

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:

Monday, July 12, 2004

The press clips are produced Monday to Friday.
If you are aware of omissions or have any comments or suggestions please contact
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SPECIAL COURT...

Witnesses start testifying today

By Theophilus S. Gbenda

As the trial of the RUF indictees at the Special Court continues rather lamely, the prosecution is expected to

call its first prosecution witnesses today, as part of a process that is deemed to

carry on for as long as it will take.

The prosecution has already indicated that it has lined up to 230 witnesses to testify or help prove the case against the three RUF indictees, one of whom (Augustine Gboa) would be tried in absentia, because of his decision not to cooperate with the proceedings. The witnesses, according

to the prosecution, have been categorised into three; victims, eye witnesses and former members of the inner circle of the alleged joint criminal enterprise.

The defence counsel for the indictees on Wednesday, July 6, 2004 filed a motion urging the trial chamber to compel the prosecution to cut down its number of witnesses, stating that if only the latter has a genuine case against their clients

it doesn't need 230 witnesses to prove it.

Reacting to his motion, the trial chamber waived no time in dismissing it, stating categorically that even though it may appear that the number of witnesses are many yet it has no legal authority to compel the prosecution to cut down, as the burden to prove a case lies squarely on the shoulder

der of the prosecution.

But for the sake of expediency however, the trial chamber further stated that if it is in the general view of the parties concerned that the progress of the proceedings is hampered by the number of prosecution witnesses, it will be left with no option but to humbly request the prosecution to cut down on the

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number of witnesses.

It is further alleged by the defence counsels that nearly all the witnesses in

question have received inducements in the form of payments to co-operate with the prosecution.

Two such witnesses, the

defence counsels allege, are the 15th and 16th witnesses, formerly of the inner core of the RUF who received a sum total of six thousand US dollars, purportedly for the maintenance of their families at home and abroad.

Although the prosecution has denied inducing the witnesses in the form of payments, it has however admitted issuing substantial amount of monies to certain witnesses deemed to be crucial to the trial.

Meanwhile, the first week of the RUF trial was held at bay by a number of legal challenges, mounted by the third accused, Augustine Gboa and the defence counsels for Issa Sesay and Morris Kallon, respective.

The first such challenge was made evident by Augustine Gboa, who dismissed the legality of the

court to try him and hence opted to stay out of the proceedings in protest.

The second challenge, was forwarded by the defence counsels for Issa Sesay and Morris Kallon, and it had to do with the deliberate attempt by the prosecution to stifle the defence, by way of refusing to disclose some exculpatory materials to the defence, as dictated by the statute of the court.

All the motions forwarded by the defence were however, dismissed by the trial chamber.

As a result, Augustine Gboa who has opted out of the proceedings, will now be tried in absentia and the prosecution given the right to disclose relevant materials to the defence, as and when it (the prosecution) deems fit.

Standard Times

Monday July 12, 2004

Kabbah To Face Special Court

Lawyers Claim...

Three indictees of the Special Court for Sierra Leone, Issa Hassan Sesay, Moinina Fofanah and Allieu Kondowa have filed in a summon against the Attorney General and Justice Minister, Eke Halloway, the President of the Special Court, Justice Emmanuel Ayoola, the Registrar, Robbin Vincent and the Prosecutor, David Crane.



Pres. Kabbah

enough was held as required by section 108 of the laws of this land and pointing out that section 120 is an entrenched



Chief Justice

clause. Lawyers of the plaintiffs submitted that the supremacy claimed by the Special Court over the Supreme Court of Sierra Leone, is likewise unconstitutional. They also claimed sec-



Min. Eke Halloway

tion 29d of the special court Act does not recognise the immunity granted to the Head of State under section 48, subsection 4 of the laws of this country. The Attorney General was the only defendant



Crane

in court and one of the plaintiff's lawyers, Serry Kamal, asked the court to request the presence of the President, Registrar and prosecutor of the special court.

Contd. page 2

Kabbah Faces Special Court

From front page

The court is presided over by the Chief Justice, A. B. Timbo as chairman, Justice Tholla Thompson,

Justice E.c. Thompson-Davies, Justice V.A.D. Wright and Sir John Moira. The court was adjourned to July 20, this year.

The Trumpet

Monday July 12, 2004

Defence, Prosecution Trade Accusations At Special Court

By Mohamed Mansaray

The Special Court prosecution team led by David Crane has accused the Defence of making unnecessary applications to delay the proceedings of the court.

The Prosecution also accused the defence of making what they described as "unfounded submissions" most of which they say are unhelpful to the court.

The accusation came last week after the defence team also accused the Prosecution of paying substantial sums of money to witnesses to testify in court.

Tim Clayson, counsel for the

first RUF accused Issa Sesay submitted that the Prosecution has not fully met its obligations by disclosing exculpatory materials to the defence as pro-

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vided for under Rule 68 of the Rules of Procedure of the Special Court. Counsel also accused the Prosecution of refusing to disclose copies of the statements of witnesses who would be testifying in court and further accused the Prosecution of breaching Rule 66 of the court's statutes. Mr. Clayson told the court that he has evidence to show that the Prosecution paid \$2,000 to a particular witness for maintenance purposes and wondered where the money came from. "Substantial payments in dollars were also made to witnesses before sittings started in earnest," he told the court.

In his own submission, Counsel for the third accused Augustine Gbao, Andreas O'Shea called on the court to bring pressure to bear on the Prosecution to give full information about all payments made to witnesses. He argued that the disclosure of all exculpatory materials could either assist the defence or undermine the Prosecution and called on the court to compel the other party to make available such materials to the defence.

Responding, the Prosecution submitted that they have disclosed all materials in their possession to the defence and denied paying inducements to witnesses. "The issue of payments to witnesses is a matter for cross examination," one Prosecution lawyer said.

"The defence did not specifically say what exculpatory materials they are seeking as provided for in the court rules," the Prosecution further submitted, adding that they have fully complied with Rules 66 and 68 respectively of the court's Statutes.

The Presiding Judge of the Trial Chamber, Justice Benjamin Itoe dismissed the motion on grounds that the defence did not fully justify the allegations.

The three RUF indictees, Issa Sesay, Morris Kallon and Augustine Gbao were indicted in March last year for individual criminal responsibility for offences committed against civilians by RUF rebels in Sierra Leone between 1996 and 2000.

About twelve lawyers are representing the indictees. Sittings resume this morning.

Salvador Times
Monday July 12,
2004

Sierra News

Monday July 14, 2004

Kallon looted NDB's Accounts

By Alhassan Spear
Kamara
Special Court Co-
Prosecutor, Sierra Leonean

born Abdul Tejan Cole
has disclosed that the 2nd
RUF accused, Morris
Kallon alias Bilai Karim,

broke into the National
Development Bank in the
southern headquarter
town of Bo and looted all

the money including office
equipment during an
attack on the township in
1998.

The co-Prosecutor who
made the disclosure in his
opening statement at the
jam-packed court, said
Morris Kallon used child
soldiers in attacks he led
on town including Koidu
Town and Lunsar, and
prevented the repatriation
of 90 child combatants
from travelling from
Makeni to Freetown.

Kallon was also alleged
to have supervised and
was also present in Koidu
town, when civilians were
tied up and shot by
rebels.

Mr. Tejan Cole further
disclosed that the second

accused during their
occupation of Makeni,
threatened peacekeepers
at the DDR Camp in the
township, abducted UN
military observers and
also attacked Kenyan
Peacekeepers.

He said Kallon ordered
some Chiefs to
congregate before him
and gave them orders to
provide materials and
civilians for the RUF.

Morris Kallon is
currently answering to an
18-count charge of war
crimes and crimes against
humanity during the 10-
year war in Sierra Leone.

The Trumpet

Monday July 14, 2009

Special Court Outreach Ends A.N.C Training In Bo

Alpha Bannie Jalloh

As part of their effort in disseminating the message of the Special Court, the outreach division of the court last Friday 2nd July, opened a three days workshop for students of the Accountability New Club in the Bo Teachers College, Bo.

The first two days training was about the Special Court, its formation, statute, trials, accountability, Human Rights, Management and Mismanagement. This was facilitated by two outreach associates of the court Mohamed Suma and Eleanor Thompson.

On the third day, Right Players drama group trained students on com-

munity theatre. The training programme was facilitated by Unisa S. Conteh, Al-Sankoh Conteh and Alpha Bannie Jalloh. At the end of the training, students dramatised three plays on justice, impunity and greatest responsibility.

At the end of the workshop, Mr. Suma thanked the students for their co-operation in the training and advised the students to work together for the sustainability of the club. He assured them of the Outreach Division's co-operation at all

times. Eleanor Thompson also encouraged the students to make good use of what they have learnt, and that as young people, they can make a difference.



In his vote of thanks, the chairman of the A.N.C Bo Teachers College, thanked members of the Right Players for a wonderful training and assured the rest of the facilitators that they will

make use of what they have learnt.

It would be recalled that the Accountability New Club was launched by the Chief Prosecutor of the Special Court, David M. Crane, last

week at Fourah Bay College. A three day workshop was organized for members of the A.N.C at Milton Margai College of Education, Congo-Cross Campus.

A.N.C is a student based programmes supported by the Outreach Division of the Special Court with the aim of promoting understanding among students and their communities about the Special Court and to monitor other justice related issues including human rights, accountability and good governance.

The Outreach is planning to establish this A.N.C in most tertiary institutions in the country.

Source: UN Security Council
Date: 6 Jul 2004

Twenty-second report of the Secretary-General on the United Nations Mission in Sierra Leone

S/2004/536

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1537 (2004) of 30 March 2004, by which the Council extended the mandate of the United Nations Mission in Sierra Leone (UNAMSIL) for an additional period of six months, until 30 September 2004. In the same resolution, the Council approved my recommendation that a residual UNAMSIL presence remain in Sierra Leone, for an initial period of six months from 1 January 2005, and requested me to proceed with the planning necessary to ensure a seamless transition from the current configuration of UNAMSIL to the residual presence. The Council also requested me to provide quarterly assessments of progress made against the benchmarks for the UNAMSIL drawdown, including the capacity of the Sierra Leone security sector. The present report describes the progress made in the Mission's withdrawal and provides an assessment of the security situation and implementation of the benchmarks.

