

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

**PRESS CLIPPINGS**

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

Friday, December 24, 2004

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# CONCORD TIMES

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December 24, 2004

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## Global Witness warns regional instability

*By Sherman Alpha M. Bah*

The International Watchdog Global Witness has warned that the fragile situation of Liberia's peace is highly precarious stability in the sub-region.

"Liberia's instability is made worse by the government's continued lack of control over its natural resources, which poses a major threat to regional peace and security."

in the Trans River "iron country," the organization said in a latest report issued last week.

Global Witness says key

border crossing points with Sierra Leone and Guinea are still under the control of armed ex-combatants from LURD and MODEL, who continue to

harass local civilians and act as unauthorized border agents demanding money from travelers. *(Continued page 2)*

Page 2

## Global Witness warns regional instability

*From page 1*

LURD-affiliated fighters issued travel permits earlier

to allow passers at the Atlantic bridge crossing point with Sierra Leone, according

to travelers to purchase a pass and pay additional bribes to fighters located on the bridge itself," the report stated, adding that trafficking of weapons along Liberia's borders with Liberia and Ivory Coast is still ongoing.

The organization says, though, that it has received some 100,000 complaints and

other war-related persons for disarmament and demobilization. Only around 25,000 weapons have been collected.

"Ongoing discovery of arm caches, and weapons seized in the aftermath of recent riots in Monrovia demonstrate that there is still much work to be done to ensure Liberia is

weapons free," the report said, adding, "delays in designing, funding and implementing rehabilitation programmes combined with poor living conditions in ex-combatant camps have led to unrest among ex-combatants and resulted in some former fighters being recruited to fight in Ivory Coast."



highway. The suspects have been sent to County for further police investigations. Commissioner of the County Jail, Thomas McQuinn, refused to disclose names to journalists. In County Jail, any

children. Father, however, were robbed last Friday by the Changan. I once at Pannashah along the riverbank, I collected

we do not want to jeopardise it."

A Country daily, *the Independent*, claimed that the two suspects were living in the same house in Pakistan with one of the FBI's most-wanted man, Ahmed Khalfan

Chatham, chairman of the  
a 10-page  
mastermind of the  
US embassy  
bombings in Kenya  
and Tanzania in  
August 1998.  
The report held  
that persons who  
continued to





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## Six-Month Sanctions On Liberia Not Enough: Global Witness

By Ketan Tanna

Posted: 12/24/2004 5:04 AM

(Rapaport...December 24, 2004) Global Witness, a non governmental organization, has said in a press release issued on December 23, that while it welcomed the decision of the UN Security Council to renew existing sanctions on Liberia's diamond exports, imposing a six-month limit on the sanctions would leave very little time to ensure that diamond areas were brought under full government authority.

This, Global Witness says, would also give little time to ensure that Liberia receives the technical and financial assistance it needs to implement a strong system of controls.

While an ad hoc team from the Kimberley Process will visit Liberia at the start of 2005, it is not a formal review and a second team must make a full assessment visit to ensure that the systems are working effectively, before a competent decision can be made by the Security Council to remove sanctions, the Global Witness press release added.

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 Friday, Dec 24, 2004  
 05:47 AM NY [EST]

### Breaking News

#### ◆ Six-Month Sanctions On Liberia Not Enough: Global Witness

Global Witness, a non governmental organization, has said in a press release issued on December 23, that while it welcomed the decision of the UN Security Council to renew existing sanctions on Liberia's diamond exports, imposing a six-month limit on the sanctions would leave very little time to ensure that diamond areas were brought under full government authority.

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## Liberian 'surprise' at sanctions

**Liberia's transitional government has expressed surprise at a United Nations' decision to keep a three-year-old ban on diamond and timber exports.**

The Security Council said that illegal exploitation of resources continued to fuel conflict in West Africa.

But Liberia's Internal Affairs Minister H Dan Morias said his country had been at peace since former President Charles Taylor went into exile last year.

The sanctions were hampering reconstruction efforts, he said.

The embargos were first imposed in 2001 to stop Mr Taylor arming rebels in neighbouring Sierra Leone.

### 'Far cry'

"This entire government enjoys the confidence of our sister states in the West African region," Mr Morias told the BBC's Network Africa programme.

"Liberia is not at war. Liberia is not exporting soldiers of fortune... So it's a far cry to what it was a couple of years ago.

"We don't see any reason why sanctions, especially on timber and diamonds, should remain enforced."

The minister rejected the Council's claim that the government "has not yet established its authority throughout Liberia".

Over the last six months, with the help of UN peacekeepers, civil authority had returned all regions of the country, he said.

But he called for more international help and business partnerships with the government to help establish complete control over its natural resources.

After 14 years of civil war, a national reconciliation government took over power in October 2003 following a peace deal and Mr Taylor's departure from power.

