

# @From Nuremberg to the Balkans: Seeking justice & fairness in the international war crimes tribunal for the former Yugoslavia

## FROM NUREMBERG TO THE BALKANS

For the first time since the Nuremberg and Tokyo war crimes tribunals more than 40 years ago, the world is poised to create a court to try war criminals. But will the UN learn from the mistakes of Nuremberg and take account of the radical development of human rights principles since the Second World War?

On 22 February 1993, the United Nations (UN) Security Council decided in principle to set up an *ad hoc* international tribunal (the Tribunal) to try serious violations of humanitarian law committed during the conflicts in the former Yugoslavia since 1991. The Security Council asked UN Secretary-General Boutros-Ghali to make recommendations about how to set up the Tribunal, if possible, by 22 April 1993.

The decision to establish the Tribunal could be a first step towards breaking the cycle of impunity and gross human rights violations in the former Yugoslavia. Unfortunately, however, experience has shown that *ad hoc* judicial tribunals are too often created and manipulated to serve short term political goals. They often lack real independence and impartiality and fail the basic tests of justice and fairness which are well established in international law. Amnesty International is therefore urging governments and the UN to ensure that this Tribunal has real power to bring people to justice and strictly conforms to international human rights standards. Amnesty International has already submitted a 34-page Memorandum to the UN setting out the fundamental principles which it considers should be followed if the Tribunal is to be fair, just and effective<sup>1</sup>. The essence of these recommendations is also set out in this document.

---

<sup>1</sup>. Amnesty International has publicly released this Memorandum: **Memorandum to the United Nations: The question of justice and fairness in the proposed *ad hoc* international war crimes tribunal for the former Yugoslavia**, AI Index: EUR 48/02/93.

---

## **JUSTICE, FAIRNESS & EFFECTIVENESS: BREAKING THE CYCLE OF IMPUNITY AND VIOLENCE IN THE FORMER YUGOSLAVIA**

Amnesty International has consistently called for full and impartial investigations into all allegations of gross violations of human rights and humanitarian law in the former Yugoslavia and for all those responsible to be brought to justice. Amnesty International does not take a position on questions of statehood or territorial control. It does insist that bringing to justice those who violate basic rules of minimum civilised conduct is as essential in war as in peacetime. Military and civilian authorities must send a clear message that violations of basic human rights will not be tolerated and that those who commit such acts will be held personally accountable. This was the message reaffirmed in Nuremberg and Tokyo after the Second World War and which the international community has failed to enforce consistently. Sweeping aside the question of responsibility only leads to renewed cycles of violence and violations of human rights. This Tribunal could be the first step in breaking the cycle of impunity in the former Yugoslavia, but only if it is taken seriously by governments and the UN.

Will this Tribunal actually prosecute and convict those it finds responsible for gross human rights violations in the former Yugoslavia? There is a real danger of it being no more than a token political gesture. Governments and the UN will be discredited if the Tribunal is not given the wide powers, resources and political backing it must have if it is to have any chance of bringing perpetrators to justice in very difficult circumstances.

Will this Tribunal be fair? Lingering doubts about the trials will always remain and the UN will violate its own detailed human rights standards unless the Tribunal scrupulously complies with guarantees for fair trial and treatment of detainees.

Justice must be impartial by being equally fair and equally rigorous, irrespective of whether an accused is a high-ranking official or infantry private, Serb, Croat or Muslim. Partial justice would thoroughly discredit the judicial process. This Tribunal may not be victor's justice, but will it be disinterested justice?

Justice has many faces. There must be justice for the victims and their families who have suffered personal horrors; for the accused who must be treated fairly and equally; for the Serb, Croat, Muslim and other communities in the former Yugoslavia; and for the international community which must reassert the rule of law and the primacy of human rights. Different aspects of justice demand different powers and safeguards, which are explained in this document.

