

**SPECIAL COURT FOR SIERRA LEONE  
OUTREACH AND PUBLIC AFFAIRS OFFICE**



Pademba Road, 50 years ago.

**PRESS CLIPPINGS**

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

Thursday, 19 May 2011

Press clips are produced Monday through Friday.  
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SPECIAL COURT FOR SIERRA LEONE  
OFFICE OF THE PROSECUTOR

## **PRESS RELEASE**

**Freetown, 18 May 2011**

### **Office of the Prosecutor Trains Sierra Leone Police Prosecutors**

Special Court Prosecutors last week conducted intensive trainings in the theory and practice of police prosecution for 102 police prosecutors drawn from all regions of Sierra Leone.

The trainings, which took place May 12-13 at the Police Training School in Hastings, are part of the Office of the Prosecutor's ongoing contribution to the wider Legacy of the Special Court for Sierra Leone, and are meant to complement national efforts to end impunity and to build a culture of respect for the rule of law.

Senior Trial Attorney Mohamed A. Bangura, who led the two-day training exercise, said it "focused primarily on the fundamentals of police prosecution, including the management of witnesses and victims, and also gender-based crime." Mr. Bangura headed a team of Special Court staff, working closely with members of the Sierra Leone Police.

Special Court Prosecutor Brenda Hollis, in her statement to open the training, thanked the Sierra Leone Police for their continuing cooperation with the Court in preparing and presenting the training.

Ms. Hollis noted that "a high percentage of criminal cases in the Magistrates' Court are handled by Sierra Leone Police Prosecutors," and expressed her hope that the training would assist these prosecutors "to ensure justice for the victims and rule of law for the people of Sierra Leone."

The bulk of criminal cases in the Magistrates' Court are tried by police prosecutors, but they often require additional development of basic legal skills in order to carry out their duty effectively. In 2009, the Office of the Prosecutor launched a series of similar trainings for police prosecutors to fill this needs gap.

#END

Produced by the  
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Visit the Special Court's website at [www.sc-sl.org](http://www.sc-sl.org)

Opednews.com  
 Wednesday, 18 May 2011

## **The International Criminal Court: An Imperial Tool**

By Stephen Lendman

Established by the Rome Statute of the International Criminal Court on July 1, 2002, it's mandated to prosecute individuals for genocide and aggression, as well as crimes of war and against humanity.

Much earlier, the UN Charter was created "to save succeeding generations from the scourge of war, which twice in our life time has brought untold sorrow to mankind." Its Chapter I states:

"To maintain international peace and security, (member states shall respect the) principle of the sovereign equality (of other members), settle their international disputes by peaceful means, (and) refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

In fact, since established in October 1945, its leadership did nothing to deter war, human rights abuses, or other high crimes of powerful member states, notably Western ones and Israel, repeatedly committing crimes of war and against humanity with impunity.

Neither has the ICC, functioning solely as an imperial tool, targeting outlier states Western powers designate, notably America whose leaders commit the worst of high crimes, acting lawlessly with impunity because no international body or court holds them accountable.

Like accusations against Yugoslavia/Serbia's Slobodan Milosevic, Liberia's Charles Taylor, Sudan's Omar Hassan al-Bashir, Saddam Hussein (by Washington's Iraqi Special Tribunal) and others, Muammar Gaddafi now faces similar charges.

On May 16, New York Times writer Marlise Simons headlined, "International Court Seeks Warrant for Qaddafi," saying:

ICC chief prosecutor Jose Luis Moreno-Ocampo "sought arrest warrants" for Gaddafi, his son Saif al-Islam, and brother-in-law intelligence chief, Abdullah Al-Sanous, on "charges of orchestrating systematic attacks against civilians (amounting to) crimes against humanity."

Calling Saif his "de facto prime minister" and Al-Sanousi his "right-hand man, his executioner," Moreno-Campo's announced evidence was alleged intelligence from other governments and "a lot of phone calls from (outside and) inside Libya."

True or false, he claimed:

Gaddafi's "forces attacked Libyan civilians in their homes and in public spaces, shot demonstrators with live ammunition, used heavy weaponry against participants in funeral processions, and placed snipers to kill those leaving mosques after prayers."

"The (alleged) evidence shows that such persecution is still ongoing as I speak today in the areas under Gaddafi's control. (His) forces have prepared a list with the names of alleged dissidents, and they are being arrested, put into prisons in Tripoli, tortured and made to disappear."

As a result, he claimed enough alleged evidence for trial, sounding more like witch-hunt than legitimate justice. Notably, Washington pressured the Security Council last February to investigate "widespread and systematic attacks" against Libyans it instigated by enlisting, arming and funding insurgent fighters.

They, not Gaddafi, incited violence. Justifiably, he responded to stop it. Victimized by imperial intervention, he's now targeted for doing his job.

