

SPECIAL COURT FOR SIERRA LEONE
PRESS AND PUBLIC AFFAIRS OFFICE

PRESS CLIPPINGS

Enclosed are clippings of the latest local and international press on the Special Court and related issues obtained by the Press and Public Affairs Office as of:

Wednesday, December 29, 2004

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Herald Sun

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\$25m to aid Aussie

Keith Moor
27dec04

A \$25 MILLION aid package to Sierra Leone may be used to help get Victoria Police Supt Peter Halloran a fair and speedy trial.

The British Government recently arranged to provide \$25 million to the war-torn West African nation over five years to alter its judicial system.

Australian Foreign Affairs Minister Alexander Downer has agreed to enlist the support of British Foreign Secretary Jack Straw to intervene in the Halloran case.

"There has been a great deal of political and legal upheaval in Sierra Leone over recent times, so this is going to be a real test of the Sierra Leone judicial system," Mr Downer said.

Victoria Police Association secretary Paul Mullett said the aid money could be used as a bargaining chip to ensure Supt Halloran was fairly treated.

Supt Halloran, who took 12 months leave to work as a war crimes investigator with the United Nations-backed Special Court in Sierra Leone, has been on trial for more than three months.

The 56-year-old former head of the Victoria Police homicide and vice squads has denied three sex charges relating to a teenage schoolgirl.

His trial in Sierra Leone's High Court started on September 10, but has sat for just over six hours since then because of constant adjournments and delays.

It sat for less than an hour on Wednesday -- after being adjourned without hearing any evidence on Monday and Tuesday -- as Supt Halloran's lawyer argued there was no case to answer.

The matter has been adjourned to tomorrow.

"But the way it is going it could easily be mid to late February before there is a verdict," Sen-Sgt Mullett said. "That is just not acceptable by international standards.

"We met Foreign Minister Alexander Downer to lobby on Supt Halloran's behalf for a fair and speedy trial because he is getting neither.

"We asked Mr Downer to contact his counterpart in Britain, Jack Straw, about Supt Halloran's plight and he agreed.

"What we hope is that the Australian and British Governments will forcibly point out to the Sierra Leone Government that the \$25 million is being provided so those charged can be assured of being treated up to international standards and also point out that Supt Halloran isn't being treated in such a way at present."

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Strange light in a nation in darkness

By Dave Tacon

Freetown

December 26, 2004



Freetown became, and still remains, an ad hoc refugee camp.

Photo: *Supplied*

Arriving at Lungi, the major airport outside Freetown, the capital of Sierra Leone, one of the first things you notice in the decrepit immigration area is that the clock on the yellowing walls has stopped.

Indeed, the longer you spend in Sierra Leone, the more it seems that time itself has stood still for this nation. It is the world's poorest, according to the United Nations.

The British gave the country its independence in 1961. It is difficult to believe that as recently as 50 years ago, Sierra Leone was the second-wealthiest nation in west Africa.

In Freetown, the capital of the former colony, the grand colonial buildings are peppered with bullet holes. Rocket-propelled grenades have blasted chunks out of walls and facades. Buildings are without windows and roofs, left derelict since the invasion of the city by dissident soldiers of the Armed Forces Revolutionary Council and members of the rebel Revolutionary United Front (RUF) in January 1999.

But the buildings are by no means uninhabited. People cram into every living space available.

Outside the city centre, extended families dwell in tiny corrugated-iron shacks, which stretch from the shore of Freetown's spectacular natural harbour right up to the red dusty hills that surround it.

The country's 10-year civil war drove hundreds of thousands away from their rural homes to seek refuge from a conflict of shocking brutality. Freetown became, and still remains, an ad hoc refugee camp, straining under the pressure of enormous overcrowding and desperate poverty.

There are many visible reminders of the recent past in a city where, by some estimates, 20,000 inhabitants suffered the amputation of their hands or feet, while up to 10,000 people were murdered in one month alone. Untold numbers of girls and women were raped.