Liberians are set to go to the polls in October next year.

Story from BBC NEWS:  
<http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/4120383.stm>

Published: 2004/12/23 11:54:47 GMT

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**'Iraq's war crimes tribunal flawed'**

BAGHDAD: Iraq's plan to push ahead with early trials of Saddam Hussein's deputies risks launching an unfair process that is flawed and discredited in the eyes of the world, a leading human rights group said on Friday.

New York-based Human Rights Watch described the Iraqi Special Tribunal, set up to gather evidence against and try Saddam and his top lieutenants, as having "serious human rights shortcomings" and lacking "fair-trial protections".

"Trying former Iraqi officials under the current rules could mean a wasted opportunity to put Saddam and his henchmen on trial in a manner that has credibility in the eyes of the world," Richard Dicker, director of the International Justice Programme at Human Rights Watch, said in a statement. reuters

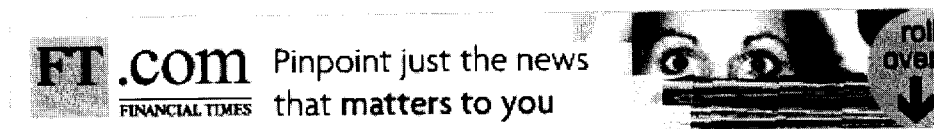
**Likud and Labour agree on Israeli unity govt**

JERUSALEM: Israeli Prime Minister Ariel Sharon's Likud party and the main opposition Labour party on Friday reached agreement on forming a national unity government, a spokesman for the prime minister's office said.

Earlier, public television Yoram Raded reported that the agreement was reached during a phone call between Labour party leader Shimon Peres and Likud's chief negotiator. The deal is due to be signed on Sunday and will see Labour given eight ministerial posts. afp

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## Lawyers face uphill battle when national security takes precedence

By Peter Spiegel and Hugh Williamson

Published: December 24 2004 02:00 | Last updated: December 24 2004 02:00

In Northern Virginia, the case of Zacarias Moussaoui, the only person charged by the US authorities in the September 11 2001 terrorist attacks, remains in legal limbo as lawyers for both sides wrangle over whether the defence can have access to other alleged al-Qaeda operatives in US custody.

In Guantánamo Bay, Cuba, the military tribunals set up to try suspected al-Qaeda and Taliban detainees with war crimes have been suspended after a federal judge ruled that the Bush administration ignored US law and international treaties when it established the special courts.

And in Hamburg, Germany, cases against two Moroccan men accused of helping to plan the September 11 attacks were undermined after German prosecutors were unable to secure some sensitive intelligence from US authorities.

It has been a difficult year for lawyers on both sides of the Atlantic attempting to find ways to prosecute accused terrorists in the post-September 11 world. The need to gather and present evidence to try alleged conspirators has frequently collided with national security concerns.

This dilemma is likely to intensify next year with little prospect of guilty verdicts in Hamburg or early breakthroughs on the tribunals in Guantánamo. It raises the spectre that governments may be forced to rethink the way they detain, try and punish alleged terrorist conspirators. Legal experts warn that as cases once held in grey legal areas, such as Guantánamo, move into the more transparent traditional courts, prosecutors will increasingly be forced to make a tough choice: risk allowing sensitive intelligence to be used, or drop charges against those they are holding.

As time passes, the intelligence provided by detainees becomes less sensitive; a suspect held since the Afghan war will have little knowledge of al-Qaeda's operations today, for example, making prosecutors' choice easier.

So far, however, government prosecutors worldwide mostly appear to be on the losing end of court rulings. Last month's ruling in the Guantánamo trials was just the latest in a series of setbacks for the Bush administration, which is under fire from several federal courts.

The Guantánamo case, which involved a Yemeni captured in Afghanistan who has admitted being Osama bin Laden's driver, has been one of the biggest setbacks for the White House. The military tribunal system was set up outside normal court channels, partly to ensure the confidentiality of highly sensitive intelligence.

Among the tribunal rules is a prohibition on defendants and their civilian lawyers from seeing some forms of evidence - only a military-appointed lawyer has access to such records.

But a federal judge in Washington determined that such rules were a "dramatic deviation" from US law,



military or civilian. He noted that traditional military court-martials force prosecutors either to leave out such sensitive evidence or to dismiss charges. As a result, all Guantánamo tribunals have been suspended, and the Justice Department is fighting to get the ruling overturned by a higher court.

Mr Hamdan's lawyers have argued that there is precedent for trying alleged terrorists in normal US courts, pointing to the cases of the first World Trade Center bombing, where terror suspects were tried - and convicted - in regular US courts without compromising security. But civilian courts have run into similar problems with handling classified information.