Moreover, Libya isn't a Rome Statute signatory. As a result, the ICC has no jurisdiction to act. Nonetheless, a three-judge panel will decide whether to issue warrants, no matter the obvious political motive behind doing so.

Moreno-Ocampo is an imperial tool, following orders. Claiming ample evidence shows Gaddafi "personally ordered attacks on unarmed Libyan civilians" is gross hypocrisy with no credibility whatever. He's regurgitating lines given him to read.

In fact, no humanitarian crisis existed until America and its imperial partners showed up lawlessly. Planned many months, perhaps years, in advance, their grand scheme includes:

- replacing one despot with another;
- preventing any democratic spark from emerging;
- colonizing Libya;
- balkanizing the country;
- establishing new Pentagon bases;
- using them to intimidate neighboring states;
- dominating the Mediterranean Basin and entire African continent; and
- carving up Libya for profit by stealing its wealth, controlling its money and resources, exploiting its people, turning workers into serfs, and privatizing its state enterprises under Western control, no matter how many corpses and mass destruction it takes to do it.

In his new book, Michael Parenti defined "The Face of Imperialism" as:

"the process whereby the dominant investor interests in one country bring to bear military and financial power upon another country in order to expropriate the land, labor, capital, natural resources, commerce, and markets of that other country....There are real material interests at stake, fortunes to be made many times over.(Intervening) is intended to enrich the investors and keep the world safe for them."

Moreover, whether democrats or despots, blaming victims facilitates the process, claiming intervention for humanitarian reasons, the last refuge of scandalous liars.

As a result, Gaddafi, his son Saif, intelligence chief Al-Sanous, and perhaps other top officials are being victimized to advance Western planned plunder and dominance.

Moreno-Ocampo's complicit, a Western favorite because earlier he assured Washington they'd be no Iraq or other US war crimes prosecutions. In fact, a July 2003 WikiLeaks-released State Department cable said:

"Privately, Ocampo has said that he wishes to dispose of Iraq issues (i.e., not investigate them)." By implication, he meant all US war crimes everywhere.

**ICTR sets free ex-Rwandan chief of staff Ndindiliyimana**

*The International Criminal Tribunal for Rwanda (ICTR)*

The International Criminal Tribunal for Rwanda (ICTR) on Tuesday ordered the immediate release of former chief of staff of Rwandan Gendarmerie, General Augustin Ndindiliyimana, and sentenced army General Augustin Bizimungu to 30 years imprisonment for genocide.

Meanwhile, ex-commander of the Reconnaissance Battalion, Major Francois-Xavier Nzuwonemeye and Captain Innocent Sagahutu, a member of the unit, jointly charged with the two generals, were ordered to remain behind bars for 20 years each after being convicted of crimes against humanity and war crimes.

Ndindiliyimana was released after a Trial Chamber sentenced him to time served since his arrest in Belgium on January 29, 2000 after finding his mitigating factors warranting.

“The Chamber has noted Ndindiliyimana’s limited command over the gendarmerie after April 6, 1994, his consistent support for the Arusha accords and peaceful resolution of conflict between the Rwandan government forces and the RPF and his opposition to the massacres in Rwanda,” presiding Judge Joseph Asoka de Silva said.

For other convicts, the judge said, would also receive credit for the time they served since their arrests. Bizimungu was arrested in Angola on August 2, 2002, while Nzuwonemeye and Sagahutu were apprehended in France and Denmark, respectively, on February 15, 2000.

The two generals were convicted of genocide, crimes against humanity and war crimes for offenses perpetrated by military soldiers and gendarmes under their command in 1994.

In addition, Bizimungu was found to have made a speech in Mukongo Commune, calling for start of killing of Tutsis in Ruhengeri prefecture.

For Nzuwonemeye and Sagahutu, the Chamber convicted them of crime against humanity and war crimes committed by their subordinates. The duo ordered the killing of Prime Minister Agathe Uwilingiyimana and failed to punish perpetrators involved in killing 10 Belgian UN peacekeepers, on April 7, 1994, the judgement added.

In his reaction, ICTR Prosecutor Hassan Jallow said they would study the judges reasoning in assessment of sentences imposed to each accused and decide whether they would appeal or not.

However, he said, “We are quite satisfied with the findings. The judgement is very important to all persons in position of leadership, especially military commanders. As clearly established, superiors will be held legally responsible for acts of their subordinates.”

Ndindiliyimana, on his part, expressed his happiness for being released after remaining in detention for 11 years. His lawyer, Christopher Black, joined his client for the happiness.

Defence Counsels Charles Taku and Fabien Segatwa, for Nzuwonemeye and Sagahutu, respectively, said they would appeal against the verdict.