II. Security situation

2. The overall political and security situation in Sierra Leone has remained stable, allowing UNAMSIL to continue the implementation of the adjustment, drawdown and withdrawal plan. The favourable security environment has also made it possible for UNAMSIL to handover to the Government the primary responsibility for security in the Northern and Southern Provinces. UNAMSIL will continue to provide support to the Sierra Leone police in these areas, including for patrolling and monitoring the overall security situation. In the Eastern Province and the Western Area, which covers mainly Freetown and its outlying parts, the handover to the Government of primary responsibility for security is scheduled to take place in August and September 2004, respectively.

3. UNAMSIL and the Government of Sierra Leone have continued to jointly evaluate the security situation at the National Security Council Coordinating Group's weekly meetings. The Mission has also been working closely with the provincial and district security committees and has conducted frequent joint exercises with the

Sierra Leone police and Republic of Sierra Leone Armed Forces (RSLAF). However, there is a need to increase the level of coordination of the activities of these committees, with a view to enhancing their effectiveness. In this connection, the Office of National Security could play an important role in the management of these committees.

4. Despite the relative stability in the country, socio-economic problems remain a catalyst for frustration among the population. The price of basic commodities and imported goods continues to rise in Freetown and throughout the country, and there have been a number of public sector strikes over the late payment of salaries and benefits. With the advent of the rainy season, the economic situation may become even more complicated and have a further impact on the recovery process. The high poverty level combined with widespread unemployment and the marginalization of certain segments of society, in particular young people, could affect stability in the country.

5. The relationship between the personnel of RSLAF and the Sierra Leone police remains a source of concern. Significant progress has been made towards developing cooperation between the security forces at the senior levels and a number of joint exercises have been conducted throughout the country. However, during the reporting period, two incidents occurred in Freetown between Sierra Leone police personnel and representatives of the armed forces. The first incident was over an attempted arrest by the police of a civilian alleged to be in possession of a large consignment of army uniforms. The second was during an Easter Monday parade, when an RSLAF officer was arrested for assaulting a police constable on duty. The Government swiftly launched an investigation into these incidents. It is important to ensure that relations between the two main agencies in the Sierra Leonean security sector are cooperative and mutually supportive.

6. Many observers believe that the Special Court trials, which began in June 2004 and are expected to conclude in 2005, may become a source of instability. It is expected that there may be an increased risk that elements hostile to the Court could use violent means to disrupt its work. The need to ensure the protection of witnesses during and after the trials also poses a significant challenge. Consequently, UNAMSIL, in cooperation with the Special Court security team and the Sierra Leone police, is reviewing security arrangements to ensure that the Mission can respond to any eventuality.

7. Although the situation in Liberia is gradually improving, with the deployment of the United Nations Mission there, the security environment in the border areas needs careful monitoring. Sierra Leone's borders continue to require robust patrolling and monitoring until the disarmament, demobilization and reintegration programme in Liberia is completed. Some concerns also continue to be expressed at the security situation along the border with Guinea, where some members of the Guinean armed forces were

reportedly observed engaging in farming and hunting activities inside the territory of Sierra Leone. This has prompted RSLAF to deploy closer to the border with Guinea. In the east, similar concerns have been reported about incidents of harassment of Sierra Leoneans on the border along the Meli River. Furthermore, the complicated political and security situation in Côte d'Ivoire may affect Liberia and thus, in turn, Sierra Leone.

IV. Implementation of the UNAMSIL drawdown plan

14. In its resolution 1537 (2004) of 30 March 2004, the Security Council welcomed my intention to adjust the timetable for the UNAMSIL drawdown during 2004, in order to ensure a more gradual reduction in its military strength and a seamless transition to the UNAMSIL residual presence in 2005. This adjustment envisaged a reduction in force strength from its current level of 11,500 to approximately 5,000 troops and 260 military observers during the period from June to December 2004 and, subsequently, to 3,250 troops supported by 141 military observers by 28 February 2005. Under the adjusted drawdown timetable the withdrawal of all UNAMSIL troops from Sector Centre has been completed, with the repatriation of the Sector Centre headquarters staff, the remaining Bangladeshi battalion, the Bangladeshi medical unit, elements of the Bangladeshi signals unit and the Nepalese battalion. Prior to the closure of Sector Centre on 28 May 2004, UNAMSIL handed over the responsibility for security in the Sector to the national security agencies. As this is the first time that UNAMSIL has handed over such large areas to Sierra Leone security agencies, the drawdown is being executed with particular caution. Following the reduction in troop strength from 11,500 to 10,500, the Mission's deployment structure was reconfigured from the three-Sector structure (West, Centre and East) to two Commands, namely, Northern and Southern Commands. The headquarters of the Northern Command is in Freetown and that of the Southern Command is in Koidu.

15. The implementation of the next phase of the drawdown, which will commence in September and be completed in December 2004, will involve deploying the United Nations Force in three strategic locations, namely, Freetown, Kenema and Bo. By the end of this phase the troop strength will have been reduced to 5,000. Of these troops, some 1,500 military personnel will be provisionally retained beyond December 2004, to assist logistically with final repatriation and drawdown. These will be the Kenyan guard and administration company, the Southern and Northern Commands, the Ukrainian transportation and maintenance unit, the Bangladeshi signals unit and the Jordanian level III hospital personnel. In order to ease the administrative burden and facilitate a seamless transition into the new Force configuration, the repatriation of the above-mentioned troops will take place between January and February 2005. The 3,250 remaining troops, together with the 141 military observers who will continue to be present in the country after February, will be stationed at 11 sites throughout the

country with the task of supporting the national security agencies to ward off any security threat, as well as assisting them with mentoring programmes.

F. Special Court

37. The Special Court for Sierra Leone commenced joint trials of indictees on 3 June 2004, with the trial of members of the former Civil Defence Force, including the former Minister of the Interior, Sam Hinga Norman. The trial of members of the former Revolutionary United Front (RUF) has been scheduled to commence on 5 July, while the beginning of the trial of members of the former Armed Forces Revolutionary Council (AFRC) depends on the appointment of a second trial chamber and the readiness of the defence team.

38. Currently, the Special Court has 84 security officers - 24 international and 60 national staff. They are tasked mainly with access control and courtroom and staff security. In addition, the Sierra Leone police provides 83 personnel to serve as armed static guards at selected locations. However, the Court continues to rely on UNAMSIL with regard to the security of its main site; two United Nations platoons are located there as a dedicated reaction force. In addition, the Court continues to depend on UNAMSIL air transport support for the movement of its personnel to conduct investigations, visit witnesses and carry out its outreach programme. In addition to the logistical support it provides to the Court on a reimbursable basis, UNAMSIL has extended assistance to the Special Court by broadcasting audio feeds of the courtroom trials across Sierra Leone and live broadcasts of the Prosecutor's statements.

39. It is encouraging that after a difficult period with regard to funding, the Court has secured funds for its work until December 2004. The budget for the remaining period of the Court's operation (until December 2005) is in the process of being finalized in consultation with the United Nations Secretariat.

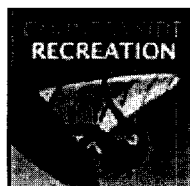
40. In the meantime, the Court is planning an exit strategy on completion of its mandate. In this regard, the Registrar has started negotiations with several countries on the possibility of entering into bilateral agreements on the enforcement of sentences and the relocation of witnesses. Some Governments have already indicated their willingness to cooperate in their regions. Other legal, administrative and logistical follow-up issues are also under review by the Court.



12 July 2004 @ 10:37:47 AM



Weather

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30 June 2004

Political will needed to round up war crimes suspects, says UN

Prosecutors at the UN war crimes tribunals for the former Yugoslavia and Rwanda have warned that today warned that many indicted suspects remain at large, and threatens the scheduled the completion of trials by the Security Council-imposed target date of 2008.

During an open meeting of the Council, representatives of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) said the failure of some Member States to pay their contributions had "jeopardized their ability to meet their workload on schedule".

The two tribunals, set up by the UN to try people suspected of committing war crimes during the 1990s, have been told by the Council to do all they can to meet the completion strategy mapped out in previous Council resolutions. That strategy calls for the tribunals to finish their investigations by the end of this year, complete all trials at the first instance by 2008 and wind up all their work by the end of 2010.

ICTY's President, Judge Theodor Meron, told the Council today that the court was operating at full capacity and has amended some rules of evidence and procedure in a bid to meet its schedule.

The Council has previously suggested to both tribunals that they review their caseloads to decide which cases they should proceed with and which cases they should transfer to the domestic justice systems of appropriate countries.

But Judge Meron said he had doubts that the domestic courts of Croatia or Serbia and Montenegro could conduct "credible war crimes trials", citing concerns about the impartiality of some Croatian judges as one reason.

ICTY Chief Prosecutor Carla Del Ponte criticized the failure of authorities in Serbia and Montenegro and in the Republika Srpska of Bosnia and Herzegovina to arrest the 20 indicted figures who remain at large.

These fugitives include former Bosnian Serb leader Radovan Karadzic, former Bosnian Serb general Ratko Mladic and former Croatian general Ante Gotovina. Ms Del Ponte said Croatian authorities had become more cooperative with the ICTY, and she expected them to locate General Gotovina soon and transfer him to the court's custody in The Hague.

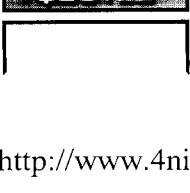
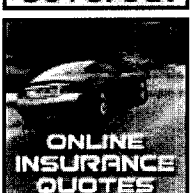
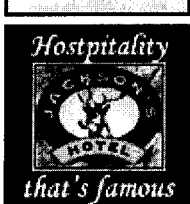
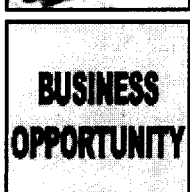
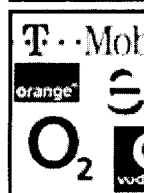
But she said Serbia and Montenegro "has become a safe haven for fugitives", with at least 15 accused - including General Mladic - believed to be at large there. Belgrade has not cooperated with the Tribunal since December.

Rwandan war crimes prosecutor Hassan Jallow said 15 suspects remain at large, with many located in the eastern part of the neighbouring Democratic Republic of the Congo (DRC).

During the debate that followed, Council delegates stressed the importance of encouraging neighbouring States to cooperate with the two tribunals to hand over suspects and take on some of the caseload in their domestic courts.