The case of Mr Moussaoui, which is in a civilian federal court in Northern Virginia, has been hamstrung by similar issues. In September, an appeals court ruled that Mr Moussaoui must be given access to three al-Qaeda detainees who might be able to testify that he was not involved in the September 11 attacks. The government refused to provide such access, however, and the court has ordered a trial judge to see if a compromise can be reached. Information given by the witnesses could be provided in a "substitute" form short of a formal deposition, they propose.

Although the two sides may ultimately agree to a compromise that allows the case to go forward, a similar compromise appears unlikely in two key German cases where the US has been reluctant to hand over intelligence information or witnesses. The German government may yet be forced to deport the men, although lawyers of the accused have said they would oppose this.

In February, Abdelghani Mzoudi, a Moroccan student who admitted to being friends with the Hamburg-based cell that carried out the September 11 attacks, was acquitted of any role in the plot after the US refused to hand over a witness. Their reason was the same as in the Moussaoui case: fear of disclosure.

In March, a German appeals court ordered the retrial of Mounir al-Motassadeq, a Moroccan student who in 2003 was sentenced by a Hamburg court to 15 years in prison for aiding the hijackers. His conviction - the first linked directly to September 11 - was hailed as a breakthrough in prosecuting terror cases in western courts. The decision to release him was therefore a severe blow.

When Mr Motassadeq's retrial opened in Hamburg in August, the US Justice Department provided six pages of summaries of intelligence interrogations of Mr bin al-Shibh and another al-Qaeda leader, a tactic similar to that it has been trying in the Moussaoui case.

Legal analysts predict that Mr Motassadeq is likely to be acquitted in early 2005 on the same basis as the two rulings in 2004 - a verdict that would reinforce the view that security concerns have the upper hand over courtroom niceties in the battle against international terrorism.

*This article is part of a year-end series on the future of multilateral relations*

#### Find this article at:

[http://news.ft.com/cms/s/de933d94-554f-11d9-9974-00000e2511c8,ft\\_acl=s,s01=1.html](http://news.ft.com/cms/s/de933d94-554f-11d9-9974-00000e2511c8,ft_acl=s,s01=1.html)

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From New Nation Online Edition

CITY NEWS

**World leaders urged: Give up double standard over human rights**

By BSS, Dhaka

Dec 23, 2004, 11:26

Minister for Science and Information and Communication Technology Dr. Abdul Moyeen Khan on Thursday called upon all concerned persons across the world to give up the policy of double standard while advocating and practicing human rights.

He was inaugurating a daylong advocacy workshop on "The Rome Statute and the International Criminal Court."

Held at Bangladesh Rural Advancement Committee (BRAC) auditorium here, the workshop was jointly organized by Odhikar, a human rights organization, and Bangladesh Coalition for International Criminal Court (BCICC).

The Hague based International Criminal Court (ICC) is a permanent independent judicial body created through the Rome Statute of 1998 to prosecute heinous crimes like genocide, war crimes, aggression and crimes against humanity under international law when national courts are unable or unwilling to do so. Bangladesh signed the Statute in 1999 but awaiting ratification, the workshop said.

Zahiruddin Swapan MP, Additional Attorney General Fida M Kamal, European Commission's first secretary Ms. Anne Marshal, Dr. Asif Nazrul, Jesmul Hasan Khan and Dr. Saira Rahman Khan also addressed the workshop chaired by Odhikar President Dr. Tasneem Siddiquee.

Dr. Moyeen Khan said although 97 countries of the world so far ratified the ICC, but this is unfair that only the poor and the weak countries will respect the ICC while the rich and strong ones will ignore it.

Everywhere the powerful circles get involved with criminal activities and violate human rights within their country and beyond, he pointed out and said this trend can be checked only by creating mass resistance.

Zahiruddin Swapan MP said not only the economic growth but also the level of practice of human rights is an indicator of development. In this context, he said a poor country may have a better human rights performance.

He called upon all concerned to put pressure on the political parties to create consensus on issues related to justice and human rights.

Dr. Asif Nazrul said the necessity of ICC has been reaffirmed by the very fast entry into force of Rome Statute and by the level of enthusiasm expressed by the world community.