An especially startling fact of the war was that many atrocities were committed by children, many of whom had been abducted, sometimes after being forced to murder their parents. Children cut with razor blades, who had cocaine rubbed into their wounds before being taken out to maim and kill was just one of the horrors that put Sierra Leone on the world's front pages.

Children make up almost half Sierra Leone's population. Many in Freetown's Brookfields district are visibly

malnourished. Recent reports on life expectancy give children born in Sierra Leone a 57 per cent chance of not reaching 40 years of age.

Nights are spent in near darkness. The city's power grid was destroyed by war and mismanagement long ago. Many people have no option but to live in pre-industrial conditions. They cannot afford generators and must make do with candles or kerosene lamps. Not far from the squalor of Brookfields, however, is a zone that is lit by brand new streetlights, which line its perimeter and grounds all through the night. From the hills above Freetown, the Special Court for Sierra Leone glows like a Christmas tree. The structure, which serves as both a courthouse and a maximum security detention centre, has a threatening and almost surreal presence.

As it houses nine of 13 indicted persons, this UN-backed war crimes court is also the most heavily guarded location in the country.

The charging of Victoria Police Superintendent Peter Halloran on child sex charges is another footnote in a long line of public embarrassments for this beleaguered beacon of justice. An additional blight on the court has been its failure to apprehend the former president of Liberia, Charles Taylor, who has been indicted for his role in the RUF incursions.

If one travels in the provinces of the country where communities were terrorised by the RUF not long ago, wrecked, burnt-out vehicles appear by the roadside with unerring regularity.

When the Sierra Leone Truth and Reconciliation Commission, a non-partisan investigatory body, interviewed victims, witnesses and perpetrators of the conflict, they also sought to interview ambush survivors. But although over 8000 statements were taken, they were unable to find a surviving ambush victim.

There was once a railway linking regional centres, but looting eventually led to the demise of this mode of transport. You would be hard pressed to find any steel rails or even wooden sleepers. The line has vanished almost without a trace. Travel in the provinces is a painstaking process.

However, if travel within the country is difficult, leaving the country is an impossibility for the vast majority of Sierra Leoneans, who must survive on less than \$3.50 per day.

The most scenic way for foreign nationals or the few wealthy Sierra Leoneans to depart the country is to take an ageing Russian helicopter taxi. There are many hair-raising stories of terrifying flights on these machines, flown by drunken Russian pilots.

But as the helicopter rises from the helipad and over the wide expanse of sandy Lumley Beach, the blue and green spread of the Aberdeen Peninsula comes into view. As the view of Freetown speeds away through the open portholes, the city is beautiful.

One of the last things visitors see before entering the chaos of immigration at Lungi International Airport is a sign near the gates of this last port of call. A sign depicting passengers disembarking from a jet states simply: "Welcome to Sierra Leone. If you cannot help us, please do not corrupt us."

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Africa's Conflict Zones Awash With Weapons

By Nico Colombant

Abidjan

28 December 2004

Colombant report - Download 697k 

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MPCI rebels in Ivory Coast (VOA photo - C. Giardino)

Many hot spots in sub-Saharan Africa are awash with light weapons in the hands of unemployed, dispossessed youths, making the continent a perpetual tinderbox. Experts agree the often-ignored problem of small arms is getting bigger and harder to stop, while criminal networks and corrupt authorities are profiting.

What used to be a kindergarten playground in the southern commercial capital Abidjan is now the training zone for dozens of pro-government militias in their late teens and early 20s. Their five leaders are armed with Uzi submachine guns.

During recent anti-French protests, there were clashes between French peacekeepers, the Ivorian army and these militias. It was not always clear where the shooting came from.

While long-time foreign residents were evacuated, many of them left behind their own personal weapons which are now being sold in back alleys of Abidjan.

In the government-held west, so-called patriotic liberation forces have replaced the army near front lines. Carrying AK-47s, rifles and pistols, they run through the streets of the main western city of Guiglo, in a show of force.