(gmcg)

4 National News





Human Rights Watch on Charles Taylor

Vanguard (Lagos)

INTERVIEW

July 9, 2004

Posted to the web July 9, 2004

By Funmi Komolafe, Wahab Abdulah, Victor Ahiuma-Young

Human Rights Watch (HRW), an international rights organisation based in New-York, USA, has been working around the world to ensure that Government of every nation practices and abides by the provisions that guarantee access to justice and promotion of the Rule of Law. In this interview with Vanguard crew, the Executive Director of the organisation, Mr. Kenneth Roth spoke on the reasons why Nigeria must release former Liberia President, Mr. Charles Taylor for trial in the established criminal Courts and other sundry issues. Excerpts:

Can you briefly tell us what Human Rights Watch is all about (HRW) and your mission in Nigeria?

Human Rights watch is an international organisation, based in New-York and we work in about seventy other countries around the world, including Nigeria, where we have worked for many years. For instance, we have carried out works in United States, fighting some human rights violations.

We operate by having our investigations channels on human rights violations in each country we visit and get petitions. For example in countries we have travelled to, like Nigeria, we have investigated human rights problems by talking to victims, civil societies, government and everybody. We try as much as possible to get accurate testimonies.

We then pick these testimonies and put them into reports and we publish these reports on regular basis to improve on government's human rights relationship.

We review that and have to dialogue with the government and try to find ways out of the problems, the way we are doing in Nigeria this week. We also publish all the reports in the past and expose issues to public scrutiny impartially and also bring these to the attention of the international community. That is, in a nutshell, we take no government

money and we are completely independent organisation, funded solely from the project fund.

Recently there was an alarm from the Human Rights Watch concerning the violence in Jos that government was not doing enough to avoid the spread of the violence. Is there anything that Human Rights Watch and civil societies in communities can do to prevent violence?

We work with some of the human rights societies. There many human rights societies in Nigeria. We try to work with them and take some of their petitions and work on them to prevent re-occurrence of the issues raised there in.

However, there are situations whereby the reports by these civil societies are forwarded to the government to work with in order to prevent outbreak of violence. Going back to 2001, there was a report then, where we received our own warning signals, which was considered.

This year again, at the beginning of February, there were warning signals as to violence in Bauchi and Plateau states; which was as a result of the efforts of some of the civil societies.

Now, before we talk about government, do you think, civil societies in Nigeria are in positions to help prevent violence or stem the tide of violence?

I don't see the civil society contributing to political tension but I feel with the number of civil societies in Nigeria, they are there to generate ideas to help the building of the society. Though the resultant effects of their ideas, may form returns that can generate reactions, I feel that the number of people at the local level, or the local government officials create more effect to misinform the people to create political problems. I also blame the Federal Government for refusing to deploy mechanism to step down the tide of violence and prosecute those involved in the crisis.

Obviously you think that, prosecution of those responsible would have prevented escalation of violence?

We would never say, but in every democratic setting, there are methods and mechanism of preventing violence, which will definitely create impression that you cannot walk away if you partake in a violence.

But if there is a signal for instance that one can easily work away with murder, that life of others would not be valuable with him that means, there is possibility of repeating the crime, when you know nobody would prosecute your actions.

I am also of the belief that the lack of the will by the government to prosecute diligently violence, and also by way of pardon of violence and impunity to some extent also contribute to spate of violence, when there was no action to bring to justice those who are

responsible for violence internationally and in connection with 2001 national election and 2004 local elections, the people seem to continue with violence.

I think the most important thing also is for the future, because soon people will be preparing for the 2007 elections. The government must prepare for what the government officials can do in addressing the problem and largely for the government to be responsible to the people. I expect a situation where government does not support impunity for violence. So violence in whatever form, either political violence or religious violence, the ability of the authority to demonstrate the will definitely would help in stemming violence in Nigeria.

The problem of violence itself is also the problem of the state security forces themselves. This issue is peculiar to the officers and men of the forces. For instance the military massacre in Benue in 2001, the operation fire for fire by the police, where suspects are put on summary execution, either they know these suspects were guilty or not guilty since they have not faced any trial.

This also extended to various incidents of shoot out where the number of weapons recovered and the number of suspects killed did not tally. This can definitely mean there are some summary executions.

For strong democracy to be on ground, the principles of the rule of law have to be extended to the security forces. In many other ways too, the judiciary has to be strengthened, with better trained prosecutors, better trained police. Before the advent of democracy in Nigeria the belief was that the civil society groups are very active in agitation for democracy. The perception now is that these groups are not functioning well and that they don't get support from international rights groups again. What is actually happening?

It is a fact that we don't work in Nigeria now as we did under the military rule. The situation unlike under the military rule is not what is obtaining now.

However in my view, it is premature to leave Nigeria behind , because the foundation of full blown democracy is just being constructed.

This is because the confidence of the people in the rulers and especially the security forces is still shaky. This situation can still lead to some lawlessness.

Are there any different roles by civil societies under the military regime and the civilian government?

During the military, the civil societies have focus on how to get out the military rule and they always fine-tuned their activities towards this. They also work toward entrenchment and to promote democracy. Today there are differences.

Since you arrived in Nigeria, have you got opportunity of meeting any government agencies?

We have met with the president, spent over an hour with him, the vice-president, the Minister of Justice, the Inspector General of Police and the Military Chief of Staff. Our meeting afforded us the opportunity of discussing some human rights issues with the president. We opened some domestic issues which involved the Nigerian human rights violation.

There was designation of these problems, that is creating opportunity for violence. The government indicated readiness to eradicate human rights violations and also work with civil societies to achieve the expected results.

But I see it that, the way to achieve result is the demonstration of the political will in the first place.

What role is your organisation planning to play in the 2007 elections in Nigeria?

We support the monitoring of elections in Nigeria. We participated in the monitoring of elections in 2003/2004 elections in the country. There were other groups which monitored the conduct of the elections on the election days too.

We are always in support of free and fair elections, whenever it comes and also in support of eradication of violence during elections.

There is this argument that emerging democracy like ours is always like this, especially target killings and violence. Is that true?

Probably no. If you think that transition to civilian government goes with violence, we have other emerging democracy in the world that is peaceful. We have example in some Latin America countries, like Colombia, Argentina, Chile and even in India. In Africa, you can check Mozambique, which is one of the stable democracies around. All these depend on the leadership.

To minimise Nigeria's problem, I learnt that the judiciary and the security forces have big roles to play. So for a growing democracy to flourish, the leadership is very important and essential.

Recently, two Nigerians took former Liberia president, Mr. Charles Taylor to court, complaining that they were amputated by his army during the Liberia civil war. Now the government seemed not to be interested. What is your organisation doing in this situation to ensure those victims get justice?

We spoke with the Federal Minister of Justice about this particular issue, he gave a technical answer, that Charles Taylor has not been formally served with the legal papers and until that happens, nothing can be done. However, that is a technical answer to the

issue. I believe and think that President Obasanjo, intervened on behalf of the Liberian people to offer temporary refuge to Mr. Charles Taylor as a way to leave the country to avoid bloodshed. I think all what has happened demands for justice and it is time to bring Charles Taylor to justice. The Sierra Leone court has insisted that Charles Taylor be charged and there is no known legal obstacles from delivering Charles Taylor for trial. Indeed there is a duty on the international law, to hand-off for trial somebody, who was assured to have committed crimes against humanity and war crimes, which Charles Taylor has. And we subsequently met with President Obasanjo and opened up the issues on Monday and he responded first by saying that he promised that he wouldn't render Charles Taylor for trial." My respond is that, whatever he might say, there are moral principles that needed to be considered. This is somebody that has committed crime against humanity. Somebody who has abused trust and peoples rights in Sierra-Leone. The highest principle at this stage is for him to be brought to justice.

The promise is that, he was only offered a temporary refuge and not a permanent amnesty. The other thing he said was that, well, we may hand-him over when there is a democratically elected Liberian government. Ofcourse there is no elected government in place now, may be sometimes. My own response was that, while we think of the situation in Liberia, the same situation does not apply in Sierra-Leone. While we wait for the dispensation of justice to victims in Liberia, why can't justice start from Sierra - Leone. Through adequate representatives, a certain court has been set-up on agreement between the government of Sierra-Leone and the United nations.

That court has indicted Charles Taylor in his position as former president. That should be enough and he should be prosecuted before that court. In future when there is democracy in Liberia, and they want to prosecute Charles Taylor, well, fine. They can do that, because that would be well established court.

But let us start with the one in Sierra-Leone now, if we don't want to be sending a wrong signal that one could easily get away with killings and crime against humanity in West Africa that the only thing you do is to find a refuge in the next door and nothing would happen to you.

Don't you see another scenario playing itself out in the long-run, whereby the government would now rely on the suit in Nigeria, using it as pretence not to hand-over Charles Taylor for trial in Liberia?

Let us face the argument this way. That would be a completely untenable shifting of responsibility, because the handing-over of Charles Taylor for trial is on basis of international law. For instance, considering the crop of journalists who were victims. Remedies for these can only come under international law. So, he should be charged, where justice could be delivered now. The federal ministry of justice know this, the government is a signatory to these laws. The AU and ECOWAS are also in partnership with this court and President Obasanjo is also in partnership with it too. Be that as it may, I am sure he knows exactly who has the power to deal with such issue.

Coming back to Taylor's trial in Sierra-Leone, if Nigeria refuses to hand him over for trial, is there any sanction that the international community could impose on her?

Definitely, I am not aware of any formal sanction, but you know Nigeria is a proud member of the international court in Hague. In ratifying its own treaty, behind the international criminal court, Nigeria, like representing the other nations of the world, cannot support an impunity for serious crimes. There is a duty on the international criminal court to deliver suspect to the Hague, should that court seek him (suspect).

So the same principle should apply to the request from Sierra-Leone special court for Charles Taylor. So, I like to see the consistency in the principle of the law and its applications.

The other important thing is that President Obasanjo, if he wants to send a serious signal about problem of impunity for violence at home, he should also think of it when he creates impunity for violence, next door, in West Africa. You know, Charles Taylor represents a high profile example of the problem of impunity we've been talking about all day, here in Nigeria.