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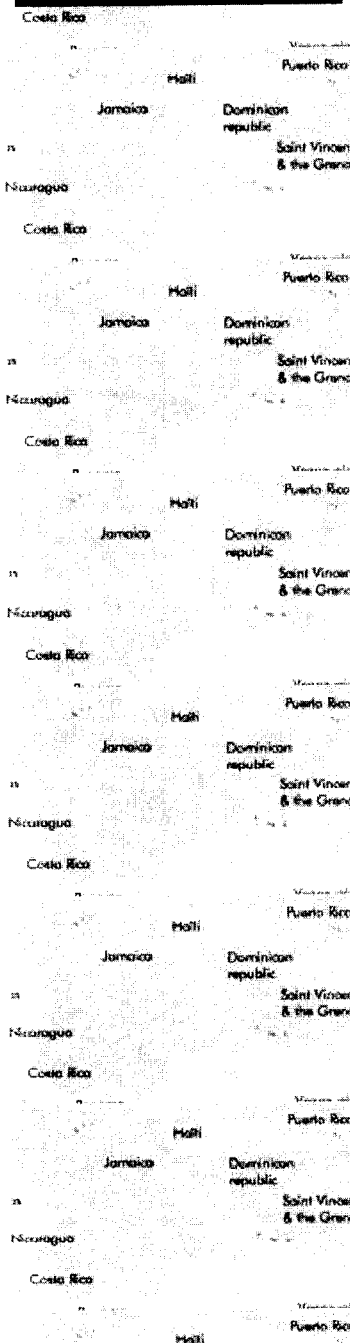
## African Trade Network (ATN) at the African Social Forum (ASF)

10-14 December 2004

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## Stop-EPA Campaign?

### • OUTSIDE FORCES ACCUSED OF CONFLICT MAKING IN AFRICA

Kwasi Gyan-Apenteng in Lusaka

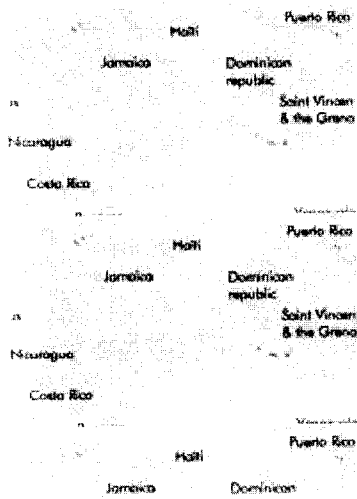
Emerging consensus at a meeting on peace and conflict in Africa has pointed accusing fingers at "external influences" as the main motor of conflict making in Africa. The meeting is one of several thematic meetings taking place at the 2004 African Social Forum in Lusaka, Zambia from December 10-14. In his contribution to the discussion, the veteran South African rights and anti-apartheid campaigner and writer, Dennis Brutus said that conflicts in Africa are mostly about Africa's resources, which are the main attraction for those who instigate conflict and those who intervene. He cited the situation where African countries are being asked by the G8 to strengthen their armies in order to better police G8 access to Africa's mineral wealth.

Earlier, John Stewart of the Zimbabwe-based NOVASC, in a panoramic sweep of conflicts in Africa had identified several courses that he thought needed close study and attention. Some of the sources which he identified were problems of power succession, access to and control of resources, conflicts over identities, ethnicities, etc and cross-border ethnic associations and allegiances. Others were religion and the linkage of state power to masculine forms of expressing power relations. Stewart explained that the peace pacts that had been established in some conflict countries, for example, Sierra Leone and DR Congo are so fragile that they need real measures to sustain them. He said that in countries such as Nigeria and Zimbabwe the "state is at war against the people", but he believed that the reinvigorated African Union is showing more seriousness than the OAU in addressing conflicts.

Fofana, the convener of the meeting said it was important to understand two major things about conflicts in Africa. Firstly that the conflicts belong to different categories, namely old conflicts, new(ish) conflicts, and crisis states conflicts. He cited Liberia and Western Sahara as old conflicts, Congo, Chad and Darfur as "new" and said states like Nigeria, Zimbabwe and Guinea Bissau were states in crisis. He said one characteristic of African conflicts was the presence of "American management and fights over spheres of influence. He cited examples from the Great lakes region and Cote d'Ivoire to support his assertion.

Abdulai Darimani of Third World Network - Africa expanded on Brutus' argument but specified it into a series of actions by citizens to arrest the exploitation of Africa's resources and its inevitable leading to conflict. He said in order to withstand the "lobbying" and influence of the international finance institutions, the major corporations and African governments' forced responses, citizens





have to fight to strengthen their collective rights and power. He said this could challenge governments to resist the power and influence of the lobbyists and prevail on them enact good policies. Such citizens groups, he said, would also force state institutions to live up to their responsibilities.

End/



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Last updated: Monday 13 December 2004 @ 1.54pm GMT  
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## News & Analysis

### Bringing War Crimes Justice Back Home

**Author:** Alison Freebairn, London and Nerma Jelacic, Sarajevo

**Uploaded:** Tuesday, 21 December, 2004

**Analysis in a recent IWPR Balkan Crisis Report concludes that the transfer of Hague tribunal cases to former Yugoslavia, though regarded as vital for the war crimes justice process, is fraught with difficulty.**

The international community's move to establish a war crimes court in Bosnia-Herzegovina has raised serious questions over whether the country's legal system, detention facilities and media are up to the challenge.