In the rebel-held north, armed youths, some clearly under 18, man roadblocks every kilometer or so.

The head of the West African human rights group RADDHO, Alioune Tine, says the weapons these children use are cheap and easy to find.

"We can sell and buy light weapons like a bread, you can sell it and buy it like a bread," he said. "The weapons come from Europe, Ukraine, we have many Ukrainian weapons, the weapons from the former Soviet Union are here, from China, etcetera. It is a great profit for them and it is a profit for the warlords."

Light arms researcher Peter Danssaert says warlords work closely with criminal business networks which thrive in unstable and lawless situations.

"You also have military figures, you have politicians, private entrepreneurs," he said. "These networks are active in the commodity sectors, the basic commodities but also in natural resources. It's more profitable for them because war creates a power vacuum or you could also say that the power vacuum created the war I don't know. But the fact is that it makes it more profitable for certain individuals."

The weapons arrive by boat and planes across porous borders, the same boats and planes which sometimes carry the natural resources out. Eastern Congo, the continent's most volatile region, has over 100 airfields and landing strips, mainly for smuggling.

Despite an arms embargo, Mr. Danssaert says arms and ammunitions have continued to arrive from eastern Europe as well as from companies in Uganda, Kenya and Zimbabwe.

Experts agree embargoes and moratoriums usually fail, because they aren't respected and they aren't enforced.

British-based expert Alex Vines says some of the United Nations disarmament programs don't work either, as was the case recently for Liberia, where it conflicted with a failed program in Ivory Coast.

"The incentive structure in Cote d'Ivoire for buy-back for paying for weapons handed in was much higher," he said. "It was about \$900 versus a much smaller figure per weapon being offered in Liberia. This has meant also it's been an incentive for guns to leave Liberia to the Ivory Coast, Cote d'Ivoire. Only by dealing with these issues at a regional level I think can you really deal with the issue of illicit weapons."

Mr. Vines says he also has worrisome information that arms are currently flooding into the separatist Senegalese region of Casamance, as well as into Nigeria's oil-rich but impoverished Niger Delta region.

A report this month by the African Union said "astronomical amounts" of ammunition and light weapons were reaching warring sides in Sudan's Darfur region.


Massive inflows are also being reported in Mauritania, Guinea-Bissau and Guinea, three coup-prone countries, as well as Niger and Mali, where there is rampant banditry in desert areas.

The arms division director for New-York based Human Rights Watch, Steve Goose, says the problem is bad enough now that it should be dealt with much more aggressively on an international level.

"These weapons have had a huge impact, a huge negative impact, on the people, their rights and their way of living," he said. "Does it get enough attention? The answer is certainly no. You have a lot of governments who only want to focus on weapons of mass destruction when in fact it has been light weapons and small arms that have killed more people, that have had a larger societal economic impact even than the weapons of mass destruction."

Mr. Goose says the United Nations has been in his words "fitfully" trying to establish a program of action on light weapons and small arms since 2001, but he says there are no positive results he can see so far.

In Africa, more and more young paid-for-hire soldiers, rebels and militias seem to be wrecking their own future with every round they fire.

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Alerting Humanitarians to Emergencies

COTE D IVOIRE: Lingerin crisis still threatens regional stability

28 Dec 2004 13:46:07 GMT

Source: Integrated Regional Information Networks

DAKAR, 28 December (IRIN) - Cote d'Ivoire almost relapsed into all-out civil war during 2004, raising fears that a fresh outbreak of full-scale hostilities could undermine security and stunt economic growth in several neighbouring countries.

As the year ended, the prospects for putting its faltering peace process back on the rails in time for elections to be held on schedule in October 2005 looked slim.

During 2004 the country which was once the economic motor of the region, lurched from one major outbreak of violence to another.

In March, at least 120 people were killed when government security forces smashed opposition attempts to stage a demonstration in the economic capital Abidjan in March.