Liberian Press Summary, 10 July 2004

THE TRIBUTE

- **US and Nigeria Negotiate Arrest of Taylor**

U.S. Ambassador to Nigeria John Campbell hinted at a breakfast session with editors that the U.S. government has begun negotiations with the Nigerian government on the possibility of arresting former Liberian President Charles Taylor and extraditing him to the Special Court in Sierra Leone. Meantime, members of the NTLA voted against a petition seeking the extradition for former President Taylor, noting that the issue of Taylor's extradition should be a matter for the international community to handle and not the NTLA. The story was also covered in *The News* and *The New Broom*.



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Assembly Leaves Taylor's Issue With Int'l Community, Cites 'Lack of Jurisdiction'

The NEWS (Monrovia)

NEWS

July 9, 2004

Posted to the web July 9, 2004

Monrovia

Members of the National Legislative Assembly (NTLA) say the issue of Taylor's extradition should be a matter for the international community to handle and not the Assembly.

The Assembly members have therefore voted to dismiss a petition seeking extradition for exiled former Liberian President Charles Taylor to face war crimes charges at the UN-backed court in Sierra Leone.

At Tuesday's session, 18 Assembly members voted against the extradition petition citing "lack of jurisdiction" for their decision.

Eight members of the Assembly voted in favor of the petition while six abstained.

There are 76 members of the Transitional Assembly with two members yet to take their seats. According to the Comprehensive Peace Accord, two-thirds of the Assembly members shall form a quorum for meetings and that decisions of the Assembly shall require the approval of at least 51 percent of the entire membership.

However, at Tuesday's session, apparently of the 74 members, 32 members participated in the Taylor's extradition deliberations.

The NEWS later learned that the Assembly earlier had a quorum, but that some of the Assemblymen had left plenary when the Taylor's issue was being discussed, thereby reducing the number to about 32, when the issue was put to a vote.

The petition seeking Taylor's extradition was filed by local human rights groups led by the Liberia Democracy Watch. The groups had petitioned the NTLA to pass a resolution that would prevail on the Chairman of the Transitional Government, Gyude Bryant, to prevail on Nigeria's President Olusegun Obasanjo to extradite Mr. Taylor for trial in Sierra Leone.

When the issue was introduced for discussion, Assemblyman Joseph Nagbe supported the petition for Mr. Taylor's extradition. Nagbe said the former President should be turned over for trial in order to avoid impunity. He urged his colleagues not to ignore justice when it comes to the attainment of peace.

Nagbe, a lawyer by profession, said the Assembly must ensure that the culture of impunity is destroyed and people who commit crimes should not go free.

But Assemblyman Stanley Kpaklain opposed the extradition of Taylor and said the mandate of the NTLA is to ensure that the peace process is scrupulously implemented.

He argued that the NTLA lacks jurisdictional ground to effect the extradition of the former President.

The Deputy Speaker of the Assembly, Cllr. Eddington Varmah presided over the Tuesday's session. He also agreed that the Assembly lacks jurisdictional ground to have the former President extradited because the Comprehensive Peace Agreement does not allow the Assembly to perform such responsibility.

The Deputy Speaker pointed out that the issue of Taylor's extradition is a matter for the international community and not the Assembly.

Meanwhile, the next crucial issue at the Assembly is the petition for the establishment of a War Crimes Tribunal in Liberia.

Liberia National Assembly decides on Taylor



Charles Taylor

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Contd page 3

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New Vision

Monday July 14, 2004

Annan asks donors to help rebuild Sierra Leone's security sector

9 July 2004 – As the United Nations peacekeeping mission reduces its forces in post-conflict Sierra Leone, the West African country urgently needs aid from the international donor community in providing its security sector with needed equipment and must promote harmony between its police and troops, UN Secretary-General Kofi Annan says.

The Sierra Leonean National Security Council Coordinating Group should "join the United Nations in appealing to Member States to provide urgently the much-needed assistance" for the Republic of Sierra Leone Armed Forces (RSLAF), he says in his most recent report to the Security Council on the UN Mission in Sierra Leone (UNAMSIL).

Since long-lasting peace and stability cannot be guaranteed without collaboration between the security forces, he calls on the Government to implement its earlier action plan to address major security sector gaps and solve the problem of harmonizing relations "through the continued sensitization of their personnel and through disciplinary measures."

Mr. Annan commends the leadership of the two security agencies for deciding to investigate recent incidents and prevent their recurrence.

On socio-economic matters, he notes public sector strikes over the late payment of salaries even as the prices of basic commodities rise and the rainy season approaches.

"The high poverty level combined with widespread unemployment and the marginalization of certain segments of society, in particular young people, could affect stability in the country," Mr. Annan says.

With the restoration of Government control over diamond mining, official exports have been valued at \$50 million this year, compared with \$29 million in the same period last year, he says, and the Government expects an increase in licensed diamond mining throughout the country.

The report of the Truth and Reconciliation Commission is scheduled for release in September 2004, while the Special Court, established through an agreement with the United Nations, has secured funds until the end of this year and is finalizing its 2005 budget, he says.

Meanwhile, the Court's Registrar "has started negotiations with several countries on the possibility of entering into bilateral agreements on the enforcement of sentences and the relocation of witnesses," he says.

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Terms: **diamonds routed through switzerland** ([Edit Search](#))

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Associated Press Online July 9, 2004 Friday

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July 9, 2004 Friday

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HEADLINE: AP: **Diamonds Routed** Through **Switzerland**

BYLINE: DANIEL BALINT-KURTI; Associated Press Writer

DATELINE: KINSHASA, Congo

BODY:

Millions of dollars in smuggled central African **diamonds** are being **routed** through **Switzerland** and the United Arab Emirates to evade controls at the world's main **diamond** market, investigators say.

In a confidential report obtained by The Associated Press, the investigators called for "urgent corrective action" by the Republic of Congo, the alleged hub of a trade that has been used to fund African conflicts. Republic of Congo's government denied all the allegations.

Investigators accuse Republic of Congo - which mines comparatively few **diamonds** of its own - of smuggling in **diamonds** from neighboring central African nations and falsely certifying the gems as mined on its soil.

Republic of Congo then allegedly sends the **diamonds** into the world market through the United Arab Emirates or **Switzerland**.

Dealing with the smaller **diamond** centers allows the country to avoid the rigorous certification process at the world's **diamond** hub, Antwerp, Belgium, the investigators say.

Republic of Congo officials - apparently seeking to evade taxes and hide revenues - also are formally declaring the gem-quality stones in **Switzerland** at far less than their market price, investigators concluded: just 98 cents a carat on average, compared to the average market price of \$75.90 a carat for uncut, unset stones.

The allegations are the findings of a May 31-June 4 mission to Republic of Congo by a team evaluating compliance for the U.N.-backed Kimberley Process Certification Scheme.

The voluntary tracking and certification program is the industry's response to growing world concern about "blood **diamonds**," which fueled and funded wars in Liberia, Sierra Leone and Congo in the 1990s.

The illicit trade in gems also is increasingly under international scrutiny as a suspected means of financing terror.

Forty-five countries have signed on since the world's \$6 billion **diamond** industry began the process in late 2002. The effort is named after the **diamond** center of Kimberley, South Africa.

Republic of Congo, one of the signatories, has been cited for alleged widespread violations from the start.

Industry watchdogs accuse Republic of Congo of trafficking in smuggled **diamonds** from Congo, its much larger, **diamond**-rich neighbor across the Congo River.

Victor Kasongo, head of Congo's **diamond** regulatory body, said Friday that **diamonds** were "flying out" of his country because of smuggling to Republic of Congo, where taxes on the trade are lower and export controls more lax.

In 2003, according to industry giant De Beers, Congo was the world's fifth-largest **diamond** producer in terms of value, accounting for 7 percent of the world market, or about \$700 million.

Another neighbor, Central African Republic, also has rich **diamond** fields.

Republic of Congo, however, has a comparatively small native **diamond** production. It would be left out of the global **diamond** market without the allegedly smuggled gems from surrounding countries.

The country's ministry of mines said there was a plot to eject it from the Kimberley process.

"All that people think about us is wrong. Congo is not a destination for **diamonds** coming from various other countries," mining ministry official Louis-Marie Djama said. "People want to exclude us from Kimberley ... We will fight and defend ourselves."

In its report, the Kimberley monitoring team concluded that "no guarantee can be provided that the **diamonds** flowing through the Republic of Congo are conflict-free."

Declared **diamond** exports from Republic of Congo are "approximately 100 times greater than its estimated production," the investigators said.

"It is therefore concluded that almost all its exports are rough **diamonds** that have entered the country without any official documentation whatsoever," investigators said. "The Republic of Congo therefore fails to meet the minimum requirements" of the Kimberley scheme.

Republic of Congo officially reported its overall **diamond** exports from April 2003 to May 2004 at a value of \$53.8 million.

The country was quoted by investigators as insisting that all its exported **diamonds** were mined domestically. Republic of Congo officials did not immediately respond to requests for comment from the AP on Friday.


The London-based independent group Global Witness says Republic of Congo and Kimberley Process officials were discussing the allegations.

Investigators said most of Republic of Congo's shipments from at least 2003 onward were going through **Switzerland** or the United Arab Emirates.

Swiss authorities told AP they could not refuse the **diamonds** if they came with the correct certificates but said they had expressed concern to Kimberley officials.

"We were aware that the **diamonds** were undervalued and we were uneasy about this," said Othmar Wyss, spokesman for **Switzerland's** State Secretariat for Economic Affairs.

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July 11, 2004

Who v. Saddam?

By PETER LANDESMAN

On Dec. 14 of last year, just hours after being hauled out of a hole in the ground by American forces, Saddam Hussein received his first visitors as a prisoner of war: two Americans, L. Paul Bremer III, at the time the top United States administrator in Iraq, and Lt. Gen. Ricardo Sanchez, then the commander of the American-led forces in Iraq; and four prominent Iraqis -- Mowaffak al-Rubaie, then a member of the Iraqi Governing Council and now Iraq's national security adviser; Adnan Pachachi, the foreign minister of Iraq before Hussein's reign; Adel Abdul Mahdi, a Shiite representative; and Ahmad Chalabi, the head of the Iraqi National Congress. As the men entered the small holding cell, Hussein was sitting cross-legged on the edge of a cot in a white gown and navy blue jacket, his eyes cast down. The visitors were solemn and confrontational. They did not greet him as Mr. President or former president or as anything at all. They stood around him in silence. Then the Iraqis sat in front of him, while Bremer and Sanchez remained standing. Occasionally Hussein lifted his eyes and looked around.

