

**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:**

Friday, December 10, 2004

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# Special Court

## DECISION ON THE FIRST ACCUSED'S

## MOTION - CHIEF HINGA NORMAN

### BACKGROUND

ON THE 15<sup>th</sup>, 17<sup>th</sup> and 21<sup>st</sup> of March 2003, the First Accused was arraigned before the trial chamber where he pleaded not guilty to eight count charges listed in the indictment against him.

by SU THORONKA

On 9 October 2003, the prosecution sought a motion for joinder of the first accused with the Second Accused, Moinina Fofanah and Third Accused Allieu Kondewa. The prosecution requested that the indictment against the three accused be consolidated into a single indictment and their cases joined. Written responses to this motion were received from the Third Accused on 20 October, 2003 and from the Second Accused on 12 November, 2003.

An oral response to the motion was given by the First Accused at the joinder hearing held on 4 December, 2003. The prosecution filed a reply to the defence's response on the 24 October, 2003. A decision on the motion for joinder was delivered on 27 January, 2004, which ordered that a single consolidated indictment be prepared as the indictment on which the joint trial would proceed and that the said indictment be served on each accused in accordance with Rule 52 of the Rules. The Consolidated Indictment was filed on 5 January, 2004.

### Rule 52 - Service of Indictment

Service of the indictment shall be effected personally on the accused at the time the accused is taken into the custody of the Special Court or as soon as possible thereafter.

Personal service of an indictment on the accused is effected by giving the accused a copy of the indictment approved in accordance with Rule 47. An indictment that has been permitted to proceed by the designated judge shall prepare certified copies bearing the seal of the Special Court. If the accused does not understand English and if the language understood is a written language known to the Registrar, a translation of the indictment in that language shall also be prepared.

In the case that the accused is illiterate or his language is an oral language, the Registrar will ensure that the indictment is read to the accused by an interpreter, and that he is served with a recording of the interpretation.

Subject to Rule 53, upon approval by the designated judge, the indictment shall be made possible. Or if upon careful consideration the trial chamber finds that the accused has not been personally served with the consolidated indictment. Furthermore, if the trial chamber finds that the consolidated indictment contains new factual allegations in support of existing confirmed counts, and substantive elements of charges, that are material to the case against the accused.

In accordance with the accused right to a fair trial and in the interest of justice, the trial chamber

stays the following portions of counts of the consolidated material changes to the indictment against the first accused. The remainder of the indictment, excluding the stayed portions, constitutes a valid indictment against the accused. The stayed portions of the indictment are outlined below:

Paragraph 23 - "and surrounding areas and the Districts of Moyamba and Bonthe".

Paragraph 24 - "personal injury and the extorting of money from civilians"; "took control of" and "unlawfully" destroyed and looted, and subparagraph (d) and (e) which include:

Between October 1997 and December 1999, kamajors attacked or conducted armed operations in Moyamba District to include the towns of Sembehun and Gbagbatoke. As a result of the actions, kamajors continued to identify suspected "collaborators" and others suspected to be not supportive of kamajors, unlawfully killed an unknown number of civilians. They unlawfully destroyed and looted civilian owned property.

Between about October 1997 and December 1999, kamajors attacked or conducted armed operations

in the Bonthe District generally in and around the towns and settlements of Talia, Tihun, Mabeya, Bolleh, Bernebay and the island town of Bonthe. As a result of this action, kamajors identified suspected "collaborators" and others suspected to be not supportive of kamajors and their activities. They unlawfully killed an unknown number of civilians. They destroyed and looted civilian owned property.

Paragraph 25 - the time frame for alleged commission of unlawful killings namely "30 April 1998" at or near the towns of Lohant, Kwabunan, Koria, Talama, Pangwun, and Sembehun, "at the nearby locations of Biama, "kamajors unlawfully killed", "including the District Headquarter town", "Kabi Town, Kpyemba, Feajehun and Mongwe" and subparagraph (e) and (f) which state:

"Between about October 1997 and December 1999 in locations in Bonthe District, including Talia (Base Zero) Mobayeh, Kakose and Bonthe Town, kamajors unlawfully killed an unknown number of civilians."

