

The 2003 Charles Taylor's Political Asylum in Nigeria: An Appraisal

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Abstract: *The Nigerian Government granted Charles Taylor, former Liberian President, political asylum in August 2003. Before then, Taylor's continued presence in Liberia had been a major impediment to the peace process in his country bedevilled by a fourteen year civil war. Motivated largely by concern for Liberia's humanitarian crisis, and the hope that Taylor's departure would speed up an end to the war; former President Olusegun Obasanjo of Nigeria offered Taylor a safe haven after wide consultation with African and world leaders. However, Taylor's indictment and warrant of arrest issued on him by the U. N. -backed Special Court for Sierra Leone (S.C.S.L.), earlier in June 2003, hunted him even in exile. He was alleged to have committed war crimes and crimes against humanity for which the world called for his extradition and trial. In this paper, an attempt is made to appraise some of the justifications for Nigeria's grant of political asylum to Charles Taylor vis-à-vis the criticisms, just as the controversy seems unending.*

Keywords: *Asylum, Charles Taylor, Liberia, Nigeria, War Crimes*

1. INTRODUCTION

On Monday 11 August 2003, Charles Taylor, the embattled former Liberian president, flew into Nigeria for a forced exile having been granted political asylum by Nigeria's President Olusegun Obasanjo (The Punch, August 12, 2003:1) and endorsed by the Senate and the National Council of State (Guardian, August 13, 2003:15). Then, Taylor, his wife, family and aides lived in Calabar. The Nigerian government assured him of high grade security while he (Taylor) was barred from granting press interviews without Government's permission (The Guardian, August 12, 2003:2; Kolawole, 2004: 264).

This grant of political asylum to Charles Taylor has generated a lot of controversy both at home and international fronts. The raging controversy is not only on the decision to grant asylum to Taylor but much more because of his indictment for war crimes and crimes against humanity by the International Criminal Court sitting in Sierra Leone (Tellewuyan, 2003). This is further fuelled by President Obasanjo's declaration that he would not release Taylor for trial at the Tribunal (Tellewuyan, 2003; The Punch, August 25, 2003:59)

2. ASYLUM: A CONCEPTUAL ANALYSIS

Asylum, in international law, involves two basic elements as highlighted by Shearer (1994:323). These are: (i) Shelter, which is more than merely temporary refugee and (ii) a degree of active protection on the part of the authorities in control of the territory of asylum. Shearer explains further that asylum may be either territorial (political) where it is granted by a state on its territory or extra – territorial (diplomatic) where it is granted for and in respect of legation or consular premises. (Ibid).

According to Shearer (1994: 323), Glahn (1986: 271) and Okeke (1986:105), every state has a plenary right to grant political asylum to fugitive criminals unless it has accepted some particular restriction in this regard. Such restriction(s) may include an extradition treaty between two countries. This view was reinforced by the international Court of Justice which states *inter alia* that “a decision to grant asylum to fugitives in no way derogates from the sovereignty of that State” (Okeke, 1986:106)

3. CHARLES TAYLOR AND HIS INVOLVEMENT IN THE LIBERIAN CRISIS

Charles McArthur Ghankay Taylor was born on 28 January 1948 in Arthington, near Monrovia. When Sergeant Samuel Doe became the Liberian President in April, 1980, Taylor was appointed as

the head of the General Services Agency until May, 1983 when he was removed on charges of corruption. He fled the country in October of the same year.

Taylor's involvement in the Liberian crisis started in December, 1989 when, as leader of the guerilla National Patriotic Front of Liberia (NPFL), he was successful in overthrowing Doe's government (Odiaka, 2003:15). By July 1990, a seven-year civil war broke out between the two factions of the NPFL led by Prince Johnson and Charles Taylor respectively. (The Guardian, August 12, 2003:2) The war claimed an estimated 250,000 lives (Ibid; Kolawole 2004: 265).

Taylor became the President of Liberia in July 1997 through a general election that international observers deemed fair (Odiaka, 2003:15). In year 2000, a local rebellion erupted against him (Ibid). And since June 2003, the battle against the insurgents had claimed over 2000 lives (Ibid). As President, Taylor was reported to have sold arms and other military supplies to the brutal rebels – Revolutionary United Front (R. U. F.) during Sierra Leone's 1991 -2001 civil war in exchange for Sierra Leone's diamond (Tell, August 16, 2004:23; The Punch, August 13, 2003:2) The war left and estimated 200,000 people dead. (Ibid, p. 2). On June 4, 2003, the United Nation's Special Court for Sierra Leone indicted Taylor for war crimes. (SCSL)

Faced by a local rebellion and growing international pressure to resign, "Taylor had little or no choice than to go or fight to death" (The Guardian, August12, 2003:2).Subsequently on August 7, 2003, Taylor formally resigned from office, handing over power to Moses Blah, his Vice President. By August 11, 2003, he arrived Abuja, Nigeria on asylum.