The transfer of low- and medium-ranking trials to the Balkans is key to the Hague tribunal's completion strategy, which envisages all its cases finishing by the end of 2008 and the court closing its doors two years later.

Judge Theodor Meron, tribunal president, has said that the creation of the War Crimes Chamber (WCC) within the Bosnian state court 'will ensure that the prosecution of [alleged] war criminals takes place in an efficient and fair manner and in accordance with internationally recognised standards of due process.'

The substantial involvement of the international community in the establishment and staffing of the WCC - expected to be up and running at the beginning of 2005 - has caused controversy in the region. But the Office of the High Representative (OHR) - which is the prime mover behind the new chamber - insists that this is necessary.

'The reason for including such a significant international presence in the interim period covering the first five years of this chamber's work is to provide support for domestic judges and prosecutors, and to ensure that international standards are met,' said an OHR spokesperson. 'Also, to assure all those involved that justice - even when dealing with war crimes - is equal to all.'

More than 16 million euro has been raised to cover the court's costs for the first two years of its operation, and a donor conference is to be held in 2005 to raise a further 21 million euro. This amount will be required to see it through to 2008 - the end of the projected 'transition phase', after which the international community's involvement will lessen, and the running of the court will be handed over to local officials. With so much money and effort involved - not to mention the reputation of the tribunal - the stakes are high.

An important factor in the success of the WCC will be the extent to which people in Bosnia begin understanding and accepting its role. Local media will play a central role in building public confidence in the process, and ultimately promoting reconciliation. To assist the Bosnian media, IWPR will implement a new programme designed to train journalists in the legal framework governing the WCC, and how to report on war crimes trials in a fair and objective manner. The intention is to help the print and broadcast media in Bosnia produce good, balanced reporting on this most sensitive of topics. Associations of war victims, veterans and other key citizens' groups will also be engaged and encouraged to better understand the new institution.

#### IS BOSNIA READY?

Questions have been raised over Bosnia's readiness to try war crimes cases, with concerns focussing on its outdated legal system, poor or non-existent detention facilities, and somewhat lax attitude to witness protection, compounded by often partisan media reporting in both the Federation and Republika Srpska (RS).

The Bosnian mission of the Organisation for Security and Cooperation in Europe (OSCE) reports that more than 90 war crimes trials featuring defendants of Bosnian Muslim, Serb and Croat ethnicity have taken place in Bosnia since the end of the war. Around 60 of these are ongoing.

#### BOSNIA RE

Bosnia Report is monthly magazine publishes articles: information about Herzegovina and issues. Use the link to access the current issue or archives.

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According to the Rules of the Road agreement - which was signed in the wake of the 1995 Dayton Peace Agreement ending the war in Bosnia - Hague investigators were required to review each case before a local prosecutor was allowed to issue an indictment and arrest suspects. The tribunal's office of the prosecutor received criminal files against nearly 6,000 war crimes suspects - but only around 850 or so of these were considered legally fit for trial.

Over the years, some 600 indictments were approved under the agreement, which expired on 1 October 2004, after which its powers reverted to the WCC. The vast majority of charges were issued in the Federation - only a handful in RS.

Domestic war crimes proceedings to date have been heavily criticised by international observers. A recent report by Human Rights Watch (HRW), titled *Justice At Risk*, looked at war crimes prosecutions in the countries of the former Yugoslavia and pointed out several areas for concern. It noted that ethnic bias, poor case preparation, and a lack of cooperation from local police forces and between the neighbouring states was hampering war crimes justice in the Balkans.

The report highlighted the recent trials of Bosnian Croat Dominik Ilijasevic and Bosnian Serb Tomo Mihajlovic as being marked by a number of irregularities. In the former, prosecutors did not present any evidence supporting the charges against the defendant. And in both cases HRW found that investigative judges had altered the phrasing of witness testimony - a practice that went unchallenged because of the poor educational level of those who had given statements.

In spite of these well-documented problems with the local judiciary and legal system, the tribunal altered its statute this year to allow lower- and middle-ranking cases investigated by its prosecutor to be transferred to the Balkans for trial. Rule 11 *bis* of the tribunal's Rules of Procedure and Evidence was amended on 28 July 2004 to facilitate this process. Under this provision, the president of the court may appoint a trial chamber for the purposes of referring a case to the authorities of a state in whose territory the crime was committed, in which the accused was arrested, or which has jurisdiction and is willing and able to accept the case.

However, in order to do so, the tribunal must be satisfied that the defendant will receive a fair trial and that the death penalty will not be imposed.

With the tribunal eager to reduce its caseload, there is real pressure on the regional war crimes chambers - in Croatia and Serbia as well as Bosnia - to get their work off to a good start and maintain the standards of global justice pioneered in Holland. If this does not happen, Hague insiders worry privately that the image and legacy of the tribunal will be damaged.