SOURCE: THE GUARDIAN

# Human Rights Watch

Thursday, 19 May 2011

## Bangladesh: Unique Opportunity for Justice for 1971 Atrocities

*The Bangladeshi government has an unprecedented opportunity to hold those responsible for the 1971 atrocities to account in credible trials and, in doing so, to show it is firmly committed to the rule of law. This is a complicated process with many challenges, including gathering evidence 40 years later and ensuring that the law and rules of procedure meet international standards so the trials are beyond reproach.*

*Brad Adams, Asia director at Human Rights Watch*

(New York) - The Bangladeshi government's effort to bring to trial those responsible for atrocities during the struggle for independence in 1971 is an important and long overdue step to achieve justice for victims, Human Rights Watch said today. In a letter to Prime Minister Sheikh Hasina, Human Rights Watch said that it strongly supports a successful legal and judicial process that is fair and impartial.

Seven people have been arrested so far under the International Crimes (Tribunals) Act, though specific charges have yet to be filed against them. Five are members of the Jamaat-e-Islamiya Party, which is broadly considered to have been against the establishment of an independent Bangladesh, and two from the main opposition Bangladesh National Party. All who have applied for bail have been denied except an 82-year-old, wheelchair-bound man, who was released into his son's custody after he surrendered his passport to guarantee that he would not flee the country.

"The Bangladeshi government has an unprecedented opportunity to hold those responsible for the 1971 atrocities to account in credible trials and, in doing so, to show it is firmly committed to the rule of law," said Brad Adams, Asia director at Human Rights Watch. "This is a complicated process with many challenges, including gathering evidence 40 years later and ensuring that the law and rules of procedure meet international standards so the trials are beyond reproach."

The 1971 war followed the victory of the East-Pakistan-based Awami League in national elections. The Pakistani government, led by the military ruler General Yahya Khan, refused to accept the results. On March 26, it began Operation Searchlight, sending troops into East Pakistan to arrest Awami League leaders and put down protests. The Pakistani army and affiliated vigilante groups embarked on a massive wave of violence, including widespread rape. Estimates of the number of people killed range from 300,000 to 3 million. As many as 10 million people were reportedly displaced and fled to neighboring India. The Indian army intervened and joined resistance forces to defeat the Pakistani army after nine months of violence. The independent state of Bangladesh emerged in December.

In response to this carnage, the new government in 1972 established special tribunals to try collaborators. In 1973 the parliament passed the International Crimes (Tribunals) Act. But trials never happened for political reasons. Bringing those responsible for the 1971 crimes to trial continues to have considerable popular support and was one of the main planks of the successful Awami League election campaign in 2008. In a concession to Pakistan, the law excludes the prosecution of Pakistani military officials and soldiers.

On a recent visit to Bangladesh, Human Rights Watch met with Law Minister Shafique Ahmed and the prosecutor of the International Crimes Tribunal, Zead al-Malun. Both said they were committed to ensuring that the tribunal meets international standards. The Law Minister welcomed suggestions from Human Rights Watch and others to improve the process. The prosecutor explained that his office has begun to collect documentary evidence and to interview potential witnesses.

"The atrocities and number of victims in Bangladesh have largely been overlooked by the rest of the world for four decades," Adams said. "It is good news that officials are open to suggestions for improvement and that

investigations have started in earnest. If the government and tribunal iron out some of the problems with meeting international standards, this effort will deserve the full support of the international community."

Human Rights Watch pointed out that the government has already made some important amendments to the 1973 law. These include changing the composition of the tribunal to civilian judges instead of military judges and mandating the independence for the tribunal's judicial functions. The adoption of Rules of Procedure in 2010 allowed the tribunal to begin its work in earnest.

However, Human Rights Watch said, additional amendments to the Act and Rules are needed to ensure that trials are carried out in accordance with Bangladesh's international human rights obligations, international criminal law, and Bangladesh's constitution. While the 1973 Act was largely based on international standards at the time, international criminal law and practice have since evolved significantly. Trials before a number of international courts, including the International Criminal Tribunals for the former Yugoslavia and Rwanda, the Special Court for Sierra Leone, and the International Criminal Court, to which Bangladesh is a state party, have yielded important jurisprudence and valuable experience in handling complex cases that should be taken into account to ensure that trials before the tribunal conform with international standards.

In its letter, Human Rights Watch said these problems can be addressed by:

- Amending the definition of crimes to articulate more clearly the relevant definitions of war crimes, crimes against humanity, and genocide as they existed under domestic or international law at the time of the offense;
- Amending the act to allow challenges to the constitution of the tribunal and the appointment of its members;
- Amending the act and rules to ensure that the due process rights of the accused are consistent with Bangladesh's international legal obligations;
- Repealing Article 47(A) of the Bangladesh Constitution to allow the accused full protection of their constitutional rights, including the right to enforce their fundamental rights under Article 44, which protects fundamental rights;
- Creating an effective and well-thought-out victim and witness protection plan well ahead of the trials, to address protection and support needs before, during, and after proceedings;
- Establishing a defense office to ensure that the principle of "equality of arms" between the prosecution and defense is recognized; and
- Equipping prosecutors and judges with the relevant technical expertise to handle cases under the tribunal's jurisdiction in accordance with international practice.