And 99 freshly interred bodies were found in mass graves after fighting broke out between rival rebel factions in the northern city of Korhogo in June.

During the same month, President Laurent Gbagbo sent helicopter gunships to strafe a column of rebel vehicles near the frontline, killing 20 people.

But the peace process nearly broke down completely in early November when Gbagbo's small air force bombed cities in the rebel-held north of Cote d'Ivoire for two days in a row as his army prepared to launch a ground offensive.

That violation of an 18-month-old ceasefire was stopped in its tracks by French peacekeepers. They destroyed Gbagbo's fleet of jet bombers and helicopter gunships on the ground after nine of their colleagues were killed in an air raid on the rebel capital Bouake.

Following this psychological blow, the columns of government troops that were preparing to push their way past UN peacekeepers maintaining a buffer zone along the frontline, turned round and returned to their barracks.

Mbeki tries to mediate

President Thabo Mbeki of South Africa subsequently became the latest in a long line of mediators to try and resolve the conflict.

He spent five days in Cote d'Ivoire in early December trying to persuade Gbagbo and the New Forces rebel movement to agree on a new timetable for political reform and disarmament that would allow presidential elections to take place on schedule, with all the country's main political leaders taking part.

Mbeki was called in by the African Union after France, the Economic Community of West African States (ECOWAS) and the United Nations had all failed to push the peace process forward.

But as the year drew to a close, there were no indications that his mediation efforts had achieved a significant breakthrough.

The level of distrust between Gbagbo and the northern rebels was greater than ever, with rebel spokesmen proclaiming publicly that no peace deal would be possible so long as Gbagbo remained head of state.

And the expatriate business community, which runs much of Cote d'Ivoire's cocoa-based economy, batted down the hatches in anticipation of further trouble ahead.

Nearly 9,000 French residents and other European nationals fled Cote d'Ivoire in November after pro-Gbagbo mobs rampaged through Abidjan protesting at France's

military intervention to halt the government offensive.

The demonstrators, led by the hardline "Young Patriots" militia movement, torched French schools, looted the homes and businesses of many white residents and confronted French troops which took control of the airport and several other key locations.

The government said 57 people were killed and more than 2,000 were injured in these clashes.

Meanwhile, there were fears that a renewal of full-scale hostilities in Cote d'Ivoire could destabilise the UN-supervised peace processes in neighbouring Liberia and nearby Sierra Leone.

Both countries are still nursing the wounds of bitter civil wars which destroyed their economies and ripped apart the fabric of society.

Liberian factions disarm

By the end of November, the UN peacekeeping force in Liberia had disarmed over 100,000 former combatants who claimed to have fought in the country's 14-year civil war.

The blue helmets only managed to collect one gun for every four Liberians who stepped forward to claim the US\$300 resettlement allowance paid to ex-fighters following the signing of a peace accord in August 2003.

But the disarmament of Liberia's three warring factions and the deployment of 15,000 UN peacekeepers throughout the interior of the country encouraged over 600,000 refugees and internally displaced people to start returning to their abandoned villages.

Liberia's shattered economy remained hamstrung by a UN ban on the export of timber and diamonds - which was extended into 2005. And with virtually no source of domestic revenue, the transitional government remained totally reliant on foreign aid to function.

Rioting between Muslims and Christians in the capital Monrovia in late October led to the death of 29 people and showed that the security situation was still fragile. A curfew was imposed for several days afterwards.

However, in December, Liberia's interim parliament finally passed long-delayed legislation that paved the way for presidential and parliamentary elections to be held in October 2005.

Sierra Leone, which emerged from 10 years of civil war at the end of 2001, remained peaceful throughout the year. Relief agencies celebrated the success of a drive to resettle those displaced by the conflict. Most are now back in their villages growing their own food once more.

A war crimes trial finally got under way at the UN-backed Special Court in Freetown in June. But many of those deemed to bear the greatest responsibility for the appalling atrocities committed were either dead or absent from the courtroom.