One by one the visitors began asking him to explain some of the heinous acts committed by his regime -- not whether he'd given the orders that turned Iraq into one of the world's worst atrocity zones, but why had he done so. "I asked him the names of people I knew he'd had executed," al-Rubaie recalled recently. "Saddam was disgustingly sarcastic. He was waving his hands. I asked him, 'Why did you commit these mass graves?' He said, 'Where are these mass graves?' I asked him: 'Have you seen any other ruler in history who has used gas against his own people, like you did in Halabja?' He said the Iranians did it. 'Why did you do Anfal, where a hundred thousand people died?' He turned his face away."

After about 30 minutes, Hussein's visitors stood to go. It was at this point, according to the accounts of two people in the room, that Hussein's mood shifted: he seemed less defiant, maybe a little afraid. He looked up and said: "Is that it? Finished? Nothing else?"

Al-Rubaie told me, "He expected to be tortured, to be hanged, or he expected Sanchez to pull out his pistol and empty three or four bullets in his head." That was Hussein's idea of justice. And that's how it would have gone down if he had still been running things.

At the time, summary execution wasn't an option. Bremer, head of the Coalition Provisional Authority (C.P.A.), had suspended court-ordered executions in Iraq to head off a wave of revenge killings of deposed Baathists, and also because Britain,

Washington's most important coalition partner, outlawed capital punishment in 1965. But now, with Hussein in their legal custody, there seems to be little doubt that Iraq's new government will reverse the order and that eventually Hussein will be executed -- shot if he is tried as a military officer, hanged if tried as a civilian. First, however, he is to stand trial in what is likely to be one of the most riveting, complex and potentially controversial legal proceedings ever carried out on the world stage. Four days before Hussein's capture, Iraq's Governing Council announced the creation of the Iraqi Special Tribunal. Panels of five judges, along with up to 20 investigative judges and 20 prosecutors -- all of them Iraqis -- would try Iraqi nationals and residents for crimes against humanity, war crimes and genocide committed between July 17, 1968, when Hussein's Baath Party consolidated power, and May 1, 2003, when President Bush declared an end to major combat operations in Iraq.

On June 30, along with 11 of his top deputies, Hussein was officially placed in the legal custody of the interim Iraqi government, though American troops retain physical control of him. (A few days before the handover, the Americans and Iraqis signed a memorandum of understanding that keeps Hussein in American hands.) The following day, the American forces transported him to a makeshift courtroom on the grounds of the United States military headquarters, Camp Victory, near the Baghdad airport, where he was presented with seven preliminary charges of war crimes and crimes against humanity. Seated across from an Iraqi judge and asked to identify himself, Hussein answered, "I am Saddam Hussein al-Majid, the president of the republic of Iraq." He then interrogated the judge, pressing him to identify himself, to say where he obtained his law degree if he even was an authentic judge, and what laws he was using. According to Al Jazeera's translation, the judge replied, "I have worked since the former regime, and I have been nominated by coalition authorities." Hussein then mocked the judge and said, "This means you are applying the invaders' laws to try me."

President Bush has repeatedly emphasized that Hussein's ultimate fate was for the Iraqis alone to determine. "They were the people that were brutalized by this man," he said soon after Hussein's capture. "He murdered them. He gassed them. He tortured them. He had rape rooms. And they need to be very much involved in the process."

But while the Bush administration has encouraged Iraqi involvement and is doing all it can to create the sense that the Iraqis are now in control of their own country, it is still intent on taking an active behind-the-scenes role in Hussein's prosecution. Washington has devoted years to preparing the case against him. And in invading Iraq, the United States has suffered the loss of hundreds of American soldiers and a great deal of political capital to topple Hussein and bring him to justice. With the failure, to date, to find weapons of mass destruction, and the ties between Iraq's Baathists and Al Qaeda apparently not what the administration led Americans to believe they were, the architects of the invasion are looking to the trials of Hussein and his lieutenants to vindicate the war and fulfill their vision of the taking of Baghdad as a transformative event in the region's history.

"It goes without saying Saddam's trial is going to be one of the most important trials of

S the last hundred years, including Eichmann," Paul D. Wolfowitz, deputy secretary of defense, told me in mid-June. "This will finally convince Iraqis that his regime has really been brought to an end." Even more important, Wolfowitz said, will be the mere fact of the trial. "I'm struck at how often Arabs I talk to who believe in what we're doing - democratic reform in the Middle East -- say that the cardinal criterion isn't elections or freedom but equal justice under the law."

Much of what Wolfowitz and other proponents of the war anticipated has not turned out as planned, however, and there are American and Iraqi officials who admit that their carefully orchestrated arrangements for Hussein's trial might never come to pass. Lacking the security for even a public handover of power, when might it be possible to hold a public trial for Hussein? Might Hussein's claim of an "invader's laws" find more believers in the Arab world than the equal justice under the law that Wolfowitz speaks of? And is an American-style, due-process trial really what the Iraqis want anyway?

"Iraqis have their own goals for this tribunal, not that it brings justice but that it punishes people," said Salem Chalabi, the Iraqi exile, nephew of Ahmad Chalabi and general director of the Iraqi Special Tribunal since April. "I'm treading a thin line between what Iraqis want, which is a quick process to judge Saddam guilty and just kill him, and what the international community desires, which is due process, a fair trial. All this will end up being thrown aside if you let Iraqis take over. They may just want to go ahead and create a new kind of process and just kill everybody, which is a realistic alternative." He added, "A lot can go wrong."

Chalabi says that Hussein probably will not have his day in court before the fall of 2005, after the evidence against the former president has been gathered and he has watched the trials of other senior Baathists. Ali Hassan al-Majid, known as Chemical Ali for his reported role in chemical weapons attacks against the Kurds, will most likely stand trial first, according to a senior State Department official who has been closely involved with the tribunal. This is because the case against him is the most developed, the official said: investigators maintain they have documentary evidence of his direct orders to attack the Kurds. Neil Kritz, the director of the rule-of-law program at the United States Institute of Peace, a nonpartisan institution created by Congress, and an adviser to the Iraqi Special Tribunal, said: "It's also crucial to develop other cases first, to put together and demonstrate the systematic nature of the atrocities. You have to build the paper trail against Saddam."

In fact, while Iraqi judges and prosecutors will actually conduct his trial, the paper trail has been built largely in the United States. This began in 1991, when the Defense Department dispatched scores of investigators for the Judge Advocate General Corps (JAG) to Kuwait and southern Iraq to collect witness testimony and physical evidence of Iraqi war crimes during the invasion of Kuwait and the Gulf War that followed. Around the same time, watchdog organizations like Human Rights Watch and Amnesty International began their own investigations into Hussein's 1987-88 Anfal campaign, in which Human Rights Watch estimates more than 100,000 Kurds were killed (including some 5,000 gassed in Halabja), the brutal suppression of Shiite insurgencies in southern

Iraq in 1991 and the battlefield gassing of Iranian soldiers between 1983 and 1988, during the Iran-Iraq war.

In 1997, in the wake of atrocities in the Balkans and the genocide in Rwanda, President Clinton appointed David J. Scheffer to be the first United States ambassador at large for war crimes issues. Scheffer spent the remainder of the decade lobbying the United Nations Security Council to charge Hussein with war crimes. The indictment would have had mostly symbolic value; Scheffer expected no move to seize Hussein. Still, despite the preponderance of evidence, the Security Council refused to act. Scheffer maintains that certain governments with seats on the council -- China, Russia, France -- seemed more interested in protecting their oil interests in Iraq than in calling attention to crimes against humanity. The Pentagon also hedged, claiming concern about exposing American pilots policing the no-flight zones in northern and southern Iraq to retribution.

The Bush administration continued to collect evidence against Hussein, but for a different purpose: trying him once he was toppled. "We wanted to be ready with a database, records outlining abuses," Pierre-Richard Prosper, Scheffer's successor and the current ambassador for war crimes issues, told me. "When the environment was right, Saddam could be tried and held accountable for his actions." A onetime assistant United States attorney in Los Angeles and an original prosecutor at the United Nations International Criminal Tribunal for Rwanda, Prosper has a suite of offices down the hall from Secretary of State Colin Powell. On Sept. 10, 2001, Prosper was given two JAG officers to dispatch to Europe to meet with Kurdish exiles who'd witnessed Iraqi atrocities. "It had nothing to do with the invasion," he said. "We just knew one day he wouldn't be in power."

Once the plan to invade Iraq arose, the Bush administration wanted to be prepared to try Hussein by United States military tribunal. "We actually expected that Saddam was going to order mass chemical weapons attacks against our people, and that if thousands ended up being killed, we might then have reason to try him for war crimes," a senior White House official told me. "If he'd committed crimes like those against us, we would need to be prepared for a Nuremberg-type trial."

The United States wasn't the only country that wanted to bring Hussein to justice for war crimes and crimes against humanity. There was also Kuwait, which Iraq had invaded and pillaged; Iran, whose troops Iraq had gassed; and Israel, which took repeated hits from Iraqi Scuds during the gulf war.

By mid-April 2003, it seemed clear that if Iraq had chemical and biological weapons it wasn't going to use them. That month, Prosper announced at a Senate hearing that the administration intended neither a United States nor a United Nations trial; it would let the Iraqis bring Hussein to justice themselves.

In January of this year, Prosper flew to Baghdad with 22 boxes of witness statements. Twenty American investigators followed in April and May; another 50 are to be sent in the next few months. In early March, the Justice Department appointed the first Regime

Crimes Liaison -- Gregory W. Kehoe, a trial lawyer from Tampa, Fla., who had been a prosecutor for the War Crimes Tribunal at The Hague -- to assist with the collection of evidence and the prosecution strategy. The way the administration puts it, American participation in the Iraqi Special Tribunal is designed to be pyramidal: greatest at the base, the investigatory stage -- the collection of witness testimony and documents, the exhumations of massacre sites -- at which the Iraqis have little or no experience. Kehoe's teams plan to disperse throughout the country and bring the evidence back to the special tribunal's headquarters in Baghdad.