---

## AMNESTY INTERNATIONAL'S 15 GUIDING PRINCIPLES FOR THE UN TO FOLLOW

For many years Amnesty International has consistently worked both for fair trial of political prisoners and against the impunity of human rights violators, throughout the world. On the basis of this experience we have made a number of recommendations about practices and safeguards which we consider would help to make the Tribunal more fair, just and effective, in accordance with internationally accepted standards. The recommendations do not set out a blueprint for the Tribunal; they address a number of issues which are within the specific mandate of Amnesty International<sup>2</sup>. The recommendations also arise out of the organization's continuing research and documentation of human rights violations in the former Yugoslavia<sup>3</sup>.

On the following page are set out 15 fundamental principles Amnesty International is calling on governments and the UN to abide by in the creation and operation of the *ad hoc* war crimes Tribunal for the former Yugoslavia. These are some of the basic principles against which Amnesty International will judge whether the Tribunal is just, fair and effective:

---

<sup>2</sup>. Amnesty International works for the release of prisoners of conscience (those detained by reason of their political, religious or other conscientiously held beliefs or by reason of their colour, sex, ethnic origin or language, provided they have not used or advocated violence) fair trials for political prisoners, an end to the death penalty, torture and other cruel treatment, and a stop to extrajudicial executions and "disappearances".

<sup>3</sup>. See **Bosnia-Herzegovina: Rana u duši - A wound to the soul**, AI Index: EUR 63/03/93, January 1993; **Bosnia-Herzegovina: Rape and sexual abuse by armed forces**, AI Index: EUR 63/01/93, January 1993; **Bosnia-Herzegovina: Gross abuses of basic human rights**, AI Index: EUR 63/01/92, October 1992; **Yugoslavia: Torture and deliberate and arbitrary killings in war zones**, AI Index: EUR 48/26/91, November 1991; **Yugoslavia: Further reports of torture and deliberate and arbitrary killings in war zones**, AI Index: EUR 48/13/92, March 1992; **Yugoslavia: Ethnic Albanians - Victims of torture and ill-treatment by police in Kosovo province**, AI Index: EUR 48/18/92, June 1992.

**15 GUIDING PRINCIPLES FOR THE WAR CRIMES TRIBUNAL**

1. It must be **INDEPENDENT** from political manipulation by one or more states and free to complete its work, however long it takes.
2. It must be **GLOBAL** in its establishment, composition and operation.
3. It must be **COMPETENT**, with appropriately qualified judges, prosecutors, investigators and expert advisers.
4. It must have **JURISDICTION** over a broad enough range of crimes to cover all relevant gross violations of human rights and humanitarian law.
5. It must be **IMPARTIAL** by prosecuting perpetrators from all parties to the conflict, both leaders and subordinates.
6. It must be **EMPOWERED** to carry out thorough investigations in the former Yugoslavia with relevant authorities obliged to cooperate, arrest and hand over suspects.
7. It must be **FAIR** by scrupulously observing all internationally accepted guarantees for fair trial at every stage of proceedings.
8. It must **CONVICT** those it finds responsible for gross violations of human rights and humanitarian law.
9. It must be **OBJECTIVE** in its determination of guilt or innocence and not hold trials *in absentia*.
10. It must **PROTECT** victims, their families and witnesses from reprisals and unnecessary mental anguish and be able to order compensation.
11. It must **RETRY** anyone convicted or acquitted in a national trial which was manifestly unfair or a sham.
12. It must **NOT IMPOSE THE DEATH PENALTY**.
13. It must have enough **RESOURCES** properly to carry out its work at all stages.
14. It must be a **MODEL** in its rigorous compliance with international human rights standards, including those developed by the UN itself.
15. It must be the **FIRST STEP** in the creation of a permanent international criminal court to try gross violations of human rights and humanitarian law wherever they occur.

## **AD HOC OR PERMANENT TRIBUNAL?**

The establishment of an *ad hoc*, or temporary, international war crimes tribunal for the former Yugoslavia should not be confused with quite separate attempts over the last 70 years to set up a permanent international criminal court.