Former rebel leader Foday Sankoh died in custody awaiting trial and his military commander, Sam Bockarie, was cut down by a hail of bullets in Liberia. Former Liberian president Charles Taylor, who was accused of backing their Revolutionary United Front (RUF), continued to enjoy political asylum in Nigeria. And Johnny Paul Koroma, the leader of a military junta which once tried to make common cause with the rebels, was in hiding.

Uncomfortably for the government, that left Sam Hinga Norman, the former defence minister of elected President Ahmad Tejan Kabbah, as the highest ranking warlord on trial.

Diplomats and foreign aid workers expressed concern at crippling levels of corruption in Tejan Kabbah's government and voiced doubts about the ability of his British-trained army to maintain security and support the democratic process.

The UN Security Council decided to prolong the mandate of a scaled-down UN peacekeeping force of 3,500 men until June 2005 as a precautionary measure.

An even bigger worry for diplomats in the region was that Guinea could become the next country to be drawn into the vortex of conflict.

Fragile stability in Guinea

Guinea has so far remained quiet as a result of draconian security measures imposed by President Lansana Conte.

But the country's economy, based on foreign exchange income from bauxite exports, is in ruins. Public services such as electricity, water, education and healthcare barely function. And the meagre living standards of Guinea's eight million people have fallen further as food prices have soared.

Meanwhile ethnic tensions bubble away beneath the surface.

Conte is a former army colonel who has ruled the country with an iron hand for 20 years, but he appears to be increasingly ill with diabetes - he can no longer walk unassisted - and he has no obvious successor

Diplomats are concerned that an outburst of popular discontent, such as when food riots swept the capital Conakry in June, could plunge the country into chaos.

Student unrest led to the closure of the country's main university in the capital Conakry in mid-December.

Diplomats also fear an overspill of the conflict in Cote d'Ivoire into the volatile Forest Region of eastern Guinea. This is already a social powder keg.

About 100,000 Guinean migrants to Cote d'Ivoire fled to seek refuge in the Forest Region following the outbreak of the Ivorian civil war in September 2003.

Idle former fighters from Liberia's Mandingo ethnic group roam the countryside, mingling with Liberian refugees and siding with their Guinean kinsmen whenever ethnic clashes break out.

And the remnants of a pro-Conte militia group which was created four years ago to repel incursions from Liberia, still bear arms.

Running out of patience with Cote d'Ivoire

But the most immediate concern of diplomats and aid workers is Cote d'Ivoire itself.

As 2004 drew to a close, there were several indications that the international community was running out of patience with the continuing impasse in the country's peace process and was preparing to toughen its attitude towards the warring parties.

Following the renewed outbreak of hostilities in early November, UN Secretary General Kofi Annan urged the Security Council to send more than 1,200 extra troops and a contingent of attack helicopters to Cote d'Ivoire to beef up the 6,000-strong UN peacekeeping force already in the country.

There was no immediate response to this. However, the Security Council imposed an arms embargo on Cote d'Ivoire and agreed to keep alive the threat of further sanctions, including travel bans and asset freezes on leading personalities.

On 24 December, a so far unpublished UN report on human rights abuses committed during Cote d'Ivoire's two-year-old civil war was leaked to the French daily newspaper Liberation.

The Parisian daily quoted this document as saying that some of the most serious abuses committed by both the government and rebels amounted to crimes against humanity.

It also reported that a secret annex to the report listed the names of 200 individuals who could face prosecution or UN sanctions.

Earlier in the year other UN reports on human rights abuse in Cote d'Ivoire were also leaked to the media before their official publication. Diplomats said there was little doubt that the document published by Liberation represented an accurate picture of the findings of the UN human rights investigators.

Indeed, the report may have been leaked deliberately to put pressure on both government and rebel leaders to accept the Mbeki peace plan. A UN source confirmed to Reuters news agency that the blacklist of about 200 names existed and could well be used as a basis for punitive action against key individuals.