Human Rights Watch also urged the Bangladeshi government not to use the death penalty in tribunal cases or others. Human Rights Watch opposes the death penalty in all circumstances as an inherently cruel and unusual form of punishment and a violation of fundamental human rights and therefore recommends this penalty be removed.

"The attempt by the Bangladeshi government to create a domestic tribunal for such grave crimes could set a valuable international precedent," said Adams. "But without changes to the law and rules of procedure, the process may not meet international fair trial standards. This could result in a lack of credibility for the process in Bangladesh and internationally, which would only benefit those responsible for the horrific crimes of this period. Fortunately, the government and tribunal can fix these problems easily if they have the will."

# Human Rights Watch

Wednesday, 18 May 2011

## ICC: Recommendations for Nominating and Electing Candidates to Serve as Judges

Letter to Foreign Ministers of ICC States Parties

Dear Excellency,

We are writing to you in advance of the official nomination period for candidates to be elected as judges to the International Criminal Court (ICC). Since the ICC's ability to fairly and effectively adjudicate cases rests on the quality of its judges, we urge your government to ensure that only the strongest candidates are nominated and, ultimately, elected by the Assembly of States Parties (ASP) at its tenth session in December 2011 in New York.

As you know, at its tenth session, the ASP will elect six new judges—a third of the bench—for a period of nine years. The Rome Statute identifies several criteria to guide ICC states parties in selecting judges. Article 36(3) provides that "judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices." Every candidate for election as an ICC judge must have established competence either in criminal law and procedure (known as "List A" candidates) or relevant areas of international law (known as "List B" candidates). In addition, states parties should take into account the requirements enumerated in article 36(8) as to gender, geography, and type of legal system represented, bearing in mind the need to include judges with specific legal expertise on issues including violence against women and children.

Fulfilling these criteria is essential. But even when the criteria are satisfied, there is still a significant degree of latitude in determining which individuals are best placed to serve in the ICC. Our close observation of the court's functioning since it began operations has highlighted a number of practical considerations that we believe states parties should take into account to ensure that the best candidates are nominated and ultimately elected. Notably, we believe ICC states parties should place a particular emphasis on those candidates who possess substantial practical experience in criminal trials; can meet the many demands associated with adjudicating complex and time-intensive cases; and demonstrate a willingness to learn, including through ongoing trainings. We believe that candidates who possess these qualities, in addition to satisfying the Rome Statute criteria, will be best equipped to meet the challenges ahead.

### 1. Substantial practical experience in criminal trials

The upcoming election comes at a critical time of the court's functioning. Pre-trial or trial proceedings are actively underway in most of the ICC's six country situations under investigation; this pace will likely only intensify. Effectively adjudicating such proceedings requires individuals familiar with the demands of criminal trials, including the need to manage oral and written submissions of the prosecution, defense, and victim participants to ensure that pre-trial and trial proceedings run smoothly and respect the rights of defendants. Individuals with prior experience working in criminal trials—List "A" candidates—are much better placed to meet these demands.

As you know, the Rome Statute provides for a total of 18 judges on the ICC's bench: a minimum of six in each of the Pre-Trial and Trial Divisions and five in the Appeals Division. Based on the minimum voting requirements under the Rome Statute, states parties must elect at least three "List A" judges to the bench in the upcoming election.<sup>[1]</sup> However it bears highlighting that of the six judges whose mandates expire on March 10, 2012, four are assigned to the Trial Division, one serves in both the Pre-Trial and Trial Divisions, and one is assigned to the Appeals Division.<sup>[2]</sup> Therefore, to promote the efficient and effective functioning of the chambers, Human Rights Watch believes that at least five of the six judicial vacancies should be filled by individuals who have substantial practical experience in criminal trials. States parties should thus prioritize "List A" candidates in the nomination process. This will help create a deep pool of individuals with the requisite experience in criminal trials for the ASP's consideration when it comes time for elections.

## **2. The capacity and willingness to meet the demands of adjudicating cases over a nine-year term**

The ICC has lost four judges due to health reasons. This points to how important it is that during the nomination and elections phases, states parties carefully consider which individuals possess the capacity (including stamina) and motivation to meet the many demands on judges before the ICC over a full nine-year term of office. States parties should nominate candidates who are able to manage extremely complex and time-consuming tasks associated with trials.