There have been many false starts this century in an attempt to establish a permanent international criminal court. The *Treaty of Versailles* after the First World War contemplated an international tribunal to try German war criminals but political enthusiasm quickly waned and the tribunal was never established. After the Second World War there was great optimism that the Nuremberg and Tokyo tribunals would be the impetus to create a permanent institution. The UN established an International Law Commission (ILC) which was asked to draft a code of offences against the peace and security of mankind as well as a statute for an international criminal court. The Cold War, however, stifled progress and the 1953 draft statute for a permanent court produced by the ILC has languished in the UN General Assembly ever since. At least two international conventions, on *Apartheid* and Genocide, provide for the establishment of an international criminal jurisdiction which have come to nothing.

The end of the Cold War and the atrocities in the former Yugoslavia may have again breathed life into this area of the ILC's work. The 1992 UN General Assembly has mandated the ILC to draft a new statute for a permanent court. The ILC is due to report to the 1993 session of the General Assembly. Such a tribunal would probably cover a broad range of offences such as drug-trafficking and air-hijacking, as well as war crimes and crimes against humanity.

Meanwhile, calls to set up an *ad hoc* war crimes tribunal only for the former Yugoslavia rapidly increased in the wake of the vivid portrayal by the media of the atrocities, the failure of attempts to end the war and pressure from some governments and human rights organizations.

Security Council resolutions in 1992 repeatedly warned that individuals are personally and criminally responsible for their acts which breach international humanitarian law but no action was taken. Calls for the creation of an *ad hoc* tribunal came from many international bodies including the UN General Assembly, the Organization of Islamic Conference (OIC), the Conference on Security and Co-operation in Europe (CSCE) and many states including Australia, Austria, Canada, Indonesia, Iran, Malaysia, Senegal and USA. Some countries even named individuals who they considered should be brought before such a court. The pressure led to the historic Security Council decision on 22 February to establish the Tribunal.

By creating this *ad hoc* tribunal only for the former Yugoslavia, however, the Security Council is guilty of double standards in selectively enforcing universal human rights and humanitarian law. Universal principles must be implemented in all countries throughout the world. Amnesty International has therefore called on the UN expressly to recognise that this Tribunal is only the first step in establishing a permanent, international criminal court competent to try gross violations of human rights and humanitarian law wherever they occur.

## **JUDICIAL INDEPENDENCE**

If the Tribunal is to be free from political manipulation, the way it is set up and allowed to operate must guarantee that judges, prosecutors and investigators are free to act independently, for as many years as it takes to bring people to justice.

The Security Council is the only UN body able to bind states and it is likely the Tribunal will be established by a resolution of the Security Council using its authority under Chapter VII of the UN Charter "to maintain or restore international peace and security". While a Chapter VII resolution would be a quick and effective method, the Tribunal could be dissolved by the Security Council for political reasons as swiftly as it is created, perhaps after the conclusion of any peace settlement. The Security Council should therefore expressly recognise that the Tribunal will continue to operate as long as is necessary to bring to justice gross violators of human rights and humanitarian law in the conflicts in the former Yugoslavia.

In this highly politicised environment, it will be particularly vital to ensure that the Tribunal is able to carry out its work without any direct or indirect interference by states and that judges (as well as prosecutors and investigators) are acknowledged as being independent, impartial and suitably qualified. Judges must have proven competence as criminal law judges or criminal law lawyers and be acknowledged as independent and impartial. If states are to appoint judges, the process should not be controlled by a small group of states. To enhance the Tribunal's legitimacy and ensure a broad cross-section of different legal systems and regional experience, both the Security Council and the General Assembly should be involved in the selection process, with candidates nominated by the International Court of Justice. This is similar to the system already used to choose judges for the International Court of Justice.