Kehoe's investigators are preparing a "command responsibility" case against Hussein, under which he, as the former leader of the government, can be held accountable for genocide, war crimes and crimes against humanity committed during his tenure, even if he never personally killed, gassed or massacred. "These cases aren't as legally difficult as they are factually difficult," Kehoe told me in June. "We need documents and witness testimony to see who was responsible at a particular time. That can be laborious."

The evidence that is found will then be handed up the special-tribunal pyramid. "Higher up, into the court process, it becomes more and more Iraqi," Prosper explained to me. "So by the time you're actually in the courtroom, at the tip of the pyramid, it's an Iraqi-led process."

Since the special tribunal's inception, Salem Chalabi has been the Iraqi at the tip of the pyramid. Chalabi, 41, got the post through no small influence of his uncle Ahmad Chalabi, the head of the Iraqi National Congress, who was once a favorite of the United States but has fallen from grace with reports (which Chalabi denies) that he passed American secrets to Iran. Until he arrived in Iraqi Kurdistan in January 2003, Salem Chalabi was a \$500,000-a-year corporate lawyer at Clifford Chance in London. An exile with no expertise at criminal law and someone intimately aligned with the two most politically charged entities in Iraq (his uncle and the United States), Chalabi today might not be seen as the obvious choice to spearhead a hugely complex experiment in criminal justice that above all else had to be perceived as Iraqi-led and politically neutral.

The fact is, however, that Chalabi has in a sense been working on the case since 1993. That year, Kanan Makiya, a prominent Iraqi dissident, asked Chalabi, then a 30-year-old Northwestern law student, to draft an Iraqi National Congress report petitioning the Security Council to investigate Iraqi war crimes. Chalabi spent the next 10 years moonlighting as an anti-Baathist agitator. Financed by the Pentagon, the State Department and the Justice Department, he gave seminars on Western law to hundreds of exiled Iraqi lawyers and judges. In 2002, he worked on a report for the State Department's Transitional Justice Working Group that later became a blueprint for the special-tribunal statute and Iraq's interim constitution.

To the special tribunal's critics, Chalabi is an American proxy rubber-stamped by the governing council. Chalabi told me by phone from Baghdad three weeks ago that Washington had "nothing whatsoever" to do with his appointment. "I was chosen by the Iraqi Governing Council because they knew I was the one pushing this the hardest," he

said. Still, it was the Iraqi National Congress (I.N.C.), and not the governing council that announced his appointment on April 20.

Salem Chalabi could well end up as Exhibit A for Hussein's defense. Hussein's family, led by one of his two wives -- she is now living in Qatar -- has retained a multinational committee of 20 attorneys to represent him. One of them, a Jordanian named Issam Ghazzawi, says that Hussein's defense team will argue that the Iraqi Special Tribunal is an illegitimate puppet propped up by an illegal invasion. Calling the special tribunal "Salem Chalabi's court," Ghazzawi says, "There will be no legal court; it's a revenge court, not a court of law." One of the lead attorneys, a Jordanian named Mohammed Rashdan, insists that Hussein is being railroaded. "Saddam is innocent," he told me by phone from Amman. "We are sure these charges are propaganda. We have a defense about genocide and crimes against humanity. We have evidence, but I cannot speak in detail about it." Both men believe that no matter what case they present, Hussein will be convicted and eventually executed. Rashdan says, "The defense we are putting on for Saddam is for history."

While only diehard Baathists and fantasists would argue that Hussein is innocent, his defense team hasn't been alone in criticizing Chalabi's appointment. "He's intelligent, capable, competent, but not necessarily a wise choice if the goal is apolitical fair justice," says Richard Dicker, the director of the international justice program at Human Rights Watch. "I was enormously troubled that Salem Chalabi's appointment was announced by the I.N.C., a political entity with a political agenda. . . . He damages the credibility of the entire process."

Chalabi's selection was also opposed by many Iraqis, who see the Iraqi National Congress as Washington's proxy. "This tribunal is not ours; it is somebody who came from abroad who created a court for themselves," Zuhair Almaliky, the chief investigative judge of Iraq's central criminal court, told me recently. "Chalabi selected the judges according to his political opinions."

Chalabi's actions haven't always helped the special tribunal's image. Not long after he was appointed in April, he announced that he had selected the first seven investigative judges and four prosecutors for the tribunal but then refused to identify them. He cited security concerns: what better way for insurgents to undermine the court than by killing or scaring off the judges? On the other hand, one of the key attributes of international due process is transparency. Who are the judges? What are their qualifications? How objective are they? If one were predisposed to see Chalabi as an American pawn, faceless judges with unknown pasts and mysterious predilections were fuel for the fire.

"The trial could be an extraordinary opportunity to send a message to the tyrants of the Arab world," says M. Cherif Bassiouni, the former chairman of a United Nations commission to investigate war crimes in the former Yugoslavia. "But the deck is being stacked, and it's going to be obvious. . . . Where in the world can you say this is an independent judiciary, with U.S. proxies appointing and controlling judges, with U.S.-

gift-wrapped cases?" He paused, then continued: "A team of 20 lawyers is going to defend Saddam, including presidents of Arab bar associations. They're not there to defend Saddam as a person as much as oppose a system of victor's vengeance. . . . In the Arab world there is already the perception this is a mockery."

Chalabi himself is irritated with the criticism. When I spoke with him in June, he sounded exhausted, besieged. He sees himself as someone who has sacrificed greatly to be where he is, trading his sumptuous Western life for a \$1,400-a-month salary and mortal peril. "I've had a relatively privileged life outside Iraq," he said. "I've had very good training. This training has given me a basis to try to do something in Iraq. . . . I wanted this trial to be a way to demonstrate to Iraqi people that even someone as heinous as Saddam Hussein has rights, and respect of these rights is one of the principal tests of due process."

The quick and secretive appointment of judges is not the only thing Chalabi has done to draw criticism. Last fall, while still hammering out the Iraqi Special Tribunal statute with Prosper and the C.P.A., Chalabi founded a firm in Baghdad called the Iraqi International Law Group. "The lawyers and professionals of I.I.L.G.," its Web site trumpeted, "have dared to take the lead in bringing private-sector investment and experience to the new Iraq." War can be a terrific business, and Chalabi -- whose access to Washington and to Iraq's future leaders was considerable -- seemed determined to get his share. To make matters worse, his partner in I.I.L.G., L. Marc Zell, had been a law partner of Douglas Feith, under secretary of defense for policy and one of Ahmad Chalabi's most ardent patrons. Salem Chalabi says he disbanded I.I.L.G. to focus on finishing the Iraqi Special Tribunal statute. But the I.I.L.G. episode, coupled with Ahmad Chalabi's -- and the Iraqi National Congress's -- fall from favor, may have doomed Salem Chalabi's chances of leading the special tribunal through Hussein's eventual trial. One senior State Department official told me that as soon as the tribunal begins its trials -- if not before -- Chalabi is likely to be "moved along."

Even if Chalabi is pushed aside, however, many in the international human rights community won't be satisfied, precisely because the tribunal won't be an international one, but an Iraqi one -- with American backing.

Human rights groups, experts in international law and numerous United Nations and government officials around the world greeted the Bush administration's choice of an Iraqi-led tribunal over an international court with derision. They say the tribunal is less the cornerstone of Iraqi autonomy than an attempt by the administration to prove there is no need for an international system of justice. "The Bush administration pursued this route out of its antipathy to internationalized forms of justice," said Richard Dicker of Human Rights Watch, which has been compiling evidence of atrocities in Iraq since the gulf war in anticipation of an international war-crimes tribunal. "This was going to be evidence that the world didn't need big international courts. 'Look, we've done it on the local level in Baghdad, and it works.'"

Some of the human rights advocates also contend that the administration wants to

maintain control of the trials because it is concerned that the trials might turn up evidence of American complicity in some of Hussein's atrocities. The United States, which considered Iran the greater regional threat after the ascent of the Ayatollah Khomeini in 1979, did tacitly support Hussein's regime until the invasion of Kuwait, in part by authorizing the sale to Iraq of pathogens like anthrax and botulinum that were used to manufacture biological weapons. This is one reason the United States was so insistent on keeping Hussein's trial out of an international court, argues Kenneth Roth, the executive director of Human Rights Watch. "It's to protect their own dirty laundry," he told me. "The U.S. wants to keep the trial focused on Saddam's crimes and not their acquiescence."

These critics of the Iraqi Special Tribunal resent too that they and their expertise and investment of time and money in international justice have been pushed to the sidelines. What many of them had hoped for was something like the United Nations' Sierra Leone war crimes court -- a "hybrid" proceeding that would be set in Iraq and staffed mostly with international attorneys and judges, along with as many local jurists as possible. Expertise and financing would come via the United Nations, and so, ultimately, would the control.

Iraqis themselves are quite clear about what they want, though, and it's not a United Nations-led tribunal. "Iraqis don't want to be imposed upon by a huge U.N. tribunal bureaucracy," said Sermid Al-Sarraf, an Iraqi exile who took part in the State Department's planning for postwar Iraqi justice. "The U.N. had 15 years to call for a tribunal. . . . If the international community had done its job, we wouldn't need a tribunal now."

Zuhair Almaliky, the Iraqi judge, agreed, telling me: "We are feeling like judges for the first time in 35 years. We have a tradition of 7,000 years of law." It is a tradition that Iraqis are eager to exercise.

Are the Iraqis up to the task? Here opinions differ. The view of the Iraqi legal system from the White House, not surprisingly, is quite rosy. Administration officials stress that while Hussein's political rivals were being assailed in secret tribunals, a court system for nonpolitical crime, full of capable judges and lawyers, operated with relatively little intervention from Baathist leaders.

But others, including Salem Chalabi, are less sanguine in their assessment. "Twenty-eight thousand lawyers in Iraq, and most of them do nothing," he lamented with an audible groan. "Most register companies, and they take three months rather than the two hours it would take in the West." There's going to be a steep learning curve, he warned. "When we first started talking about the Iraqi Special Tribunal, one of the judges produced a two- or three-page statute that was embarrassingly basic. The C.P.A. realized that if the tribunal was left to Iraqis, what would emerge would be something out of whack with the rest of the international community."