Between October 1997 and December 1999 in locations in Moyamba District, including Sembehun, Tiama, Byingo, Ribbi and Gbagbatoke, kamajors unlawfully killed an unknown number of civilians. Addition to paragraph 9 including "unlawfully killed" and capture of enemy combatants "in rural areas of Sembehun, Gerihun, Jembah and Su - Highway"

Paragraph 26 - subparagraph (a) extends the time frame for alleged commission of acts of physical violence and infliction of mental harm or suffering to "30 April 1998". Biama and Kamabona are also listed as areas where the acts were committed, subparagraph (b) "November 1998 to December 1999, the Districts of Koya and Kambia, "Illegal arrest and unlawful detention"

Paragraph 27 - "Kambia District, the towns of Kenema, Tong, "in, and surrounding areas."

Bonthe District, the towns of Talia (Base Zero), Bonthe Town, Mobayeh and surrounding areas" the unlawful taking and destruction by burning of civilian owned property.

Paragraph 29 - "Conscript" instead of "recruited" children under the age of 15 years into armed forces or groups "throughout" the Republic of Sierra Leone.

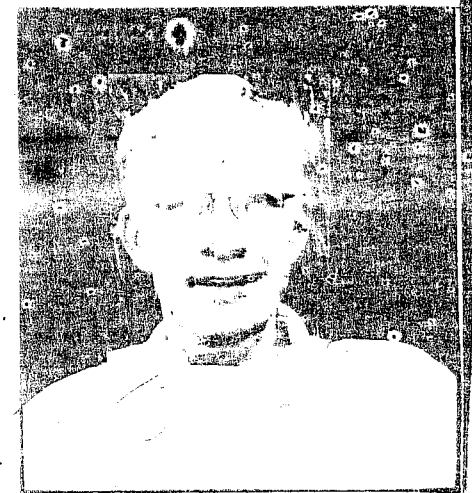
General reference to "CDF, largely of kamajors" instead of kamajors.

For the above reasons, the trial chamber orders as follows for the first accused:

That the identified portions of the consolidated indictment that are stayed and contain new factual allegations and substantive elements of the charges be stayed, and that the prosecution is hereby put to its election either to expunge completely for the consolidated indictment. Such indictments in respect of these identified portions, and that either option is to be exercised with leave of the trial chamber.



NORMAN: former head of the kamajors



DAVID CRANE: chief prosecutor

# STANDARD TIMES

Friday December 10, 2004

Le500

## Special Court monitors quit

BY THEOPHILUS S. GBENDA

A number of members of the specially created Public Service Committee at the at the Special Court for Sierra Leone have reportedly resigned their positions unceremoniously over what they describe as an attempt by the Court administration to abuse them.

According the members, the committee was created

As a special arm of the Outreach Section of the Special Court to liaise with the public and authorities concerned.

They began with eight members on a rotational basis and

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## Special Court monitors quit

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given food and transport allowance of Le50,000 per week.

However, this financial reward has reportedly not gone down well with the members, most of whom sacrifice their official job schedules to assist the Court.

In the words of one of the aggrieved committee members, "money given them is not commensurate to the daunting tasks on them," adding that despite the fact that the committee was budgeted for, they are still not accorded the attention and recognition

that they deserve.

Another member cast the blame on Binta Mansaray, head of the Special Court Outreach Section, who has "personalized the budgetary allocation of the Outreach Section."

In an interview with Binta Mansaray, she acknowledged the departure of five of the committee members, adding that the essence of the committee was to involve the participation of the civil society in the activities of the Court.

She said the work of the committee was meant to be

voluntary, as their were no specific funds for their activities, as it is being alleged, noting that even the fifty thousand leones they received was obtained from her department.

She dismissed allegations that she has personalized financial operations in her department as baseless, adding that she was nevertheless duty bound to protect the finances of her department.

She also denied allegations that her department is bias, saying that they are neutral.

## **LIBERIA-SIERRA LEONE: International community needs to commit for long haul to stop return to war**

09 Dec 2004 17:26:06 GMT

Source: Integrated Regional Information Networks

DAKAR, 9 December (IRIN) - Liberia and Sierra Leone risk tipping back into conflict if the international community does not commit for the next 15 to 25 years with a fresh approach to restore security and civil freedoms, according to leading think tank, the International Crisis Group.

