

Justice that goes beyond the nation

by Chibli Mallat

Today's *Daily Star* law page is dedicated to international criminal courts. Since 1994, a significant international effort, which includes a sustained campaign by Amnesty International, has taken place at the United Nations for the creation of a permanent International Criminal Court.

Two international tribunals were set up in 1993 and 1994 to investigate and try crimes against humanity in the former Yugoslavia and in Rwanda. They represent perhaps the most significant development in international law since the second world war.

Last month, the Indict campaign was started in Britain, with the aim to create a similar ad hoc tribunal for those Iraqi officials allegedly responsible for serious violations of human rights.

There are many difficulties. In the case of Yugoslavia, some of the worst offenders, who have been formally indicted in July 1995, are still at large. They include Radovan Karadzic, former president of the Bosnian Serb administration, and Ratko Mladic, then commander of the army of the Bosnian Serb administration.

In Rwanda, more than 90,000 people are behind bars in connection with the genocide; but few have been tried.

In addition to complex due process issues, there is a problem of competition between a local Rwandan tribunal, which lacks even "paper and pen", and the international tribunal set up in Arusha in neighbouring Tanzania. The well-endowed Arusha tribunal is beset with the typical UN problems of corruption and patronage.

There is much for cynics to feed on in the lack of justice evident with so many mass criminals left free. Amnesty International has been encouraging countries to introduce appropriate legislation to at least prevent indicted individuals from seeking shelter in crime havens, but only some Western countries have complied so far.

It is important for Lebanon and other Arab countries to follow suit, lest confirmed perpetrators of such hideous crimes as those perpetrated in Yugoslavia and Central Africa hide behind the all too many hurdles of procedural immunity.

Despite all the evident problems of efficiency, the existing tribunals have marked the international scene in a positive way. Even without any formal indictment – and despite the close commercial contacts between France and Iraq – Paris has refused to allow Odaï Saddam Hussein to receive medical treatment in France. The French government's reluctance is clearly rooted in the criminal record of the Iraqi president's offspring.

Nor would Karadzic or Mladic dare visit any Western country in the foreseeable future. For the families of their victims, this may not be sufficient, but an example should bring home, by contrast, the watershed created by the tribunals.

Minister Ariel Sharon would have had to think twice before visiting Europe if a similar court had been established after the 1982 massacres at the Palestinian camps of Sabra and Chatila. Crimes against humanity are not subject to time limitation.

The road is long and difficult. International criminal tribunals need strong and sustained support both at popular and governmental level. Information about them needs to be disseminated and discussed at all levels.

One important element to keep in mind is that there will be much trial and error before the balance needed for due process and efficiency is finally reached. Awkward as they may be, these tribunals could chart a more civilised direction towards a less bloody and more accountable 21st century.

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