Even Prosper concedes the limitations: "In Baghdad in January, I asked prospective Iraqi

T Special Tribunal judges how many people they intended to try. They said 5,000. I thought 50 was going to be tough. When I was a prosecutor in L.A. during the Rodney King riots, overnight we were given thousands of cases. This was obviously a fully operational first-world judicial system with federal, state and local courts. And the entire system was paralyzed." Meaning, of course, that the Iraqis have no idea what it takes to try these kinds of cases.

The solution, according to the Bush administration, is to pour in as much American personnel, advice, physical support and money as the Iraqi Special Tribunal needs. To which detractors nod and say, Exactly: that's the problem.

aking a lesson from the protracted trial of Slobodan Milosevic in The Hague -- two years and running, with no end in sight -- Chalabi says that he has tried to set up rules of procedure that will keep Hussein from turning the trial into political theater. "If it goes on for a couple of years, it will lose its significance and cathartic nature," he said. "And in light of the security situation, a podium for Saddam to speak his mind would play a destabilizing role. We've insured that he'll get a fair trial, but he won't be able to use this as a platform." The rules, for instance, will keep Hussein from calling witnesses who aren't directly tied to the charges before the court. But this might not be the case when it comes to the sentencing portion of a trial. Political context and intention may be admissible as mitigating circumstances. If they are, Hussein's attorneys are certain to call American and other foreign officials and businessmen to testify.

Mowaffak al-Rubaie, Iraq's national security adviser, anticipates a trial that will be dangerous and socially subversive: "He's going to turn the trial into a military showdown," he told me. "This is going to inflame the Arab world. We have to start a huge public campaign to educate Iraqis what to expect. Otherwise, he will steal the whole show."

If the trial ever gets that far. It is implausible to expect that the trials won't reflect the facts on the ground. There is always the possibility, particularly if the political situation in Iraq devolves into chaos or civil war, that Hussein could be broken out of jail -- or simply assassinated before he ever steps into a courtroom. After elections, a new Iraqi government will also have the right simply to scrap the Iraqi Special Tribunal and its statute, in whole or in part. Despite all the rhetoric about Iraq sowing the seeds of the rule of law in the Middle East, a quick end for Hussein has its supporters. But a senior State Department official told me that it would be impossible to railroad Hussein or "expedite his end" while he is in American custody. "If the Iraqis tried that, they'd have bigger problems than Saddam," he said.

For now, the architects and supporters of the Iraqi Special Tribunal profess optimism that the trial will proceed as planned, while conceding their uneasiness. "The ship has left port," said Prosper, the war crimes ambassador. "And there's a lot of nervous people on the pier because everyone wants to be sure it goes well and it's done right."

Chalabi says that he can understand the concern. "If we don't follow through, this whole

thing can be disastrous," he said. "If we succeed, we are well on our way to having a legal system, a society that will accept the rule of law. People don't trust the rule of law because they haven't understood it forever. Under Hussein, no one believed in any of this."

Peter Landesman is a contributing writer for the magazine.

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The Interests of Justice Override Milosevic's Wishes



International Criminal Tribunal for Yugoslavia (ICTY)

Milosevic Trial - The Hague

09 July 2004

THE HAGUE - At the heart of the issue whether to impose counsel on Slobodan Milosevic against his will is the Court's primary responsibility to assure a fair and expeditious trial and to preserve the integrity of the judicial process. While an accused has a right to represent himself, the right is subsidiary to the Court's primary responsibilities. Nor can an accused waive his right to a fair trial, for example, by declaring that he will use the trial as a forum to promote his political views.

"[P]ermitting self-representation regardless of the consequences threatens to divert criminal trials from their clearly defined purpose of providing a fair and reliable determination of guilt or innocence," Trial Chamber II wrote, in its decision to appoint standby counsel for Vojislav Seselj over his objection, citing with approval a US Ninth Circuit Court of Appeals concurring opinion. "He [the Ninth Circuit concurring judge] also observed that a defendant could not waive his right to a fair trial, a right that implicates not only the interests of the accused but also the institutional interests of the judicial system. Moreover, the government had a compelling interest, related to its own legitimacy, in ensuring both fair procedures and reliable outcomes in criminal trials."

Two and a half years into the trial, the Milosevic Court is forced by the Accused's deteriorating health to face the crucial issue of the degree to which the right to self-representation may be used to advance a political agenda. Its decision could have far-reaching implications for other courts trying former heads of state, as it can be expected that most such accused, like Milosevic, will object to the legitimacy of the institutions that seek to try them and will seek to use such proceedings to make their political cases.

The Milosevic Trial Court's dilemma arises out of a particular historical development, the use of a trial to deal with former heads of state alleged to have grossly violated humanitarian norms and values, in lieu of summary execution or providing a golden parachute to a villa in some distant land. Given the declared intent of the Accused, the Court must insist on its role. To allow Milosevic to present a political case undermines the legitimacy of the Tribunal. It allows him to control the process and to use it for his own purposes. While the Court struggled to keep Milosevic's cross examination of prosecution witnesses relevant to the charges and non-political, filtering out his political agenda will be far more difficult when Milosevic presents his defence case.

Appointment of counsel (standby or other) will go a long way toward assisting the process, as well as expediting the trial. While a lawyer must take direction from her or his client concerning "the objectives of representation," a lawyer also owes a duty to the legal profession and to the Tribunal. He or she is prohibited from perpetrating a fraud on the court and from engaging in any conduct that violates professional or ethical rules, the ICTY Statute and its rules, the Directive for Defence Counsel practicing before the ICTY and any other applicable law. As Trial Chamber I held in denying Vidoje Blagojevic's request to replace his counsel, "[C]ounsel have a duty of loyalty to their clients consistent with their duty to the Tribunal to act with independence in the administration of justice; and counsel shall take all necessary steps to ensure that their actions do not bring proceedings before the Tribunal into disrepute." [emphasis added] The Chamber also noted that counsel may "take a decision that may be against the wishes of his or her client because that counsel, being competent and under professional obligations, genuinely believes that the decision is in the best interests of the client. . . ." [emphasis in the original]

As Trial Chamber II wrote in its Seselj decision, "[G]ood cause for concern has been shown [to appoint standby counsel over Seselj's objections] following his [Seselj's] declared intention to attempt to use the Tribunal as a vehicle for the furtherance of his political beliefs and aspirations. If this tactic were resorted to, it would not only result in an abuse of the valuable judicial resources of the Tribunal but also hinder an expeditious trial." The Chamber noted that the right to a fair trial is not only "a fundamental right of the accused," but also "a fundamental interest of the Tribunal related to its own legitimacy."

In reaching its decision, the Seselj Court cited with approval a case before the European Court of Human Rights (*Croissant v. Germany*) which found that the goal of insuring that a trial proceed without interruptions or adjournments is "a relevant interest of justice that may well justify an appointment [of counsel] against the accused's wishes."

The Court's duty to assure that a trial is fair may override an accused's right to self-representation, just as a lawyer's "overarching duty to act in the best interests of the client," (Blagojevic) may override his obligation to represent the wishes of his client. The Court must see that justice is served. Where an accused insists on representing himself but is unable to do so, the Court must step in. Where an accused insists on using the trial as a forum to advance his political agenda to the detriment of his defence against very serious charges, both Court and defence counsel are called upon to override his wishes and see that he receives a professional defence in spite of himself. To do otherwise, is to relinquish the courtroom to those who would use it as an arena to promote their destructive politics.

Submitted by Judith Armatta on 09 July, 2004 - Updated: 09 July 2004 06:07

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Who's Involved

Defendent: Milosevic, Slobodan; ; **Judges:** Judge Iain Bonomy Judge O-Gon Kwon Judge Patrick Robinson ; **Prosecutors:** Del Ponte, Carla Nice, Geoffrey ; **Defence Counsel:** Self ; **Indictee Mentioned:** Milosevic, Slobodan

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Is it legal?

Not without motive the powers that be are lining up to permanently silence Saddam Hussein, writes **Ian Douglas**

He tried to kill daddy, now junior will do away with him. To the decade-long debacle that future historians will doubtless see as the greatest political and financial scandal of our times -- if not of all time -- the United States is bent on compounding the fleecing of Iraq with a travesty of justice that adds insult to injury upon ordinary Iraqis.

One would hardly believe one's eyes, but seemingly last Thursday saw the opening of the "trial of the century" -- Saddam Hussein and cohorts hauled before a semester abroad version of Court TV. There was barely much difference; instead of Judge Judy we had the backs of the heads of several nameless prosecutors, the proceedings sinking to the depths of faux drama when former president Hussein was admonished for referring to Kuwaitis as "dogs". It might not have been his most courteous remark, but what kind of court is this? Dressed by his American captors in an "off-the-rack" suit conspicuously missing a necktie, rendered "suddenly ordinary" in the perceptive words of one of the few Western journalists permitted to attend, Hussein, against all odds, actually struck a few chords of sympathy around the Arab world.

What a disaster. Wait, it goes further. Increasingly, there are solemn legal reasons to doubt that when the cameras fall blind Saddam Hussein will face the kind of justice which the memory of his victims screams out for: not a justice of vengeance, which seems all but assured, but a justice beyond reproach which would not only be a step in the right direction for Iraqis (towards reconciliation and a new social contract), but for all peoples everywhere struggling against the abuse of power and pathological megalomania on behalf of their leaders.

But this is the last thing George W Bush wants. With an election fast approaching, the American president faces a dilemma. Give Hussein a fair and open trial and details might come out that point to the clear complicity of the United States since 1982 in arming Saddam's Iraq and of sitting on its hands through his most terrible atrocities -- the gassing of 5000 Kurds in Halabja in 1988, the killing of as many as 100,000 Kurds in the Anfal genocide in 1986-88, the violent suppression of the uprising of Shia and Kurds in 1991 which cost the lives of at least 30,000 Iraqis. On the other hand, deny Hussein a fair and credible trial and the new Iraq could collapse around Bush's ears just as he gears up to fight for a second term. Bush is hardly playing it safe in going for the second option.