For instance, judges are required to assess individual applications submitted by, in some cases, thousands of victims seeking to participate in the pre-trial, trial, and appeals proceedings. Judges must also review carefully thousands of pages of material to determine which portions should be redacted to prevent the disclosure of sensitive material while preserving a defendant's right to a fair trial. Further, as cases before the ICC proliferate, judges should be prepared to sit on more than one trial at a time and potentially at more than one level, which means that the workload will only increase. This underscores yet again why it is essential to nominate candidates with substantial experience in managing complex criminal trials, but also the need to ensure candidates have the stamina to meet the demands associated with an increasing workload over an entire nine-year term.

Overall, Human Rights Watch urges states parties to ensure that the candidates put forward for election by the ASP possess a firm commitment to the ICC's mission of bringing to justice perpetrators of the worst crimes known to humankind through fair trials. States parties should understand that judicial staffing resources are quite limited, and candidates will have to shoulder the ever-increasing demands on judges in light of the ICC's expanding caseload.

## **3. Commitment to ongoing training**

The ICC is a unique institution, and judges serving the court will inevitably face a number of unprecedented challenges. The bench shares with other organs of the court responsibility for, among other things, shaping the practice and policy of an international treaty-based institution, making meaningful a new model of victims' participation, protecting witnesses and victims in diverse, conflict-affected regions, and building support for the court's work through participation in outreach activities. All of these responsibilities must be discharged while developing the nascent jurisprudence of the ICC.

Even judges with significant prior experience managing complex criminal trials may not automatically possess the skills and knowledge needed to manage these challenges effectively. Ongoing training—for both new judges and those already on the bench—to present "lessons learned" and strategies for managing these challenges in the future will be essential. States parties should thus nominate and elect candidates who value continuing legal education and who are willing to participate in initiatives aimed at promoting legal innovation and coordination among all judicial chambers in adjudicating complex questions relating to law and policy.

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We hope these suggestions will assist your government in the nomination phase and ultimately, in determining which candidates should be elected to serve as ICC judges.

Please do not hesitate to contact me should you have any further questions.

Sincerely,

Richard Dicker  
Director  
International Justice Program

AFP

Tuesday, 17 May 2011

## **ECCC to start landmark trial on June 27**



The Extraordinary Chambers in the Courts of Cambodia (ECCC) on Monday set June 27 as the start date for a highly-anticipated trial of four top former Khmer Rouge leaders accused of genocide and other crimes in the 1970s.

The defendants are "Brother Number Two" Nuon Chea, former foreign minister Ieng Sary, his wife and ex-social affairs minister Ieng Thirith, and former head of state Khieu Samphan.

The four face charges of war crimes, crimes against humanity and related crimes under Cambodian law over the deaths of up to two million people from starvation, overwork and execution during the movement's 1975-79 rule.

The genocide charges relate specifically to the deaths of Vietnamese people and ethnic Cham Muslims under the totalitarian regime.

"The initial hearing will commence on Monday 27 June" and will focus on technical issues and discuss witness and experts lists, the court said in a document posted on its website.

The accused, who have been held in a purpose-built detention centre since their arrests in 2007, are expected to attend the hearing, said the ECCC's spokesman Lars Olsen.

They are the most senior surviving members of the hardline communist movement.

### **Aging problems**

Led by "Brother Number One" Pol Pot, who died in 1998, the Marxist regime emptied Cambodia's cities and abolished money and schools in a bid to create an agrarian utopia, wiping out nearly a quarter of the country's population before they were ousted from the capital by Vietnamese forces.

Khmer Rouge survivor Bou Meng, who was tortured in the notorious S-21 detention centre in Phnom Penh, said he supported the trial but feared the accused would not be sufficiently punished.

"I'm glad to hear that the date is set for the last four people, but I'm just not too hopeful for a satisfying outcome," said the 70-year-old.

Aged between 79 and 85, the four suffer from varying ailments, fuelling concerns that not all of them might live to see a verdict that is not expected before 2013.

Their health problems are expected to add further difficulties to a case observers already say will be long and complex with all four denying the charges against them.

### **"Enemies of the People"**

However, in the 2009 documentary "Enemies of the People", Nuon Chea - the movement's chief ideologue - admits the regime killed perceived traitors if they could not be "re-educated" or "corrected".

Their joint trial will be the court's second following the landmark conviction of former Khmer Rouge prison chief Kaing Guek Eav, known as Duch, who was sentenced to 30 years in jail last July. The case is now under appeal.

The chambers are still investigating whether to pursue two more cases against five other regime members, a move the government strongly opposes, stoking fears about the court's credibility and independence from political pressure.

The chambers' Cambodian and international co-prosecutors last week openly disagreed about whether to continue investigations into a third case, to the dismay of observers who feel it would be inadequate to punish just five regime members for the horrors suffered on the Cambodian people.

The Cambodian government has repeatedly voiced its objection to further trials, saying they could destabilise the country.