4. JUSTIFICATIONS

A number of arguments have been advanced by the Nigerian government, some international bodies, world leaders, as well as academics to justify Obasanjo's decision of granting political asylum to Charles Taylor in Nigeria. These are grouped as humanitarian, strategic, socio-economic, legal and extra –legal factors.

4.1. Humanitarian Factor

Humanitarian reasons have been cited by the Obasanjo government for granting political asylum to Charles Taylor in Nigeria. Expressing the mind of the Nigerian government, Yemi Akinseye – George, the Special Assistant to the Attorney general of Nigeria, argues that the need to restore peace and stability and stop the carnage in Liberia was the overriding consideration in the asylum grant. (Tell, August 16, 2004:18-19]. John Freeman, the United State's (U.S) Ambassador to Nigeria also supported this view (Ibid, p 19). It would be recalled that apart from the estimated 250,000 people killed in the 14 years civil war in Liberia, (Guardian, August 12,2003;2; Kolawole, 2004:265; Guardian, August 13, 2003:15), a United Nations (U. N.) report on Liberia also indicated that about 450,000 people were displaced while another 1.3. million were exposed to serious risk of disease. (Guardian, August 13, 2004:15) Another report had it that Monrovia beaches became burial grounds just as hunger was hitting hard on the people with children starving to death (The Guardian, August 12, 2003:4)

Liberians then were desperately clamouring for rescue from peacekeepers to open-up humanitarian corridors from the rebel-held port in order to allow food and drug aids to flow into Monrovia. (The Punch, August 8, 2003:2). But then, the Liberian United for Reconciliation and Democracy (LURD), the main rebel group, would only accept to disarm and surrender the Monrovia port if Taylor resigns and leave the country (Ibid:7, Guardian, August 4, 2003:4).

Judging from this, Obasanjo could be said to have believed that taking Taylor out of Liberia would help prevent a humanitarian disaster that would have claimed more lives in the country. His calculations were right as rebel forces handed over the control of Monrovia's port to Nigerian peacekeepers on August 14, 2003 (Guardian, August 15, 2003 :1).Aid workers immediately swung into action and respite came for Liberians who hitherto were groaning in despair. Following from the foregoing analysis, it may be argued that Taylor's political asylum was in the interest of peace as it was expected to facilitate the reconciliation of Liberian peoples.

4.2. Socio- Economic Factor

Taylor's political asylum in Nigeria has also been explained in terms of Socio-economic considerations. Obasanjo was bent on ending the war in Liberia because he was under pressure to pull

out Nigerian forces from Liberia because the cost of prosecuting the war was enormous. (Tell, August 16, 2004:18). For instance, Emewu (2003) reports that over N22b was spent on ECOMOG by Babangida administration alone while the continued loss of lives of Nigerian soldiers was equally becoming unbearable.

Closely related to this was the desire to reduce the refugee problem in Nigeria with over 3000 Liberian refugees already hosted in Oru-Ijebu, Ogun State (Kolawole, 2004:264). The question of refugee was indeed of paramount importance considering its socio-economic and security implications in a given economy. Hence it may be argued that Obasanjo granted Taylor the asylum to ensure peace in Liberia and thereby reduce the influx of refugees to Nigeria from Liberia.

4.3. Strategic Factor

A number of strategic reasons have also been cited as justification for the grant of political asylum to Charles Taylor in Nigeria. One of such was the view expressed by President John Kufuor of Ghana who was also the then ECOWAS Chairman. According to him, the Nigerian gesture demonstrated the efficacy of Africans for handling intra-regional conflicts and was really a success for African initiative for peace (Amnesty International, August 12, 2004). Obasanjo also commended Taylor for making the "sacrifice" that would guarantee peace in his country (Ibid). Through this unique controversial act, Nigeria was therefore commended for giving "a spot- light to ECOWAS as a competent regional body empowered by the member countries" to resolve intra – regional conflicts in Africa. (The Comet, July 31, 2003:11). The African Union (A.U) and ECOWAS initiatives for peace in Liberia has justification as stipulated *inter alia* in Article 33 of the U. N. Charter that disputes likely to endanger international peace and security could be solved by "resort to regional agencies or arrangements". (Shaw, 1997:841)