"The interventions in Liberia and Sierra Leone are failing to produce states that will be stable," the ICG said in a report published on Wednesday. "A fresh strategy is needed if both are not to remain shadow states, vulnerable to new fighting and state failure."

The ICG criticised donors for not handing over promised and much needed-funds and said that post-war efforts were veering off course, as UN peacekeepers simply ticked off the standard elements in a one-size-fits-all recipe for peace.

"There is no simple and quick nation-building conveyor belt. If the cycle of 'collapse, partial recovery, new collapse' is to be avoided, the international community needs to stay patiently involved with both countries for a generation, not for a brief post-conflict transition capped off by a first election," the Brussels-based group warned.

Both Sierra Leone and Liberia witnessed brutal civil wars that spanned the 1990s and the images of young and often drugged-up combatants toting machetes and guns and mutilating innocent victims touched a nerve around the world.

The new ICG report, entitled "Rebuilding Failed States" ([www.crisisweb.org](http://www.crisisweb.org)), called for action to be taken by the United Nations, the British and American governments, international donors, and politicians and citizens in both West African countries to consolidate a real and meaningful peace.

It said judicial institutions needed not only to be repaired but reformed, new armies needed to be trained properly to win back the trust of civilians who often saw them as tainted.

Ordinary civilians should be pushing through to the frontlines of politics, and economic resources, be they diamonds and timber or government funds, should be put beyond the reach of criminals.

Sixteen months of peace for Liberia

Liberia's 14-year conflict finally drew to a close when the warring parties signed a peace deal in August 2003. Now a transitional government, made up of the three armed factions that fought the

war and civilian society groups, is working to lead the country to free and fair elections in October 2005.

But infrastructure in the heavily-forested nation remains shattered, with roads still impassable and no power grid or water and sewerage systems in the capital, Monrovia.

Western diplomats have already blasted obstructionist elements within Liberia's interim government who are more bothered about the personal gains they can pocket as "gatekeepers" to various offices, than about moving the country forward. The ICG said next year's polls would be a crunch test.

"Many observers fear that the presidential election in October 2005 will be seen as an all-or-nothing affair, with the losers thoroughly excluded from power and thus left contemplating resumption of war," the report said.

Hordes of idle former fighters and hidden caches of arms which escaped a UN-led disarmament programme would provide a prime recruiting pool, and so the ICG urged foreign donors to stump up immediately the US\$ 42 million needed to reintegrate ex-combatants and help them adjust to civilian life.

The money is part of US\$ 276 million that was promised by donors but has yet to be paid. The funds for ex-combatants are crucial, especially given the outcome of a flawed disarmament and reintegration programme in 1997 during a pause in Liberia's civil war.

"The result was... continued pillage and abuse of the population and ultimately a resumption of civil war," the ICG noted. "Donors who promised money in February 2004 must disburse it immediately if Liberian ex-combatants are not to be let down again."

The group also urged the United Nations Security Council to maintain timber sanctions on Liberia until after the elections, despite pleas from Liberia's interim leader, Gyude Bryant, to lift the embargo. And the international community should take over the collection of revenues from ports, airports, customs and raw materials exports, to make corruption more difficult, the ICG said.

It called for no time to be wasted. "The clock is ticking for Liberia. After the October elections it will be much more difficult to take innovative approaches, as it already is in Sierra Leone."

Sierra Leone turmoil further in past

Sierra Leone is further along the peace path. Fighting ended almost three years ago and elections have already been held. President Ahmad Tejan Kabbah was overwhelmingly re-elected in May 2002, four months after the war was officially declared over.

Although peacekeepers from the UN Mission in Sierra Leone (UNAMSIL) have restored security across the country, they have delayed pulling out of the former British colony completely.

"Fears that the peace would not hold have prompted a decision to

maintain a residual force of 3,500 soldiers and military observers until at least the end of June 2005," the ICG noted.

With Sierra Leone still mired at the bottom of the UN's Human Development Index and citizens not expected to live much beyond their 34th birthday, the outlook is bleak.

And the ICG says the efforts put into security, now have to be matched in the economic and political spheres where the sparks that caused the decade-long civil war have not been firmly extinguished. To do this, a long-term commitment is essential.

Many residents in the capital Freetown bemoan the fact that living conditions there have barely improved, that travelling elsewhere in the country is difficult because roads are so dire and that corruption still plagues the country.