*Source: AFP*

# National Public Radio

Wednesday, 18 May 2011

## Demjanjuk Trial May Be Last For Holocaust Crimes

John Demjanjuk was convicted in Germany on 28,060 counts of accessory to murder after four decades of legal battles. Deborah Lipstadt, professor of modern Jewish and Holocaust studies at Emory University, wrote an op-ed describing the case as likely "the last Holocaust war crimes trial."

NEAL CONAN, host:

When the United States in 2009 sent John Demjanjuk to stand trial in Germany as an accused Nazi war criminal, many wondered: What's the point? Or as Deborah Lipstadt put it in a recent New York Times op-ed: Wasn't there something comic, even shameful, about dragging a dying man across the Atlantic to stand trial for a crime he committed over half a century ago? Shouldn't there be a statute of limitations, even for genocide?

Deborah Lipstadt teaches modern Jewish and Holocaust studies at Emory University, and joins us now from our bureau in New York.

And thanks very much for being with us today.

Dr. DEBORAH LIPSTADT (Jewish and Holocaust Studies, Emory University): Thank you, Neal. It's a pleasure to be with you.

CONAN: And part of that question line comes - this is a man who spent six months as a guard at a death camp called Sobibor. This was not Adolf Eichmann, the architect of the Holocaust.

Dr. LIPSTADT: True. It was not, well, first of all, I don't think Adolf Eichmann was the architect, but we can talk about that later.

CONAN: All right.

Dr. LIPSTADT: He's one of the operating - chief operating officers. But John Demjanjuk was certainly not as important as an Adolf Eichmann. He was not as high-ranking. He was Ukrainian. He was a guard. But he knew exactly what was going on. And, in fact, the judge - the German judge who found him guilty of being an accessory to murder in 28,000-plus murders made that point, that he had to know what was going on. And as every guard - the judge said every guard at Sobibor knew he was part of an organization with no other purpose but mass murder. So to say it was only six months when people like Eichmann were there - were doing this for four or five years is not really an excuse.

CONAN: And interestingly, he and Eichmann had the same excuse. They said: We had no choice.

Dr. LIPSTADT: Kill or be killed. Well, the truth of the matter is that no defense attorney, including Demjanjuk's, has ever been able to produce any evidence - defense attorney or historian - of someone actually being killed for refusing to participate. So the idea of kill or be killed is really, I think, a bit of a myth.

Moreover - they might have been sent to the Eastern Front. They might have been sent to do terrible jobs, more dangerous jobs to them, but they weren't forced to do that. And even if they had been forced, I think there is a - an ethical law that they very happily ignored.

CONAN: And another criticism is there was no specific evidence against John Demjanjuk charged. He was charged as an accessory to murder in the more than 28,000 deaths that occurred at the time he was a guard at the death

camp. And basically, the allegation was, yes, he knew, therefore he did nothing to stop, therefore he was an accessory in all of these murders, but no specific allegation.

Dr. LIPSTADT: Well, I think there were specifics. I think - we have to remember that this wasn't the only court that heard the evidence. He actually had been tried in three different nations: Israel, the United -first the United States, then Israel, then Germany. And all three judicial systems found him - found that he wasn't Ivan the Terrible, as he was originally accused of being...

CONAN: Falsely.

Dr. LIPSTADT: ...falsely accused of being. He was a terrible Ivan. And, in fact, it pays to see what - pay attention to what happened in Israel. After he's stripped of his U.S. citizenship in 1981 and extradited to Israel, he's put on trial. The trial lasts 17 months, an inordinately long time. He gets a guilty verdict and sentenced to death. And then, eventually, that verdict is overturned by the Israeli High Court, the equivalent of our Supreme Court. And they issue a 405-page ruling in which they say, it's clear to us. The evidence before us shows us that this man did terrible things. There is no question about that.

But he was brought here. He was extradited from the United States as being charged as Ivan the Terrible, a specific person. There is now very good evidence to say that's not the case, that this was mistaken identity. And even though we find him to have done terrible things, we have to overturn his verdict, because you can't switch indictments in the middle. And they let him go.

CONAN: And they let him go.

Dr. LIPSTADT: The attorney general refused to try him again. They say -he said the atmosphere was poisoned. And, again, the attorney general repeated that they had extradited him to the United States on the charge of being Ivan the Terrible and he wasn't, and they couldn't now charge him as something else.

And I think it's quite extraordinary that here was the victims' - the heirs to the victim, you know, the Jewish state saying we know you did a terrible thing but justice demands the legal system's trials. We have that - you've had a trial. You've been part of a legal system. The legal system demands that we let you go.

CONAN: Another parallel to Eichmann, who is the - had Demjanjuk been Ivan the Terrible, had the sentence been carried out, he would have been the only person other than Eichmann to be put to death by the Jewish state.