The second strategic justification for Nigeria's action is the need to play her usual ' "big brother" role in African politics. Akinbobola (Ibid:1) and Emewu (2003) argue that Nigeria, being the giant of Africa and whose foreign policy centres on the unity of Africa, could not shy away from the crucial task of restoring peace in Liberia. Perhaps this explains why Nigeria has been actively involved in ECOWAS peace mission in Liberia, committing enormous human and material resources to ECOMOG, even when global powers viewed the crisis with levity (The Comet: op cit). Hence, Akinbobola justifies Obasanjo's decision of granting Taylor an asylum saying: "if giving an asylum to Taylor will facilitate (peace in Liberia), there is nothing wrong in it".

Nigeria had indeed performed similar feats in the past. Notable among political asylee hosted by Nigeria in the past were: Roosevelt Johnson and Prince Yormie Johnson of Liberia; Corporal Foday Sankoh of Sierra Leone and President Siad Barre of Somalia among others. (The Punch, August 13, 2003: 17; Tell, August 16, 2004:18). The aim had always been to end the conflicts "by removing key personalities whose continued presence in their countries was only likely to escalate the conflagration and lead to more death and destruction" (Tell, 2004). The same spirit was aptly demonstrated in the case of Taylor.

The urgent need to persuade the international community to commit resources to peace keeping in Liberia is another strategic justification for granting asylum to Taylor in Nigeria. It would be recalled that during his visit to Nigeria in July, 2003, the American President George Bush said the U. S. would not consider sending troops to Liberia as long as Taylor remained in power (Tell, 2004:18). Bush also reiterated this view on August 6, 2003 (The Punch, August 8, 2003). Judging from this, it may be argued that Nigeria was motivated to grant Taylor political asylum with the hope that his departure would open the doors of Liberia to foreign aids and assistance especially from America and other major world powers and subsequently, speed up an end to the war.

4.4. Legal Factor

International legal justification has also been advanced for granting political asylum to Taylor by Nigeria. It is argued that asylum is discretionary in international law (Glahn, 1986: 270-271; Okeke 1986: 105-106). There are no specified binding conditions for granting political asylum in law. Resting his argument on Article I paragraph 3 of the Declaration on Territorial Asylum (1967), which states that "it shall rest with the State granting asylum to evaluate the grounds for the grant of the asylum", Glahn observes that even if a refugee does not meet the conditions laid down in the Geneva Convention on the Status of Refugee (1951), in full or in part, he could still qualify in many states for

political asylum because general international law knows no firm rule limiting political asylum (Glahn, op.cit). Glahn's argument is very relevant in the Taylor case.

4.5. Extra- Legal Factor

The enormity of support received by Obasanjo and the urge on him to grant Charles Taylor political asylum in Nigeria, especially from the international community, serves as another justification for Nigeria's action. Series of consultations were held between ECOWAS Chairman, John Kufuor of Ghana, the U. N. Secretary General Kofi Annan, Thabo Mbeki, the then African Union Chairman, Howard Jetter, former American Ambassador to Nigeria, and the British High Commissioner to Nigeria, Philip Thomas (Tell, August 16, 2004:18) before the asylum was granted. Charles Taylor was also accompanied to Abuja on 11th August, 2003 by both the A. U. Chairman, Joadquim Chissano of Mozambique and ECOWAS Chairman, John Kufuor (UN Integrated Regional Information Networks, August 12, 2003). The implication is that the grant of political asylum to Taylor by Nigeria was a 'concensus' among African and world leaders as well as the international bodies. This overwhelming support for Obasanjo may therefore exonerate him from any blame.

5. CRITICISMS

A number of critics (Tellewoyan, Takirambudde, Emewu, Adeyemi, Ayaele, Akinyemi, Egbuna, Bello, Soniyi, Adaramola, Amnesty International, the U.S Government and the U. N. (op. cit) among others, have pointed out series of flaws in the decision by Nigeria's President Obasanjo to grant political asylum to Charles Taylor and her refusal to release him for trial before the Special Court for Sierra Leone (SCSL).