Many normal state functions, particularly the provision of healthcare, are being carried out by non-governmental organisations and not the government.

"Institutions are focused on finding new sources of donor revenue, rather than managing at hand in a way that would develop autonomy and self-sufficiency. Policy is driven by what donors will fund," the ICG report said.

The consequences of either Sierra Leone or Liberia sliding back to war would be disastrous for an-already turbulent West African region.

Cote d'Ivoire, once the regional powerhouse, is currently reeling from the latest cycle of violence in its two year crisis. And analysts say Guinea, which shares borders with both Liberia and Sierra Leone, could ignite any day as the country crumbles under President Lansana Conte.

**Integrated Regional Information Networks news**

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Alerting Humanitarians to Emergencies

# Liberia, Sierra Leone risk return to war - study

09 Dec 2004 11:26:41 GMT  
Source: Reuters

By Nick Tattersall

DAKAR, Dec 9 (Reuters) - Liberia and Sierra Leone risk collapsing back into conflict if the international community does not make a long-term commitment to peacebuilding, according to a study by an influential think-tank.

Peacekeepers in the two West African countries were flying through a checklist of measures such as disarming fighters and repatriating refugees without thinking about underlying political stability, the International Crisis Group said in a report published on Wednesday.

"The international interventions in Liberia and Sierra Leone are failing to produce stable sovereign states. A fresh strategy is needed if both are not to remain vulnerable to new fighting and state collapse," the ICG said.

Liberia and Sierra Leone experienced two of the most brutal civil wars in Africa's modern history, conflicts which shocked the world with images of drugged up young gunmen and mutilated victims, some of whom had their limbs hacked off with machetes.

The ICG report said the timeframe of 2-5 years peacemakers had given themselves to rebuild the countries was too short. It said the international community needed to make 15-25 year commitments to security and civil freedom.

"The judicial and law enforcement institutions never functioned effectively, and thus their repair without reform is no solution. New militaries are untested and their adherence to constitutional order uncertain," it said.

"Voices from civil society who could catalyse real change tend to be marginalised, while the economy is left vulnerable to criminal capture."

Sierra Leone ranked bottom on the U.N.'s 2004 Human Development Index of 177 countries. Its war, which killed 50,000 people, was declared over in 2002 after the intervention of a 17,500 strong peacekeeping force. Liberia was not ranked.


A Truth and Reconciliation Commission in Sierra Leone said in October that the poverty, corruption and lack of basic rights that pushed thousands of youths into its decade of war remained.

Warring factions in neighbouring Liberia formally disbanded last month in line with a peace deal signed last year and the biggest U.N.

peacekeeping force in the world has helped disarm more than 95,000 fighters.

But disarmament has not reached the whole country and in the capital Monrovia, which still has no power grid, sewerage or water systems, groups of Christian and Muslim youths fought battles at the end of October, killing 18 people and wounding more than 200.

"Liberia and Sierra Leone took decades to decay and it will take decades to restore sustainable security and political and economic structures," said Mike McGovern, the ICG's West Africa project director.

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## The Washington Times

www.washingtontimes.com

### The rights and wrongs of U.N. peacekeeping

Published December 10, 2004

To many Americans, international peacekeeping operations can be distilled in a single moment: the bodies of U.S. soldiers being dragged through the streets of Mogadishu, Somalia. The U.N. peacekeeping mission in Somalia, which was reinforced by U.S. troops, represents how poor planning can lead to disastrous results. There have also been some notable successes in U.N. peacekeeping. As the performance over the last half-century of the United Nations comes into sharper focus due to the problems with the Iraq oil-for-food-program, this page will have a close look at the role of the institution's different functions. This editorial takes the reader through a guided historical tour of the ups and downs of U.N. peacekeeping.

U.N. officials have been slow to learn some important lessons from peacekeeping missions gone awry and have yet to learn others, apparently. The United Nations should keep some basic lessons in mind: When possible, keep former colonizers out of the whole business and involve countries that have a geopolitical interest in seeing peace prevail. The old adages are also true. The U.N. mission can only be as good as the political will of the U.N. Security Council and member countries, and peacekeeping is appropriate only when there's a peace to keep. Also, only forces that represent a credible deterrent to violence in terms of size and firepower have a decent chance of keeping the peace. In some cases, the United Nations as an institution should be held accountable for failing to expend moral authority at critical moments and appropriately defining missions.