The WCC will have the power to carry out its own investigations and issue indictments, but initially it will deal with cases originated by the tribunal's Office of the Prosecutor (OTP) and transferred to the Bosnian court by a Hague trial chamber.

Observers believe that the first trial to be transferred in this manner will be that of Zeljko Meakic, Momcilo Gruban, Dusan Fustar, Predrag Banovic and Dusko Knezevic, who are accused of crimes against humanity and violations of the laws and customs of war. These middle-ranking Bosnian Serb indictees have been charged with one count of persecution, two counts of murder and two of inhumane acts and cruel treatment relating to the treatment of Bosnian Muslim and Croat civilians in the Omarska and Keraterm detention camps set up in the Prijedor municipality in 1992. Tribunal chief prosecutor Carla Del Ponte made an official request for the transfer of this case on 2 September - arguing that 'Bosnia-Herzegovina would provide all necessary legal and technical conditions for fair trials' - and a trial chamber has been assigned.

However, the chamber - headed by tribunal president Meron - voiced doubts about the WCC's readiness to take Hague cases, and asked prosecutors for more information about the progress made. 'It is not obvious how a trial chamber could make [such a decision] before [the WCC] has even been established,' Meron noted.

Nonetheless, Liam McDowall, the tribunal's outreach officer, told IWPR that the tribunal was keen to have cases identified and processed in time for the establishment of the Bosnian court, 'In doing so, two issues must be taken into consideration. Firstly, there must be cast-iron guarantees that there will be a fair trial. And there have to be suitable facilities.'

#### CHANGING THE LAW

The former concern has been addressed by the adoption of certain legal reforms designed to bring Bosnian law into line with international standards. This legislation was only passed recently after something of a fight, and there are still problems to sort out before it can be implemented.



Until recently, the Bosnian legal system had changed little from that used in the former Yugoslavia. Reforms were needed if the legislation was to be brought into line with the unique mix of common and civil law being used by the tribunal. This system, with its many elements from the common law system used in the United Kingdom and the United States, is not readily understood in the Balkans, and has caused confusion among local analysts and the general public alike. (See 'A Tale of Two Systems' by Rachel S. Taylor)

Four bills vital to the establishment of the WCC were approved by the Bosnian state parliament's lower house in September 2004 - but only two of these were voted through by the upper chamber on 30 September after Bosnian Serb representatives refused to back the changes.

One of the stalled laws pertained to the smooth transfer to the WCC of both cases initiated by the tribunal and evidence gathered by its investigators. The other made provision for the establishment of a registry office - administrative body - in the new chamber, which would be headed by an international legal figure and staffed by many foreign officials, who would eventually hand over control of the office following a five-year transition period.

The close involvement of so many internationals had enraged Bosnian Serb politicians: 'Unfortunately, representatives of the international community do not trust us and that is something that we must reconcile ourselves to,' the Serb foreign minister of Bosnia, Mladen Ivanic, told IWPR. A number of politicians and commentators in RS had also complained about the registry's jurisdiction over a second chamber in the Bosnian court - one which deals with economic and organised crime.

The failure to pass two of the four new laws was condemned by the tribunal and the OHR. Del Ponte and High Representative Paddy Ashdown issued a joint statement following a meeting on 20 October, in which they called on the Bosnian parliament to pass the legislation without delay, warning that failure to do so would 'severely undermine the fight to hold war criminals responsible' for their actions.

The remaining two laws were passed the following day - although with some differences in the wording of the version approved by the lower house, so some harmonisation will be needed before implementation.

The Bosnian presidency adopted the registry agreement on 27 October, and subsequently ratified it. It is expected to be formally signed by the Bosnian presidency and the OHR before the end of November. All procedures must be in place by the end of this year to allow the WCC to start its work on 1 January 2005.

Early indications are that there will be little obstructionism from the Bosnian Serb deputies who initially opposed the passage of the new legislation - although some in Banja Luka are concerned that there has been insufficient time for local legal professionals to get to grips with the new laws before the WCC begins operating.

Once the new laws have been implemented, they will give the WCC prosecutor Marinko Jurcevic the power to issue new indictments for war crimes.

In addition to this tranche of legislation, two other new laws have recently been passed by the Bosnian parliament. One brings Bosnian law into line with the European Convention on Human Rights - a relatively straightforward process as Sarajevo is already a signatory - and the other tackles the more complicated and controversial subject of witness protection.

#### PROTECTING WAR CRIMES WITNESSES

The process of appearing as a witness in a trial held in The Hague is a daunting and traumatic one for most Bosnians. In a country as small as Bosnia, the decision to appear in a domestic war crimes case is even more problematic, as little or no provision has been made to protect such people during and after they give testimony.