A summit of the AU Peace and Security Commission was to be held in Addis Ababa on 10 January to review the progress achieved by Mbeki.

The UN Security Council was due to review the imposition of further sanctions on Cote d'Ivoire at about the same time.

Mbeki's road map to a political settlement is still the French-brokered Linas-Marcoussis accord, agreed by the parties to the conflict in January 2003. It is only the deadlines for implementing various key points of the deal have changed.

The Marcoussis deal was only accepted grudgingly by Gbagbo. He has consistently complained that it grants too many concessions to the rebels. Stalling by his Ivorian Popular Front (FPI) party led to endless delays in legislating the political reforms called for by the peace agreement.

By the end of December, all the Marcoussis reforms had been approved by parliament.

But a political row continued to simmer over whether a constitutional amendment endorsed by the legislature should be put to a referendum as well.

Gbagbo continued to insist on a referendum to approve the change which would allow Alassane Ouattara, a former prime minister who is popular in the north, to stand against him in the 2005 presidential elections.

Ouattara, who lives in exile in Paris, was banned from taking part in the 2000 presidential election which brought Gbagbo to power on the disputed grounds that his father was born in Burkina Faso.

So long as the political reforms promised by Marcoussis were not on the statute book, the rebels refused to hand in their weapons, but this justification for retaining their guns has been largely removed.

However, given Gbagbo's attempt to resume war in November, the rebels may well seek additional guarantees from the international community before agreeing to disarm.

Meanwhile, a question mark has arisen over the future role of France's 5,000 troops in Cote d'Ivoire. These work alongside the UN peacekeeping force under independent command with a specific mandate to intervene quickly in trouble spots.

Since the French intervened to destroy Gbagbo's air force on 6 November, they are no longer viewed by the president and his supporters as a neutral force in the conflict. Rowdy street demonstrations by Gbagbo's supporters have urged them to leave.

However, French troops prevented the rebels from marching on Abidjan when the civil war first erupted in September 2003 and Gbagbo himself has so far stopped short of demanding their withdrawal.

Poverty rises in a poisoned atmosphere

Within Cote d'Ivoire, the political atmosphere remained poisonous at the year end, offering little prospect for the early return of more than 500,000 migrant workers and their families who have fled back to Burkina Faso, Mali and Guinea.

They left to escape persecution by Gbagbo's supporters who regard them as rebel sympathisers.

Most immigrants from other West African countries have stayed on, but they and people from the north of Cote d'Ivoire remain a favourite target for extortion by government soldiers and policemen at road blocks.

Pro-Gbagbo newspapers continue to stir up distrust and hatred of foreigners. Such ethnic tensions, stoked by land ownership disputes, occasionally lead to orgies of blood-letting.

Just before Christmas 18 people were reported killed near the southern town of Gagnoa when Burkinabe settlers who had been driven off their farms by members of Gbagbo's Bete ethnic group attacked a village near the president's own home.

The army said 11 people died in the raid and the Burkinabe consul in Gagnoa reported that seven Burkinabes were subsequently shot or hacked to death in reprisal killings.

Conditions are no better in the rebel-held north, where most schools and hospitals have remained closed for the past two years, those who disagree with the rebels are forced to remain silent and many farmers who once grew cash crops have reverted to subsistence farming.

This year's harvest in the north has been poor and as the rebels grow short of funds there have been regular reports of rebel gunmen extorting money from villagers.

Indeed, although Cote d'Ivoire was once the most prosperous country in West Africa, unemployment and poverty are on the increase on both sides of the front line and immigrants' remittances to neighbouring countries have fallen sharply.

The United Nations estimated in December that 44 percent of Cote d'Ivoire's 16 million population lived below the poverty line - up from 38 percent in 2002 - and that the need for humanitarian aid would rise further in 2005.