Dr. LIPSTADT: That's exactly right. It's, again, quite striking that in all the history of Israel since 1948, Eichmann was the only man ever sentenced to death and his sentence carried out. Demjanjuk could have been the second. There are other, you know, interesting parallels to veer away from Demjanjuk for just a minute.

When Eichmann was hung, he was cremated, and then Israel took his ashes and took them out to sea and buried him at sea so his burial place wouldn't become a place of pilgrimage for neo-Nazis. And I was, you know, thinking about that when I heard about bin Laden because the parallels are quite striking.

CONAN: Interesting. But getting back to John Demjanjuk, a lot of people said, wait a minute. He's been rendered stateless because he lied on his application for - when he came in to the United States. He's been tried in Israel. He's been tried in the United States.

Dr. LIPSTADT: Leave him alone.

CONAN: Enough already.

Dr. LIPSTADT: Right. Well, the saga did go on for 30 years. But part of the reason it went on so long is that he fought it every step of the way. He used all sorts of legal barriers, things - tools that were his to use. I mean, he had access to a legal system that he wouldn't have had certainly in the Ukraine of World War II, whether the preoccupied, you know, Ukraine or after it was occupied by the Germans. He dragged this out. He dragged this out for 30 years.

So, you know, on some level, yes, he was 91, but it wasn't dragged out because anybody was slow in doing this. He was using those legal maneuvers hoping, I think, on some level that he could delay it and people would say, oh, enough already, number one.

Number two, we've seen him - pictures of him in his wheelchair during the parts - portions of the German trial. He actually was in a hospital bed with an oxygen tank. But it's interesting to remember that when - just before he was turned over to the Germans and the United States, again, revoked his citizenship for the second time, his lawyer said to the court, you know, this is such a sick man. To be taken from his home, he's going to have to be taken on a stretcher.

And the OSI, the Office of Special Investigations of the Justice Department showed film clips from the day before of him walking unaided into an appointment getting in and out of a car without even a cane. And the next day he's on a bed, you know, unable to move. So we have no proof, let me put it that way, that this man is as handicapped as he presents himself to be.

CONAN: We're talking with Deborah Lipstadt, the professor of modern Jewish history and Holocaust studies. Her op-ed "Demjanjuk in Munich" ran in The New York Times yesterday. She's the author of the book "The Eichmann Trial" and with us from our bureau in New York. Al's on the line, Al calling from Eden Prairie in Minnesota.

AL (Caller): Good afternoon. Great conversation. I just have a quick comment. I was just thinking when I was hearing you a few minutes ago mention the fact that you know, people weren't, you know, kill or be killed wasn't actually a fact of life. I guess my opinion is - and I'm definitely not standing up for what he did. It was definitely morally wrong.

But it's very easy for us in, you know, a free Western society, 60, 70 years later, to pass judgment on what we think what it was actually like to be in that situation back then. I'm not saying what he did was right, but, I mean, pretty much, people back then were really stupid.

They knew if you're going to be sent to the Eastern Front, you had a nil chance of coming back alive. So OK, you weren't shot like a.k.a what happened in Vietnam, you know, that famous picture, but still, I mean, you knew that you were not going to be coming back most likely alive. So, I don't know. I can't...

Dr. LIPSTADT: I think - Al, I think you're making an excellent point. It's very easy from the comfort - I'm sitting here in the NPR studios; it's raining outside, but I'm nice and dry inside and very comfortable - to make glib judgments. And, you know, I reached that conclusion. I realized that. Not talking about war criminals, but I teach - the courses I teach at Emory University have to do with the history of the Holocaust. And my students make those kind of judgments about the victims very often. Why didn't they fight back? Why didn't they run away?

You know, and you say to them, well, if you had runaway and your family was left behind, they were going to be deported right away. Would you runaway or not? And I always say to them, don't give me an answer. I don't want to hear an answer because it's too easy to make - say, what you would have done sitting here in the comfort of the classroom. So you're absolutely right.

But there is a very powerful book. It came out quite a few years ago. But it's an iconic book called "Ordinary Men" by Christopher Browning, who teaches in - at the University in North Carolina. And it's a study of a police unit that was turned - a German police unit that was turned into killers sort of overnight without the general preparation that often the SS men were given. And some of them refused to participate and nothing was done to them.

So you're right that they didn't know - or they knew they go to Eastern Front where - I don't think there was nil chance, because we do have people who came back from the Eastern Front. Half the people I used to meet when I went to Germany, when they were more veterans around, and there's still quite a few, all of them seemed to be on the Eastern Front.

But you're right, it was a dangerous thing. But nonetheless, that doesn't justify saying, well, therefore, I have to take part in a murder system. We do know that there were guards at some of these camps who ran away, guards who

refused to participate. And it was a hard thing to do. And maybe it was a dicey thing to do. But morality still exists, especially when it's mass murder.

AL: OK. Well, thanks for the reply. Appreciate it.

Dr. LIPSTADT: Thank you, Al.