Until now, it has been impossible to punish anyone who reveals the identity of a protected witness in a Bosnian war crimes case. As a result, many potential witnesses have simply refused to testify for fear of being subsequently targeted, and the few who have chosen to take the stand have not bothered to ask the authorities for protection.

The task of improving witness protection procedures has fallen to the State Investigation and Protection Agency (SIPA) - equivalent to the FBI - which has taken on board recommendations from a series of local and international working groups on the subject. The WCC's registry will also



include a victims and witness unit, which will liaise with SIPA.

The new reforms passed by the Bosnian parliament will also allow the courts to better protect those who choose to appear as witnesses. If so desired, their appearance can be disguised in the courtroom and pseudonyms used - much like the system in place in The Hague - and the judges will have greater powers to impose media restrictions on how the testimony of a protected witness is reported.

'Witness protection now must be respected as a rule of law, and the media has its own part to play in this,' said the Hague tribunal's McDowall. 'However, a regional approach will be necessary,' he said, explaining that non-Bosnian media in the Balkans must not name a protected witness in their own countries, as the news is certain to filter back to Bosnia - with serious implications for the safety of the witness.

#### SPOTLIGHT ON THE MEDIA

Hague insiders and local analysts believe the media will play an important role in shaping public attitudes towards WCC. How the court and its proceedings are reported will determine how it is viewed in the region, with journalists acting as an indirect liaison between the court and the people it serves.

Judith Armatta of the Coalition for International Justice, who has been observing the war crimes proceedings against former Yugoslav president Slobodan Milosevic from the beginning, said: 'Most people will not sit down to watch the court, and in any case most legal proceedings have to be interpreted, so a lot will depend on how the media plays it,' she said.

The media's level of influence with regard to the WCC has raised the issue of responsible reporting, and with it concerns about the standard of professionalism among some of the region's newspapers and broadcasters.

The situation in Bosnia is complicated by the differences between its two entities. There is a markedly different interpretation of the bloody events of the nineties in the media of both, and this is reflected in how war crimes justice is reported.

The RS media has been traditionally hostile to the workings of the tribunal - where the conviction of Serb indictees has often been seen as a sort of 'victor's justice' - but the court has also been viewed with some suspicion in the Federation, and this is mirrored in the local media.

Srdjan Dizdarevic, president of the Helsinki Committee for Human Rights in Bosnia, said, 'The media - especially the printed media - are generally speaking nationalistic and not objective. They represent a serious danger to the court and its work.'

#### INTERNATIONAL INPUT

The Hague tribunal's McDowall told IWPR that foreign involvement in the WCC will help to counter media pressure. 'In terms of perception of fair handling and ethnic bias, that's why internationals have been brought on board initially, to try to diminish these concerns,' he said.

A spokesperson for the OHR told IWPR that the WCC's registry is to have a public information and outreach section, similar to that operating in The Hague, which will provide information about the body to local and international media, and to the general population. 'This office will be responsible for disseminating information to media representatives, maintaining contact and cooperation with NGOs and other international institutions operating in similar fields,' he said. 'And, most importantly, [it will offer] an effective level of outreach and support to those most affected by the creation of the WCC - the victims and their families.'

Dr Jan-Willem Honig, senior lecturer in war studies at King's College in London, feels that the WCC will bring the issues home to Bosnia with more ease than the tribunal has been able to do. However, he warned that it will be a slow process. 'Because the crimes are still relatively recent, emotions are still high, and so [the WCC] will face a challenge,' he said. 'But it will make the process more immediate and allow [the victims] to follow what's going on.'

Bogdan Ivanisevic, a Belgrade-based investigator with Human Rights Watch, agrees. 'The Hague is not just at a physical distance from where the crimes occurred and where the interested communities live, but is at a mental distance also,' he said. 'However, Sarajevo is just a short physical distance from where Republika Srpska begins. While the Bosnian Serbs don't see Sarajevo as 'our town', hopefully the media coverage will improve as newspapers and broadcasters are



willing and able to cover the trials held in the [WCC]. This will in turn raise awareness of war crimes in RS and also in the Federation. While the Sarajevo court has this advantage over the Hague court, it will still be a challenge for the [WCC] to gain the trust of all ethnic groups and the majority of citizens in Bosnia-Herzegovina and Republika Srpska. But it will have international judges and prosecutors in place, and this may neutralise the distrust that may exist.'

Michael Johnson, formerly of the Hague tribunal prosecutor's office and also one of the founders of the Rwanda war crimes court, has been appointed registrar designate and will be responsible for the running of the WCC. He is confident that international standards will be met and maintained by the new chamber. 'The registry is here to serve the judicial system of Bosnia-Herzegovina,' he told IWPR at a recent training seminar for Bosnian legal professionals held by the American Bar Association/Central European and Eurasian Legal Initiative in Sarajevo on 14 and 15 October. 'We are all confident that international standards can be met.'