Integrated Regional Information Networks news

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December 26, 2004

A fair trial for Saddam Hussein

By Michael Scharf
For The Washington Post

After all that's been said and written about Saddam Hussein and his underlings, is a fair trial even within the realm of possibility?

If I had been asked that question a year ago, when I first learned of the Iraqi Special Tribunal, I would have answered an emphatic "no."

In fact, I did write back then that the tribunal probably would be viewed as a "puppet court of the occupying power." Its statute had been drafted during the occupation by the U.S. government. It was being funded by the United States. And its judges, who were selected by the U.S.-appointed provisional government, were being assisted by U.S. advisers.

With or without weapons of mass destruction, Saddam already has been tried and found guilty of atrocities in the international court of public opinion.

But that was before I spent a week in London in October, at the invitation of the Justice Department's Regime Crimes Liaison Office in Baghdad, helping to train the Iraqi Special Tribunal judges who will soon be on the world stage. My experience there convinced me that I had been wrong about the tribunal.

Soon, we'll find out for certain. Interim Iraqi Prime Minister Ayad Allawi recently proclaimed that the pretrial hearings in the war crimes cases against Saddam's senior aides would commence within days, most likely beginning with a close Saddam confidant, Ali Hassan Majeed, who earned the nickname "Chemical Ali."

On Dec. 16, Saddam and one of his defense lawyers had their first meeting, which lasted four hours.

I don't think Saddam's lawyer was wasting his time. It's not that I believe that Saddam will ever walk free, strolling out of the courtroom cleared of all charges. But he could be found not guilty on some of the alleged crimes. As for the rest, just because acquittal is highly unlikely doesn't mean a trial is unfair.

What makes a trial fair are fair procedures, judges who can make fair decisions and what lawyers call "equality of arms," meaning that the caliber of the defense team measures up to the ability of the prosecutors.

What I learned in London from the tribunal judges was that all three of those conditions could be met in Iraq. Now, the challenge will be to conduct the proceedings in such a manner that the world believes those conditions are present.

Why did I change my mind?

First, I learned that the Iraqis had played a greater role in drafting the Iraqi Special Tribunal statute than had been generally reported. They had insisted, over initial U.S. objections, on the inclusion of a provision (Article 14) that enables the tribunal to prosecute Saddam for the crime of aggression, in addition to war crimes, crimes against humanity and genocide. The crime of aggression has not been prosecuted since 1945 in Nuremberg.

The United States, which itself has been accused of waging unjustifiably aggressive wars, successfully kept it out of the statutes of the Yugoslav tribunal, the Rwanda tribunal, the Special Court for Sierra Leone and the permanent International Criminal Court. Thus, the inclusion of this provision was a signal that the IST procedures were not being dictated word for word by Americans.

Second, in this time of insurgency, the tribunal's judges have risked their lives by accepting their commission, thus demonstrating the sort of courage needed to make fair decisions.

Most impressive among those I met was Raid Juhi al-Saadi, the 35-year-old judge who presided over Saddam's initial appearance before the tribunal in June.

Because of the extensive media coverage of that event, the judge has become perhaps the most recognized face in Iraq, next to that of Saddam. The judge told me that he was given the option of not having his face shown on camera during the proceedings, but that he did not want the tribunal to be subject to the type of criticism that has been leveled at courts in Peru and Chile, where judges wore hoods.

He was willing to put his personal safety at risk to show the "face of Iraqi justice" and the tribunal's commitment to fairness. And his example will be followed by the other judges during the actual trials.

True, the judges lack experience in high-profile cases; the individuals who served as senior judges in the old regime were excluded from this job because they would have been viewed as corrupted or tainted. But there were plenty of experienced criminal judges at lower levels of the Iraqi judiciary to choose from. While they have never dealt with war crimes or crimes against humanity, the same was true of the judges who were selected to serve on the international war crimes tribunals in The Hague, Arusha, Tanzania; and Freetown, Sierra Leone. Even distinguished international jurists had to undergo training to learn about this highly specialized field of law before they were ready to preside. In London, we did sessions about the laws regarding genocide, crimes against humanity, the crime of aggression, plea bargaining, self-representation and command responsibility.