.One of such criticisms was that Taylor was an indicted war criminal. For this reason, it is argued, Taylor was not qualified for political asylum as defined in international law (U.N Integrated Regional Information Networks, August 12, 2003).It would be recalled that in June 2003, the U. N- backed SCSL published the Indictment and Warrant of Arrest of President Charles Taylor of Liberia for series of War Crimes and Crimes Against Humanity (see Article 7 of the ICC Treaty) He was charged for backing the notorious brutal rebel movement (Revolutionary United Front- R.U.F.) in Sierra Leone during the 1990's. The group was notorious for cutting off the limbs of children and innocent civilians during the Sierra Leonean civil war in the 1990's (Tellewoyan 2003; U. N. op.cit). The warrant of arrest appealed to all national authorities, international authorities and the INTERPOL to take all necessary actions to arrest Charles Taylor and turn him over to the SCSL.

Given the fact that Taylor's offences are punishable under the Geneva Convention of 1951 as upheld by the International Law Commission (ILC). (Jennings and Watts, 1992: 534), and going by the fact that he was granted political asylum in Nigeria after the publication of his indictment and warrant of arrest by the SCSL, Taylor remains an indicted war criminal who was granted political asylum in error. But Nigeria was quick to make necessary corrections by handing him over to the Tribunal in accordance with the warrant of arrest.

Another criticism is that Nigeria's decision of granting Taylor political asylum violates the principle of international law which stipulates that those responsible for crimes against humanity, war crimes and other breaches of international law be brought to justice (Brownlie 1980:561 & 563; Amnesty International, 2003, 2004). Amnesty International argues further that each State party to the Geneva Convention on Genocide of 1948 as is Nigeria, is under an obligation to either bring the criminals to justice in its own courts or extradite them to another country willing to do so or transfer them to an International Criminal Court (ICC) (Ibid).

Furthermore, Soniyi (2003:59) and Bello (The Punch, September 2003:3) also argue that Taylor's continued presence in Nigeria clearly violated the Statue (Treaty) of Rome of 1998 that provided for the establishment of the U. N. backed I.C.C. to try cases connected with genocide, military crimes and other crimes against humanity. Because Nigeria was a signatory to the Treaty, she was, therefore, under obligation to release Taylor for trial. Nigeria was also said to have violated the principles of Article 14 paragraph 2 of the Universal Declaration of Human Rights which prohibits States from granting asylum in the case of prosecutions genuinely arising from non-political crimes as is the case with Taylor.

Critics have also argued that the action of Nigerian government of allowing Charles Taylor to enter her territory without threat of arrest and prosecution goes against the wish of the international

community that impunity for crimes against humanity, war crimes and other grave crimes must come to an end (Amnesty International, 2003, 2004). The I. L. C. had declared in 1982 that individuals should be held responsible for any act of international crime of their State (Jennings and Watts, 1992:507; Shaw 1997:185). The Nuremberg International Tribunal had ruled earlier on 30 September 1946 that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provision of international law be enforced" (Jennings and Watts, 1992:506; Shaw, 1997:185)

Following from the above, Adaramola (Sunday Punch, August 31,2003:16) has observed that Nigeria's action of granting asylum to Taylor after his indictment may encourage criminal tendencies among world leaders just as the Nigerian Bar Association had also warned that his presence in Nigeria may constitute a threat to Nigeria's nascent democracy (Sunday Punch, August 3, 2003:13). Emewu (2003) further opines that the action depicted Nigeria as a nation that condones human rights abuses in Africa by serving as a den for evil men. Consequent upon the above analysis, Nigeria was implored to hand over Taylor to the SCSL for immediate prosecution (Amnesty International, 2003, 2004). This, according to Bangura Zainab, former minister in Sierra Leone, would serve as a deterrent to others (Tell, 2004:21).

Most Nigerians have also hinged their criticism of Taylor's asylum in Nigeria on the fact that Charles Taylor and his men killed many Nigerians during the Liberian and Sierra Leonean civil wars. By so doing, they stressed that Taylor was not a friend of Nigeria. He was accused of consistently masterminding the killing and maiming of Nigerians resident in Liberia and Sierra Leone (Emewu, 2003; Tell, 2004). Notable among his victims were Tayo Awotusin and Imodibe of Champions Newspapers, murdered in Liberia in 1992 (Ibid:20) His men also cut-off the limbs of David Ayaele in Sierra Leone. Other numerous Nigerians also lost their means of livelihood in the mayhem. These shocking tribulations of many Nigerians in Taylor's hands raise the moral question whether or not Taylor deserves protection in Nigeria. To most Nigerians, it was ironical that Nigeria should be the place of refuge of the same man that caused the country so much loss in human and economic resources.

