

January 29, 2013

Treat Greed in Africa as a War Crime

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WHEN the [International Criminal Court](#) made public an arrest warrant in November for Simone Gbagbo, a former first lady of Ivory Coast, on charges of crimes against humanity, it set two precedents. For the first time, it had indicted a woman — and someone who had held no formal public office. The previous year, Mrs. Gbagbo’s husband, Laurent, became the first former head of state to face trial before the I.C.C. He is charged with thousands of murders and “other inhuman acts” after refusing to accept defeat in a presidential election that was held in November 2010.

The indictments of the Gbagbos are welcome, but they don’t bring the court any closer to confronting the fundamental causes of the violence that has plagued Ivory Coast — and most of sub-Saharan African — for centuries. Colonial rule, and the military takeovers and suppression of democratic movements that followed it, have contributed enormously to the misery. But even those legacies are not the root cause.

Violence in Africa begins with greed — the discovery and extraction of natural resources like oil, diamonds and gas — and continues to be fed by struggles for control of energy, minerals, food and other commodities. The court needs the power to punish those who profit from those struggles. So do other judicial forums. At a summit meeting here last week, leaders of the African Union proposed expanding the criminal jurisdiction of the [African Court on Human and Peoples’ Rights](#) to include corporate criminal liability for the illicit exploitation of natural resources, trafficking in hazardous wastes and other offenses.

Africa’s so-called “resource curse” is legendary. Take Nigeria. It experienced 10 successive military coups beginning in 1966, just a few years after independence from Britain and the subsequent discovery of large oil reserves. The struggle to control its government was in large part a struggle to control oil. The pattern repeated in many countries — including the Democratic Republic of Congo (formerly Zaire), Somalia, Liberia, Uganda, Sierra Leone and the Republic of Congo — where rebels, political parties and international corporations competed to control extraction industries.

Ivory Coast, which produces about 40 percent of the world’s cocoa beans, is a

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Cocoa accounts for a fifth of its economy. Nestlé, Hershey and Cadbury play central roles in buying and trading it, and they benefit from the exploitative labor practices in the agricultural sector. According to a 2008 government survey, 88 percent of a sample of children between 6 and 17 years old in Ivorian agricultural districts reported that they participated in cocoa production.

Practices like [child labor](#) reproduce exploitation, but the I.C.C. holds neither the rural farmers nor the international corporations that depend on such practices responsible. Claimants have had to sue, instead, in the courts of sovereign nations. For example, Grant & Eisenhofer, a law firm representing a Louisiana public employees' pension fund, asked the Delaware Chancery Court in November to order Hershey to open its books so that the fund could verify shareholders' claims that the chocolate maker had worked with suppliers who used illegal child labor in Ghana and Ivory Coast.

Another example: in August 2006, the commodities trader Trafigura hired a ship, the Probo Koala, to dump toxic waste in locations in Abidjan, the commercial capital of Ivory Coast. Fifteen people died and more than 100,000 were treated for disorders relating to exposure to the waste. After six years of prosecutions and appeals, a Dutch court found Trafigura guilty of illegally exporting waste, but in Ivory Coast the company was granted immunity from further prosecution in exchange for a financial settlement.

In Sudan, the Chinese National Petroleum Corporation has been assailed for supplying the military with resources and oil revenues that were used to support the mass displacement and killings of civilians, but it operates with impunity.

The I.C.C. should be empowered to prosecute corporate crimes — and not be restricted to genocide, war crimes, crimes against humanity and crimes of aggression, as it is now under the Rome Statute. That may be difficult. It would require agreement among the signatories to the statute, which do not include some of the world's largest countries, like India, China and the United States. (The Obama administration, unlike its predecessor, has cooperated with the court, although it does not have the political support to rejoin the statute or obtain Senate ratification.)

For all its deficiencies, the I.C.C. — which in 10 years has achieved just a single conviction, that of a Congolese warlord last year — has a global reach and responsibility as the world's first permanent war-crimes tribunal. Holding government officials and their inner circles accountable is a step toward justice, but the pursuit cannot end there. The Gbagbos, however heinous their alleged crimes, were ultimately figureheads in a vast and unregulated system of extractive capitalism.

If it is to be relevant to Africa, the I.C.C. must have the power to prosecute corporate involvement in illicit extraction of resources. Expanding the powers of the African court would also help. True international justice means not only investigating heads of state, but also the multinational companies that are part of the ecosystem of Africa's violence.

Kamari Maxine Clarke, a professor of anthropology at Yale, is the author of "Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa."

This article has been revised to reflect the following correction:

Correction: February 1, 2013

An Op-Ed article on Wednesday urging international prosecution of multinational corporations that commit crimes in Africa misstated the capital of Ivory Coast. It is Yamoussoukro, not Abidjan (the former capital and the country's largest city).

This article has been revised to reflect the following correction:

Correction: February 6, 2013

An Op-Ed article last Wednesday calling for international prosecution of corporate crimes in Africa misstated a finding of an Ivory Coast government survey. It found that 88 percent of a sample of children between 6 and 17 in agricultural districts reported that they participated in cocoa production — not that 9 in 10 Ivorian children below age 10 were involved.