First, some facts. The United Nations has no standing army and depends on the voluntary troop contributions of member nations to carry out peacekeeping missions. U.N. peacekeepers remain under the command authority of their sovereign governments and the United Nations itself cannot punish abusive peacekeepers, but a member nation's government can. The top 10 contributors to the missions are developing countries. The proposed budget for 2004-05 is \$2.65 billion. A U.N. force can work side-by-side with regional forces, such as NATO and West Africa's military force, known as ECOWAS, and the Security Council can authorize the missions of those regional organizations. More than 1,580 U.N. military and civilian peacekeepers have died in the performance of their duties since 1948.

France's involvement in Ivory Coast represents one of the many examples of peacekeeping debacles. The French force is independent, but in theory complimentary to that of U.N. peacekeepers in the country. Given France's past as colonizer, its actions were likely to cause tensions -- and they have. After nine French peacekeeping troops were killed in a government airstrike, French forces on Nov. 6 annihilated the country's small airforce. French forces handled anti-French rioters by firing into crowds, killing at least 20 people.

In contrast, missions in Liberia and East Timor, which involved the countries' neighbors, have been much more successful. In October 2003, in Liberia and more recently in Ivory Coast, ECOWAS forces eased the deployment of U.N. troops. About 15,000 U.N. peacekeepers paved the way for the provision of humanitarian assistance and demobilization, disarmament and reintegration of ex-combatants in Liberia, but the relative stability remains tenuous.

In East Timor, today called Timor-Leste, an Australian-led U.N. peacekeeping force deployed in 1999 successfully oversaw the withdrawal of Indonesian troops, after pro-Jakarta militias had already managed to wreak close to total destruction of the country's infrastructure. The force had a strong mandate from the Security Council to use "all necessary means" to carry out its mission.

Then there are cases where peacekeepers were deployed in so small a number that they were powerless in averting either troop casualties or the slaughter of civilians. Much of the blame for those disasters lies with the Security Council, which failed to authorize more robust forces, but the U.N. secretary-general can be faulted for failing to leverage moral authority.

There was a small U.N. peacekeeping force in Rwanda when the Hutu militants' genocide against Tutsis began in 1994. Most countries then immediately withdrew their contingents. The Security Council then approved a force of 5,500, but the troops were not forthcoming. In the 100 days beginning April 6, 1994, Hutu gangs, aided by the Hutu army, killed almost 1 million Tutsis and Hutus -- the fastest genocide in human history. The U.N. has admitted it failed to prevent genocide.

Bosnia first asked for U.N. monitors on its borders with Serbia in 1992. No monitors were provided, though. Serbian troops later crossed the border, shelling civilians and besieging towns like Sarajevo. U.N. troops were deployed after the International Court of Justice ruled that genocide was taking place. Still, the Security Council gave the peacekeepers limited firepower and a weak mandate. In the summer of 1995, lightly armed peacekeepers stood by powerless as thousands of men in Srebrenica were murdered in what they had been told was a "safe haven."

In Somalia, U.N. peacekeepers arrived in 1992 before all parties had signed onto a cease fire or consented to the U.N. force. U.N. and U.S. forces were too small and weak to deal with the Somali resistance. U.S. and U.N. troops were killed, and the horrific images of the disaster soured appetites for peacekeeping. In 1995, the United Nations withdrew its own troops and acknowledged failure.

There have been other success stories, such as in Cyprus and El Salvador, and debacles, such as the abuses in the Democratic Republic of Congo, which are still under investigation. It is surprising all the same that the failures in Bosnia and Rwanda occurred after the Somalia disaster. While the United Nations has assimilated some lessons over time, the process is still surprisingly incomplete. Preferred doctrines and steady leadership in U.N. peacekeeping, even after half a century, are in need of substantial improvement.

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## Milosevic duo released ahead of Tribunal appearances

09/12/2004 - 17:16:31

The UN war crimes tribunal in The Hague released two top aides to former Yugoslav President Slobodan Milosevic today pending the start of their trials.

The move was branded a "huge mistake" by a prominent human rights activist.

Former Milosevic state security chief Jovica Stanisic and his deputy, Franko Simatovic, arrived in Belgrade from The Hague, Netherlands, this evening, according to the official Tanjug news agency.