Nigeria has also been accused of wrong application of international law in the Taylor asylum case. It was observed that granting political asylum to fugitives is a power that is limited in law in respect of international crimes (Brownlie, 1980:316). Hence, while the Universal Declaration of Human Rights declares in Article 14, paragraph I that "everyone has the right to seek and to enjoy in other countries asylum from persecution", it quickly add in paragraph 2 that it is not to be invoked in the case of prosecutions arising from non-political crimes or from acts contrary to the purpose and principles of the United Nations (Ibid: 557-559). Article I, paragraph 2 of the Declaration on Territorial Asylum reinforced this principle by precluding people considered to have committed a crime against peace, a war crime, or a crime against humanity from being granted asylum. Article 12, paragraph 3 of the African Charter on Human Rights also contains similar provisions.

Given the fact that anyone granted asylum is foreclosed from arrest or prosecution, Taylor is presumed to be protected from facing the charges preferred against him by the SCSL. Without mincing words, this is a wrong application of international law by Nigeria which had frantically declared that she would not be "pressured" to release Taylor for trial (Tellewoyan, 2003; The Punch, August 25, 2003:59). Asylum should be granted only to individuals in dire need of reprieve either that he is facing maltreatment or is being sought unjustly for punishment. Taylor's case is, however, a total negation of this principle.

Critics have also observed that granting asylum to Taylor undermines the important contribution of the SCSL towards justice, reconciliation and sustained peace in Sierra Leone (U.N Information Network, August 12, 2003). Amnesty International (2004) asserts that the decision to grant the asylum shows contempt for African victims who suffered greatly in the hands of Taylor and his cohorts. It was therefore argued that given the indictment of Charles Taylor by the SCSL for bearing the greatest responsibility for war crimes and crimes against humanity committed against African men, women and children, Nigeria should hand him over to the Special Court to answer the charges brought against him. Perhaps, it was observed, this may be the only lasting condition for achieving justice, reconciliation, and sustained peace in Sierra Leone and Liberia.

Lastly, the asylum granted Charles Taylor in Nigeria may also be faulted as being at variance with the Nigerian constitution. Under the Nigerian Law, a person who has been indicted for war crimes, crimes

against humanity or genocide cannot be granted asylum (Tell, 2004: 1). Similarly, under the National Commission for Refugees, Chapter 244, Laws of the Federal Republic of Nigeria, a person cannot be considered a refugee if “there are serious reasons to believe that he has committed a crime against peace, a war crime or a crime against humanity” (Ibid:24). If all the above regulations exist in the Nigerian law as it were, given the publication of Taylor’s indictment by the SCSL, the question that readily comes to mind is: what other evidence did Nigerian government require to deny asylum to Taylor?.

In a similar vein, the Nigerian Extradition Act (1967) specifically listed extraditable offences in Schedule 2 of the Act (Okeke, 1986:110). The list of offences corresponds with the charges brought against Taylor before the SCSL. This implies that Taylor had committed extraditable offences. Be that as it may, given that a warrant of arrest had already been issued against Taylor, Nigeria still has the opportunity of retracting her step by surrendering Taylor for trial before the SCSL immediately.

6. CONCLUSION

Charles Taylor’s political asylum in Nigeria has indeed been very controversial. While Nigeria’s action has been justified by evoking humanitarian, socio-economic, strategic, legal and extra-legal reasons among others, critics on the other hand had debunked the argument stating that Nigeria erred in a number of ways as highlighted in part ‘5’ of this paper.

While the discretionary right of states to grant political asylum and extradite fugitives in the absence of specified legal framework in international law cannot be denied, it is equally true that aggression, violence and international crimes must not be allowed to be seen as veritable enterprises. All nations of the world must therefore support the United Nations’ mechanism for maintaining world peace and security by fulfilling their obligations under international law.

To this end, Nigeria was under an obligation to surrender Charles Taylor for trial before the SCSL in compliance with Article 25 of the U. N. Charter by which all U. N. members agreed to accept and carry out the decisions of the Security Council (Shaw, 1997:841). Given that the S. C. S. L. derived its legitimacy from Resolution 1315 of the U. N. Security Council (Emewu 2003; Takirambudde: 2004), whose jurisdiction was to include notably, crimes against humanity, war crimes and other serious violations of international humanitarian law as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone (Paragraph 2); Taylor must be allowed to defend himself against the charges brought against him.

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