CONAN: Thanks very much for the call, Al. There is another argument you make in your - Eichmann was a planner, a large cog of the Holocaust. John Demjanjuk, a very small cog.

Dr. LIPSTADT: Mm-hmm. That's a good point. And now Hannah Arendt, the political philosopher, whose writings on the Eichmann trial have had far more - far longer legs than Eichmann himself and is, in some way, more important because she has generated a very important and vigorous and sometime feisty intellectual conversation, makes the point that when you're dealing with a machine, a large cog and a small cog are essentially of equal importance.

She wasn't saying that, you know, everyone is treated the same. But if you take out a small cog, the machine is not going to operate just as much if you take out a large cog. You, of course, look at the difference - how big a role did this person play in planning the murders and carrying out the murders?

But just to say: I only had a small role. I was only the guard who is pushing people into the gas chamber doesn't, I think, release you or negate the fact that you pushed people into the gas chambers. You took -while you were there in the six months you were serving as a guard, 28,060 people were murdered in the gas chambers, and you were part of that process.

CONAN: You're listening to TALK OF THE NATION, which is coming to you from NPR News. And let's see if we can get - this is Jerry(ph), Jerry calling us from San Francisco.

JERRY (Caller): Hi. Great show as always, Neal. A pleasure to talk to you.

CONAN: Thank you.

JERRY: My parents had some close friends. And the husband was in fact a Holocaust survivor who was involved in the Demjanjuk case. My memory fails me, but I believe he was brought to Cleveland to either help in identifying the man or perhaps testify.

And to be neither gratuitously graphic nor facetious, the only way I can described this man's body, as a result of what was done to him in a concentration camp is the human equivalent of crushing an aluminum can in your fist. And yet, he was a man of great humor and great strength then and a fine fellow. And just seeing him, that was enough for me. I mean, as if you needed more evidence that there really shouldn't be a statute of limitations on crimes of this nature.

And as I was saying to your screener, OK, if the guy is in a hospital bed on his last legs, literally, and or in a hospice or something then it becomes grotesque to try and try again. But under any other circumstances, I mean, please, there's no statute of limitations on something like this. Justice has to be served no matter how long it takes. And the memory of this has to be kept alive because the '30s and '40s are not ancient history.

Dr. LIPSTADT: Mm-hmm. I think you're absolutely right. And I think on your last point that the memory has to be kept alive, it's not just that the '30s and '40s aren't ancient history. It's that, you know, people like to say never again when - never again about the Holocaust, but the fact of the matter is again and again and again: Cambodia, Darfur, the former Yugoslavia, Rwanda. Those killers are walking around now and they're very comfortable and so many of them feel very secure. And I think the only way we're going to try to impede - I'm not even going to stay stop, but impede genocide is to give the message that eventually there will be justice.

You know, people say justice delayed is justice denied. Well, I'd like to say in these cases justice delayed is justice diminished, but it's not justice denied. And there has to be justice both for the perpetrator and bringing them to

justice, but justice for the man you just described, who was a friend of your parents and others for whom the scars are not as evident.

And I don't know if you're talking about someone from the Congo or someone from Rwanda - I was in Srebrenica a number of years ago, in July, when they commemorate the massacres there, the killing of 7,000 Muslims, Muslim men there, men and boys. Those killers should be apprehended. They should be punished.

It's the only way we're going to make people think twice when someone says on the radio, pick up your arms and kill, you know, Tutsis, or pick up your arms and kill Muslims or whatever it may be, or pick up your arms and kill Jews, to make people think twice.

CONAN: Jerry, thanks very much for the call. I wanted to ask you, you referred earlier to the office in the Justice Department that pursued the war criminals who came to this country. It's being closed because there are believed to be no cases left. The Demjanjuk trial, you write, may be the last major trial of a Nazi war criminal to get public attention.

Dr. LIPSTADT: I think that's true. I think it's the end. It's - it marks the passage of an era. When I first started to work in this field and I began teaching courses on the Holocaust and I always, towards the end of the course, I would bring in a survivor. And I could pick that I want this particular survivor, someone to tell of an Auschwitz experience or someone to tell of an experience in hiding or someone to tell of another camp. Now, I'm lucky if I can get someone who was a child survivor. The victims, the survivors are passing and that era is ending.

And I think that we will not see court proceedings - as I said yesterday in The Times, we won't see more court proceeds at least relating to the Nazi crimes. And the burden and the responsibility of keeping that memory of what happened alive not as a lesson, not just for the sake of the memory, but that is - that would be enough, but also for the sake of somehow trying to impede the ways of genocide we've seen in the decades since.

CONAN: Deborah Lipstadt, thanks very much for your time. We appreciate it.

Dr. LIPSTADT: Welcome. Thank you for having me.

CONAN: And again, her op-ed appeared yesterday in The New York Times.

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