The two were charged last year in connection with war crimes committed by Serbian secret service troops during wars in Croatia and Bosnia in the 1990s.

In Serbia, Stanisic and Simatovic retain considerable influence among the police and military despite their indictments.

Human rights activist Natasa Kandic said their temporary release could intimidate witnesses in ongoing war crimes trials in Serbia, as well as in court proceedings for suspects in the slaying of Serbia's reformist Prime Minister Zoran Djindjic.

Djindjic was gunned down last year allegedly by members of a special police unit formed and commanded by Stanisic and Simatovic in the early 1990s.

Stanisic and Simatovic were arrested days after the March 12 assassination and were initially suspected of involvement in the killing, but no charges were brought against them.

"We have information that the process of intimidation of witnesses already has begun," said Kandic, director of the Humanitarian Law Fund. "The tribunal has made a huge mistake, it has strengthened the anti-Hague lobby in Serbia."

Earlier today, several Serbian human rights groups urged the government to arrest and extradite the more than dozen other war crimes suspects sought by the UN tribunal.

A few dozen activists gathered at a peaceful rally in central Belgrade under the slogan Hand them Over. They held banners reading All Crimes Must Be Punished and War Criminals To The Hague.

Serbia faces possible international isolation because of the reluctance of Prime Minister Vojislav Kostunica and other leaders to arrest and extradite war crimes suspects.

Citing concerns for the stability of the volatile Balkan republic,

Kostunica has stalled on ordering extraditions. He faces mounting criticism at home and abroad over his policies.

Topping the list of fugitives are former Bosnian Serb army commander Ratko Mladic and four Serb army and police generals wanted in connection with atrocities committed during the 1998-99 war in Kosovo.

## The case against Saddam

Local law professor aids in training session for Iraqi judges

By: DOUGLAS J. GUTH Staff Reporter

In his report to President Harry Truman in 1946, U.S. prosecutor Robert Jackson reported that judicial recognition of the "crime of aggression" was the most important thing to come out of the Nuremberg trials in Germany.

Despite U.S. objections, Saddam Hussein will be the first person tried under this law since top Nazi official Hermann Goering was prosecuted after World War II by the famous international tribunal.

"This is an extremely important precedent in international law," says Case Western Reserve University professor Michael Scharf. "Robert Jackson would be happy."

Scharf, 41, was at ground zero for the historical decision. The legal scholar recently participated in a highly guarded conference in London to train the 39 newly appointed judges of the Iraqi Special Tribunal (IST) who will preside over Saddam's trial.

Scharf, a former State Department lawyer and expert on international law and war crimes, spent a week in October training the Iraqis with another American and three British legal experts. Along with Saddam, the tribunal will also try 11 of the deposed Iraqi dictator's top lieutenants.

The U.S. Department of Defense (DOD) was initially in charge of helping create the Iraqi Special Tribunal. The tribunal's original DOD-drafted statute included only war crimes, genocide and crimes against humanity. The crime of aggression was intentionally omitted.

Washington has long opposed using the crime of aggression in the jurisdiction of international tribunals. That is because the U.S. has frequently engaged in actions, including the 2003 invasion of Iraq, that other countries argue constitutes such a crime, explains Scharf.

The aggressive-war charge was reconsidered when the Department of Justice took over the IST portfolio in June. Iraqi officials insisted on a catch-all provision for crimes recognized under Iraqi law, including an aggressive-war law dating back to the pre-Saddam 1970s.

Like the Nazis of WWII, Saddam will be charged with crimes against humanity, war crimes, genocide and making aggressive war, says Scharf. The trial will hold him accountable for invading Kuwait, making war on Iran, causing the deaths of hundreds of thousands of Arabs by damming the rivers that feed the marshes of Southern Iraq, and using poison gas against Iraqi Kurds and SCUD missiles against Israel.

Each case has its own controversies. For example, how will the tribunal determine Saddam's motivations against the marsh-dwelling Arabs?

The answer, Scharf says, depends on whether the government acted solely to suppress an insurgency or with specific intent to destroy the marsh Arabs as an ethnic group.

Unlike with the Nazis, however, written records of Saddam's orders are scarce. "The trial will turn on testimony rather than written evidence," notes the legal expert. This means the tribunal might have to offer plea bargains to lower-level Baath party officials.