Flaws in procedure are already wide-open. First, take Saddam's prisoner of war (POW) status and accompanying rights. Contrary to the make-believe of Brig Gen Mark Kimmitt, no one with an ounce of legal savvy could argue that Saddam until now has been "treated in accordance with the Geneva Conventions". Kimmitt was responding to criticisms registered by human rights organisations and members of Saddam's 20-strong team of defence lawyers, that Hussein has been denied access to legal counsel, has had no opportunity to contest the legality of his detention before an impartial court, has been denied rights of free communication with family members and, most importantly, has been held until now without any indication he would be charged with a crime. Under the Geneva Conventions such practices are all outlawed. But the United States seemingly cares less, adhering rather to the allusion made in 2002 by Chief Justice William Rehnquist that "in times of war, the laws are silent."

Was the supposed "legal" transfer of custody of Hussein any less dubious? Not really. Under the Geneva Conventions, following the end of "major hostilities" POWs must be released or, if suspected of serious war crimes, charged. With the transfer of power to the interim Iraqi government coming two days before Saddam's legal handover, for all intents and purposes the US-UK war against Iraq was over. In such a scenario Saddam, as well as 6000 plus other detainees held by the United States, should have

been charged or repatriated. Neither really occurred. Being held by the United States in a prison cell in Qatar doesn't exactly count as repatriation. And until now, despite all appearances, Saddam Hussein has yet to be presented with a legal charge sheet. As for the 6000 plus others, are they criminal suspects under Iraqi authority? What court of law in the new sovereign Iraq has ordered the detention of these individuals?

Bush is well aware of the mess he is in. Officially as a POW, Hussein could only be tried by a US courts martial. This court would have jurisdiction only over crimes of war committed since the beginning of the hostilities that defined the state of war in question. As far as is known, while scores of American and British troops died in the period before Bush called an end to "major operations" last May, Iraqi forces did nothing in 2003 outside of the just laws of war when acting under Saddam's direction in defence of their country. Hussein, therefore, could not be held culpable for a crime before a US courts martial.

He had to be transferred. But this posed several problems and arguably still does. First, Iraq is a state with the death penalty on its books. Though suspended by Paul Bremer, his moratorium could always be overturned to allow a capital charge against Saddam. Looking good for Bush. The problem, however, was -- perhaps still is -- for the UK. The coalition that invaded Iraq was primarily a US-UK alliance. The UK, as party to the European Convention for the Protection of Human Rights and Fundamental Freedoms is legally obliged not to extradite, or in any manner surrender legal or physical custody of, individuals to a country where they may face the death penalty. Salem Chalabi, head of the special tribunal set up to prosecute Hussein and other "high value detainees", has been less than discreet in calling publicly for the death penalty to be available in the case of Saddam. In the words of one of Hussein's defence lawyers who spoke to *Al-Ahram Weekly*, Chalabi is "as impartial as an executioner".

The preliminary charges against Saddam Hussein

- Anfal 'ethnic cleansing' campaign against Kurds, 1988
- Gassing Kurds in Halabja in 1988
- Invasion of Kuwait, 1990
- Crushing the Kurdish and Shia rebellions after the 1991 Gulf War
- Killing political activists over 30 years
- Massacre of members of the Kurdish Barzani tribe in 1983
- Killing of religious leaders in 1974

On 29 June, 24 hours before he was transferred, Saddam's legal defence team filed a case against the UK with the European Court of Human Rights (ECHR) for urgent interim measures. The petition was dismissed the same day. Aware of this decision or not, it is conspicuous that UK Foreign Secretary Jack Straw promised on 15 June to make "very strong representations" to the Iraqis not to invoke the death penalty in the case of Saddam, while following transfer on 30 June -- one day after the ECHR ruling -- Downing Street indicated it would "respect" the decision of the Iraqi interim government to restore the death penalty. The ECHR in Strasbourg, meanwhile, refuses to give reason -- as per standard practice -- for the denial of the interim measures petition. A similar outcome beset a petition filed to the Inter-American Commission for Human Rights. By time of going to press, no one there was available for comment.

The second problem with transfer is that Saddam arguably enjoys immunity under the pre- 2003 Iraqi constitution. As he can only be tried for acts that were offences at the time they were committed, Saddam can, as a former -- some argue incumbent (given that the US-led invasion that deposed him was illegal under international law) -- head of state, claim to be beyond the reach of Iraqi national law. He is not, however, beyond the reach of international law. Without doubt, there is a case to be answered on counts of genocide and crimes against humanity. These things happened when they are said to have happened -- that much is certain. But for Hussein to be tried in the name of international as opposed to Iraqi law, an independent tribunal like those established by the UN Security Council to prosecute war crimes in the former Yugoslavia and Rwanda must be formed. An alternative would be to hand Saddam

to the International Criminal Court (ICC). But given that Iraq is not a state party to the statute of the ICC, the Security Council would have to act by referring the case. In either instance, it would be difficult to impossible for Bush et al to control the flow of information coming from such a trial. More importantly, it would not be permitted for either court to wield the death penalty.

Don't, in other words, expect an international tribunal for Saddam anytime soon.

Hoping that no one exploits cracks in the legal procedure (under what law is Hussein now detained?), Bush has seemingly given Saddam to his clients in Iraq in full knowledge that sooner or later they will execute him. If Bush wins a second term, all will be plain sailing. Saddam will be gone by the time he retires. If he doesn't win, however, it won't be so comfortable, but still it is survivable: though he wouldn't enjoy official immunity as a sitting head of state, Bush would neither have any obligation to appear before what is essentially a national prosecution. This is the real genius of ensuring that "Iraqis" not the international community try Saddam Hussein. It would not have been so easy for Bush and his buddies to evade the authority of an international court established under the jurisdiction of the UN Security Council. Perhaps an applicable question is, on what grounds would the US oppose the formation of such a court now if the war crimes tribunal in Iraq were proven inadequate to its task?

It wouldn't be hard to do. Not only is it alarming that Saddam's Iraqi prosecutors are ignorant -- according to reports -- about international law, there are very good reasons to regard the Salem Chalabi tribunal as neither independent nor impartial. In addition to being funded by the Americans to the tune of \$75 million for the period 2004-5, Salem is the nephew of Ahmed Chalabi (once favoured doyen of the US Department of Defense who founded the Iraqi National Congress and sought to depose Hussein for more than a decade) and is directly connected to the Bush administration through Douglas Feith, undersecretary of defense for policy. Feith, a leading neo-conservative, now responsible for dishing out reconstruction contracts in Iraq, was co-author of the infamous "Clean Break" policy document that in 1996 proposed the ousting of Saddam Hussein as the first step towards reshaping the Middle East in Israel's favour. Feith's partner until 2001, Marc Zell, is "marketing consultant" for the Iraq International Law Group (IILG) which trades on opening to its clients "the new Iraq's huge economic potential". The IILG was founded by Salem Chalabi.

Incestuous business interests are but part of the picture. Many positions in the former Interim Governing Council (IGC) were distributed according to the patronage of Ahmed Chalabi. Inevitably, the IGC was the pool from which was drawn the new Iraqi interim government -- Ali Allawi, minister of defence, and Iyad Allawi, Iraq's new prime minister, are relatives of Chalabi. While Salem Chalabi heads the tribunal charged with bringing Saddam Hussein to trial, the interim government, packed with relatives and friends, last week decided to reinstate the death penalty in Iraq, undoubtedly with Saddam in mind.

"Who could establish that it's not impartial?" asked Claudia Perdomo, spokesperson at the ICC, in an interview with the *Weekly*. While it is true that Salem's tribunal, like all tribunals of its kind, has free reign to decide for itself what cases fall within its competency, the tribunal that will try Saddam must, like all courts of law, establish its legitimacy before public opinion. If graft and nepotism -- still less, international imperialism -- are seen as driving forces behind legal proceedings against Saddam, the tribunal won't last long. "When one country illegally invades another country," Curtis Doebbler, the sole American lawyer on Hussein's defence team, told the *Weekly*, "it is extremely difficult for the invader to legitimise its courts in the illegally occupied country." PR stunts are not enough. Pundits in the new US Embassy in Baghdad may think that Arabs are gullible, but just like the stage-managed tearing down of the 40ft statue of Saddam Hussein in Firdos Square, 9 April 2003, last week's masquerade is a public relations disaster waiting to explode. You cannot spin vengeance or empty legal procedure. If the US military is trying, then the US is controlling the trial. Given all the presidential palaces they bombed on intelligence that Saddam was there, one may say it has been established that the US is not an impartial party.

Why do they want to shut him up? Quoted in *Asharq Al-Awsat* and *Al-Hayat* in late December, Iyad

Allawi hit the nail on the head: "Saddam Hussein's trial would not be public since he could name countries and persons whom he gave money." As John Fawcett, co-author of a report on Saddam's finances published by the Coalition for International Justice, told the *Weekly*, "Saddam began establishing his financial network in Switzerland and Liechtenstein in the early 1970s. It branched out to France and the UK afterwards. US banks were used for laundering the money he stole from Iraqi oil sales in the 1980s. The US was an energetic backer of Saddam in the 1980s. The Reagan and Bush administrations continually broke US laws in arming and equipping Saddam's government and ignored kickbacks and financial corruption."

Bush doesn't need headlines like this in an election year. Neither do others, elections or not. Noteworthy in this regard was a commentary published in the *Jordan Times* last Friday cautioning against the wisdom of continuing with Saddam's trial. To do so, the piece opined, could be "a huge mistake" exposing "the silence or complicity of several key countries" if not "the entire international community". Jordan, especially, provided extensive banking support to Hussein and his family over the past 30 years.

"It's stunning, really," says Fawcett. Estimates of how much Saddam fleeced from Iraq over the 30 years of his career range from \$40 billion to \$140 billion. According to Fawcett, despite attempts to seize many of these assets, it is safe to say that at least \$9 billion remains, with around \$1-1.5 billion readily available at any time. Saddam dealt with arms and drug dealers, organised crime, money-launderers and terrorists, he says. "Now that the godfather is absent, these international criminals can attempt to extort cash or assets from the gatekeepers such as Swiss or Panamanian trustees or Jordanian, Lebanese or Syrian bankers. We're right in the middle of this period when the money is moving."

A show trial in Baghdad means little to Fawcett. "If we don't tackle the asset search, a trial will have little impact on Saddam's money being used by international criminals. We will wake up several years from now realising that a whole host of unsavory characters have become far wealthier due to the money Saddam stole from Iraq. But nobody's watching."

C a p t i o n : The former Iraqi president being led in chains into a courtroom in one of his former palaces on the outskirts of Baghdad

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