In his speech, the WCC's new registrar assured delegates that the involvement of the international community would not be permanent. 'This is a partnership in which the international community is in a support rather than a directive role,' he said. 'This five-year project will be in the hands of Bosnian professionals by summer 2006 at the latest.'

#### CHANGING ATTITUDES

The involvement of the international community is being seen as vital in the struggle to convince the people of Bosnia that concerns about the fairness of the upcoming trials are unfounded.

The threat of ethnic bias - which has been a recurring problem in domestic war crimes trials held in neighbouring Serbia and Croatia - is not as big an issue in the Federation, where cases are heard by a multi-ethnic panel of judges; but lingering doubts about the partiality of the courts remain. However, it is hoped that once Hague cases are transferred and are heard by a Sarajevo-based court, attitudes will slowly change.

In RS, the problems are more severe. The authorities in Banja Luka have issued small number of indictments and have yet to stage a war crimes trial. Dr Honig of King's College noted that some very recent events - including an unprecedented apology from the RS government for the deaths of 7,800 people in the July 1995 Srebrenica massacre - had given hope for greater progress in the future. 'There has been a mellowing,' he said. 'Progress has been made and there is now a degree of cooperation. There is no longer a blanket denial of the past. [The WCC] can be a good thing, but it will be a tricky thing to pull off. We cannot immediately expect it to make giant steps.'

Human Rights Watch's Ivanisevic agrees, 'There is an opportunity for these [WCC] trials to have an educational role [in society] and even have a cathartic effect, but it is not that simple. We have to remember the post-Second World War experience in Germany. Even after the Nuremberg trials [established Nazi guilt], there was still a strong resistance in German society [to accepting responsibility], and this remained strong for a decade or two.'

#### PRACTICAL CONCERNS

Another possible stumbling block for the WCC is the lack of suitable prison facilities. Initial ambitious plans to build a state-of-the-art detention centre - costing around 20 million euro - were shelved late last year due to uncertainty over funding. And while there are a number of prisons in Sarajevo and its surrounding area, these were all deemed to be unsuitable even as a stopgap.

The housing of remanded suspects and convicted prisoners is a particularly sensitive issue in multi-ethnic Bosnia. For example, a Bosnian Muslim accused of crimes against Serbs could not be held in custody in a majority Serb prison, as his life might be in danger.

Ethnic issues aside, the Council of Europe had expressed doubts over the conditions in existing jails, which are well below European standards. It has long argued for the construction of a new facility, in line with the prison reforms it has been recommending.

A temporary detention centre with 21 cells designed to hold only remanded WCC indictees and prisoners - which has been funded by the justice ministries of the Bosnian state, the Federation and the RS - is now being built near the state court building in Sarajevo. Funding for a larger dedicated modern prison is now being sought from potential donors within the EU and the United States.

Chief prosecutor Jurcevic, speaking at the ABA-CEELI training seminar in October, told IWPR that he would like to see a separate donor conference held to attract funds for a new prison, as without such backing it would be difficult to raise enough money for a very high quality facility.



In spite of these continued concerns, the mood in Sarajevo and in The Hague is largely upbeat. 'What is needed will be a fresh approach to the judiciary, so that it acts in the interests of society and not simply certain self-interested groups,' said McDowall. 'There are still serious challenges, but we are still aiming for the 1 January kick-off.'

#### PROSPECTS FOR RECONCILIATION

Many believe the establishment of the WCC is an important step towards reconciliation, as it is argued that this process will not truly get under way until greater numbers of the country's suspected war criminals are brought to justice. 'If you have been victimised, you want to see the guy who was responsible in court - you do not want to see that person still walking the streets. There certainly will not be any significant reconciliation in the region until people feel that justice has been done,' said Armatta of the Coalition for International Justice.

It is hoped that more prosecutions, conducted scrupulously and fairly, will chisel away at the wall of denial that prevents some sections of Bosnian society - particularly the Serbs - from coming to terms with the past. Amor Masovic, president of the Commission for Tracing Missing Persons and a member of the Party of Democratic Action, said: 'A considerable part of the Bosnian public is not ready to face the truth and admit that crimes were committed.'

Dizdarevic of the Helsinki Committee for Human Rights, said: 'The court will face strong pressure from nationalists from all three [ethnic groups] who insist that they were the victims; that they fought to protect their [people] and that in a defensive war there are no war crimes.'

Barisa Colak, president of the ruling Croat Democratic Union in Bosnia, admits that winning people over will be hard, but says it will ultimately pay dividends. 'We have to deal with something that was very hard for us,' he said. 'The wounds are still fresh and time is needed to heal them. If we successfully finish the trials of crimes committed by all peoples then this will help the final reconciliation process.'

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