Scharf further prepared the Iraqi judges by referencing the mistakes of past tribunals. Citing the trial of Slobodan Milosevic, where the former Yugoslav president turned proceedings into his "stage," Saddam will not be allowed to represent himself.

Another controversy has been the composition of the judicial bench. The tribunal, selected by the U.S.-sponsored Iraqi Provisional Government, consists only of Iraqi judges. With the lack of international participation, "the court risks being perceived as a puppet of the U.S.," says Scharf.

This perception can be mitigated, he continues, by the appointment of international law clerks who will see to it that the judges remain unbiased. "This will go further in ensuring the credibility of the IST than one or two international judges would have done."

There is an overwhelming case against Saddam, but the former Iraqi leader will be allowed to pre-sent a full defense. Saddam will most likely cite conflicting evidence about his use of chemical weapons and argue that he was not the aggressor in the various wars he engaged in.

Saddam may also try to argue that the "debatable legality" of the U.S. invasion of Iraq indicates that there is no international agreement on the definition of aggressive war.

Scharf has been invited to witness the trial, which will probably take place at a U.S. military base in Iraq sometime early next year. The well-traveled Case professor, the son of former CJA business manager Harry Scharf and his wife Joan, doesn't know if he will attend, as the trial holds very real dangers.

In the last several months, one judge's home was riddled with bullets by attackers and another's was blown up. Security for the London conference was tight; a pub the judges frequented was bombed during their training.

For Iraqis and U.S. military forces, the sooner the trial starts, the better. "Every day Saddam is in jail is another day he's fueling the insurgency," says Scharf.

Source: [News & Business > News > News, Most Recent 90 Days \(English, Full Text\)](#) 

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**December 8, 2004, Wednesday**

**LENGTH:** 1275 words

**HEADLINE: POLITICS: U.S. PENALIZING SOME KEY ALLIES FOR BACKING GLOBAL COURT**

**BYLINE:** By **Jim Lobe**

**DATELINE: WASHINGTON, December 8 2004**

**BODY:**

The United States is poised to punish some of its closest friends overseas for supporting the International Criminal **Court** (ICC) as a growing number of its soldiers are being sanctioned for abusing prisoners in the "war on terrorism," said U.S. human rights groups Wednesday.

A measure inserted into the current omnibus appropriations bill in Congress would ban tens of millions of dollars in U.S. economic aid to some of its **allies** unless they formally agree to exempt U.S. citizens from the ICC's jurisdiction.

The move, made at the insistence of the right-wing leadership of the House of Representatives two weeks ago, was opposed by the State Department and more moderate Republican and Democratic lawmakers.

But the White House, which had used its political clout in the House over the past week to persuade reluctant Republicans to back an intelligence reform bill, apparently decided against trying to strip the ban -- the so-called Nethercutt Amendment -- named for its chief sponsor, outgoing **Washington** State Representative George Nethercutt, from the overall bill.

Rights activists noted that the timing of the ban's approval is particularly unfortunate, given ongoing courtmartial of U.S. soldiers accused of war crimes in Iraq and ongoing disclosures of abuses committed by U.S. troops against detainees both in Iraq and at detention facilities at the U.S. naval base at Guantanamo Bay, Cuba.

In the latest revelations, documents released Tuesday by the American Civil Liberties Union (ACLU) showed that U.S. special operations forces (SOF) threatened Defence Intelligence Agency (DIA) officials who witnessed evidence of abuses inflicted on detainees in Iraq if they reported what they had seen.

"While accounts of U.S. abuse of prisoners keep surfacing, the United States is ratcheting up pressure on states to place U.S. citizens beyond the reach of a **court** that can only be used as a last resort," said Richard Dicker, director of the international justice programme of Human Rights Watch (HRW).

"As revelations of abuses continue, U.S. insistence on immunity strikes a particularly raw nerve," he added in a statement.

The ICC, whose mandate is to investigate and prosecute war crimes, crimes against humanity, genocide and other atrocities, was established at The Hague two years ago under the 1998 Rome Statute.

The statute, which has been signed by 139 countries and ratified by 97 -- including all members of the European Union and all of **Washington's** NATO **allies** except Turkey -- was also signed by the United

States under President Bill Clinton, but the Bush administration, in an unprecedented action in May 2002, explicitly renounced the treaty.

