyerere used to say that "We have to be our brother's and sister's keepers". This is the moment to take the bull by the horns and show that the African Union is serious about ending impunity on the continent, particularly for atrocity crimes. The United Nations supports the effort for justice to be pursued within the regional context. Those committing atrocities should be put on notice. We know they will be closely monitoring the work of this first Commission of Inquiry. If there is no justice, you can be sure that atrocities will continue and it will be back to "business as usual". We cannot afford to let the "African Renaissance" be tarnished by the acts of criminals. The Commission of Inquiry has to do well and do it right; the whole world will be watching.

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