The appearance of fairness is also important, and on that, the tribunal starts with several counts against it. It lacks the imprimatur of the international community. U.N. Secretary General Kofi Annan, citing concerns about the fairness of the IST procedures and his opposition to the death penalty, forbade the judges of the Yugoslav tribunal from participating on a panel scheduled for the final day of the training conference in London.

The evidence suggests, however, that Annan's actions reflect his desire to make a statement opposing the U.S. invasion of Iraq rather than actual concern about due process. The IST's rules of procedure, which detail the due process rights of the defendants - including a ban on the use of testimony derived from torture - were still being developed at the time.

As for the death penalty, this was not something that the United States had insisted on, but rather something that all of the tribunal judges agreed was a necessary option, at least for defendants who might be convicted of genocide.

Many of the Yugoslav tribunal judges, who had agreed to participate in the training conference before Annan intervened, were themselves opponents of capital punishment. But they decided, as I did, that it was better to help the Iraqi tribunal be as effective and fair as possible than sit on the sidelines hurling criticisms.

As for the third ingredient, the quality of the defense, it is too early to say. On a radio show I took part in recently, a defense lawyer for former Deputy Prime Minister Tariq Aziz complained about being unable to see his client. But he conceded that he had last tried a year and a half ago - six months before the IST statute was even promulgated and a procedure set up for the registration of defense counsel.

So, it's up to the defense lawyers to register with the tribunal rather than simply challenge its legitimacy. If they don't, the IST plans to appoint defense counsel from the ranks of distinguished Iraqi lawyers.

It has taken more than a year to get to this point, too long in the eyes of some. Yet the actual trials could not begin until after the elections in January, so as not to give the defendants an argument that the tribunal was created in

violation of the Geneva Conventions, which prohibit an occupying power from establishing special tribunals.

In addition, the rules of procedure needed to be completed, evidence remains to be collected and processed, and defense counsel needs to be given a full opportunity to prepare its cases. So far, the pace of setting up the Iraqi tribunal is no slower than that of other war crimes tribunals or of U.S. prosecutions of mob bosses, drug kingpins or terrorists.

While there is a mountain of evidence of atrocities committed by Saddam's regime, the Iraqi judges acknowledged in London that convicting Saddam himself of some crimes could be difficult. The defense might argue that the prosecution is unable to prove that Saddam had the intent to commit certain crimes or a clear, direct connection with those crimes.

Even with regard to the massacres of Kurds or the Shiite famine that resulted from the draining of the southern marshes, Saddam's defense lawyers might argue that his intent was to suppress an insurrection or flush out insurgents, not to destroy a people. If the evidence bears this out, Saddam might still be convicted of a war crime, but not the more severe charge of genocide. Without much documentary evidence of Saddam's intentions, the testimony of his subordinates will be critical.

If charged with the crime of aggression, Saddam might argue the "tu quoque," or "you too," defense, as Germany's Grand Admiral Karl Doenitz did at Nuremberg. Doenitz was accused of waging unrestricted submarine warfare in the Atlantic. His lawyer procured an affidavit from U.S. Admiral Chester Nimitz, who said he had done the exact same thing in the Pacific. In light of this, the Nuremberg tribunal acquitted Doenitz on the ground that the international law outlawing unrestricted submarine warfare was not well enough settled to convict.

To make the same point, Saddam may try to cite the international debate over the legality of the U.S. invasion and the continuing inability of the international community to agree on a definition of aggression for use by the permanent International Criminal Court.

In the end, as with the Nuremberg trial 60 years ago, if overwhelming evidence is presented against Saddam and his lieutenants, it will go a long way to making moot any claims that they did not receive fair trials. The tribunal judges are keenly aware of this and understand that, despite Allawi's desires to speed up the process, there can be no rush to judgment.

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