At the same time, it launched a major diplomatic offensive to **press** countries that adhered to the statute to conclude "bilateral immunity agreements" (BIAs) with **Washington** that would shield U.S. nationals or foreign nationals working for the United States from the ICC's jurisdiction.

The Bush administration also sought -- and initially obtained -- a United Nations Security Council resolution that provided blanket exemption from the ICC for soldiers and officials serving in U.N. peacekeeping operations whose home country had not signed the treaty. But in the wake of the Abu Ghraib prison scandal last spring, council members refused to extend the exemption.

Analysts here agreed that the ban will also further worsen U.S. ties to the United Nations and Europe, the ICC's major champions, at a time when a growing number of Republican lawmakers are clamouring for the resignation of U.N. Secretary-General Kofi Annan and for cutting U.S. financial support to the world body because of the furor over the oil-for-food programme in Iraq under former President Saddam Hussein.

"Now is a time when the U.S. should be reaching out to assist countries interested in developing a more democratic and peaceful world," said Raj Purohit, legislative director of Human Rights First (HRF), the New York-based group formerly known as the Lawyers Committee for Human Rights.

"With the Nethercutt Amendment, the U.S. is sadly withdrawing its support for such activities because of a short-sighted campaign against the ICC," he added in a statement.

The administration has insisted that the ICC threatens U.S. sovereignty and that, given **Washington's** **global** military dominance and presence that go with it, U.S. nationals would be particularly vulnerable to politically inspired prosecutions by the ICC.

During the recent presidential campaign, Bush himself repeatedly denounced the ICC, which he said would be dominated by "unaccountable judges and prosecutors."

ICC supporters, including Bush's closest foreign **ally**, British Prime Minister Tony Blair, have argued that **Washington** has nothing to fear from the tribunal so long as its government is willing to investigate and prosecute serious crimes that might otherwise fall under the ICC's jurisdiction.

Under the Rome Statute, the ICC can only take jurisdiction if the country involved is either unable or unwilling to pursue prosecutions on its own.

To put pressure on countries to sign a BIA with **Washington**, Congress passed a law in 2002 that gave the administration the discretion to cut off military aid to countries not belonging to the North Atlantic Treaty Organisation (NATO) that ratified the ICC. Over the past year, the administration has done precisely that with about three-dozen countries, almost all of them poor nations in Latin America, the Caribbean, Africa and Central Europe.

The Nethercutt Amendment would deprive the same nations of economic support funds (ESF), a category of economic assistance that accounts for about 2.5 billion dollars in the current foreign-aid bill.

As written, the legislation could waive the ban for national-security reasons for **Washington's** NATO or "non-NATO **allies**," which include Australia, New Zealand, Egypt, Israel, Japan, Jordan, Argentina and South Korea. The amendment also exempts from the ban beneficiaries of the new Millennium Challenge Account (MCA), which goes to poor countries that adhere to political and economic policies approved by **Washington**.

But even if Bush exercised his waiver authority in every case, a number of **key** U.S. partners in the developing world -- and hundreds of millions of dollars in economic assistance -- would be affected by the Nethercutt ban, including South Africa, Costa Rica, Ecuador, Jordan, Mali, Liberia, Benin, Niger, Peru, Trinidad and Tobago and several other Caribbean island-states, Uruguay and Venezuela.

Cyprus, for example, could lose 13.5 million dollars for the promotion of reconciliation between its Greek




and Turkish communities, while South Africa, Ecuador, Paraguay, Peru and Venezuela stand to lose millions of dollars earmarked for democracy promotion, economic growth, health and environmental programmes.

Jordan, a **key** U.S. **ally** that adjoins both Iraq and Israel, stands to lose as much as 250 million dollars in economic support, a loss that the Republican chairman of the House of Representatives Foreign Operations Subcommittee, James Kolbe, warned last summer could have serious consequences for **Washington's** interests in the region.

"I don't see how that will help us in the war against terrorism," Kolbe said at the time.

The move is also certain to feed growing international concerns about **Washington's** unilateralism. On his trip to Canada last week, Bush tried to allay these concerns, but, as one congressional aide said this week, "actions speak louder than **words**."

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