## **ENSURING THE TRIBUNAL HAS POWERS TO EFFECTIVELY PROSECUTE AND CONVICT**

*What crimes should be punishable?*

The Tribunal should not create new crimes because this would violate the basic rule that no one can be found guilty of an act which was not a crime under international or national law at the time the act was committed. Some acts are so heinous that international law says people who commit them are personally and criminally responsible, even if the acts are not criminal under national law. The Tribunal must be able to punish a broad range of international crimes if it is going to be able to cover all gross abuses committed in the former Yugoslavia.

Because of its specific mandate, Amnesty International's starting point is to ask whether the Tribunal is able to try acts which violate people's rights not to be deliberately and arbitrarily killed, or arbitrarily detained, and to be free from torture and from cruel, inhuman or degrading treatment or punishment and "disappearance", as well as the right of political prisoners to receive a fair trial. The Tribunal should at least be able to punish the following international crimes:

◆ **War crimes and other violations of the laws or customs of war:** 'War crimes' is a very broad and confusing term. Today it normally refers to acts committed in an international war which amount to "grave breaches" of the 1949 Geneva Conventions (and 1977 Additional Protocol I), though it can also mean violations of other customary rules of war which have grown up over the centuries. The term covers a very wide range of acts, including wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, taking civilian hostages, deportation or forced transfer of civilians, indiscriminate attacks on civilians and depriving prisoners of war of a fair trial. There are less detailed rules for civil wars and other non-international conflicts which may be needed because it is not at all clear in law whether the conflicts in the former Yugoslavia are international or internal.

◆ **Crimes against humanity:** This category of crimes was written into the Nuremberg Charter as a way of trying Nazis for atrocities against German citizens, such as Jews and Gypsies (Roma), because a war crime can only be committed against the soldiers or civilians of an 'enemy'. The concept of crimes against humanity has developed since Nuremberg and is now generally considered to include murder, torture (including rape), other inhumane acts, slavery, servitude or forced labour, deportation or forcible transfer, arbitrary imprisonment, enforced disappearances and persecutions on political, racial, religious or religious grounds, if these acts are conducted on a mass or systematic scale, as well as genocide and *apartheid*. This would cover many of the gross abuses committed by military and civilian authorities in the former Yugoslavia against civilians under their administrative control, often in the course of "ethnic cleansing".

◆ **Torture:** For many years torture has been recognised as an international crime and it has been defined in the UN Convention against Torture. Furthermore, because of the scale of allegations of rape, forced prostitution and sexual abuse, these should be separate indictable crimes.

◆ **Genocide:** It is not clear whether any of the atrocities committed in the former Yugoslavia amount to genocide, and the Tribunal should have the opportunity of making a ruling on this issue. Genocide, which is defined in the Genocide Convention, is committed when members of

a national, ethnic, racial or religious group are killed or injured or their children are taken away, or births in the group are prevented, with the intention of completely or partly destroying the group, or when physical conditions of living are imposed on the group with the same intention.

### *Impartial justice*

In some cases it has been reported that military or civilian authorities have directly ordered abuses in the former Yugoslavia to be carried out, or their policies have directly led to crimes being committed. In many cases military forces know they are free to use whatever methods they wish to achieve political goals and leaders have failed to use their power to stop violence against civilians.

Impartial justice will not be done - nor seen to be done - unless both leaders and subordinates are prosecuted, regardless of whether they are heads of state or infantry privates, civilians or members of military, paramilitary, irregular forces or police forces, Serb, Croat or Muslim. Those who have committed, ordered or tolerated gross human rights violations should be brought to justice.

### *Giving investigators strong enough powers*

In the absence of an international police force with enforceable powers, one of the most difficult problems will be how to collect evidence, arrest suspects and bring them to court. Investigators and prosecutors will need wide powers to act quickly and effectively, including summoning witnesses for questioning and carrying out thorough investigations within the former Yugoslavia, including the power to search and seize evidence. They will need unrestricted access across borders and the freedom to travel anywhere in the territory of the former Yugoslavia.

These powers of investigation and arrest must also have political backing. The Security Council must take the steps necessary to ensure that all governments, particularly those in the former Yugoslavia, and other parties to the conflicts, are obliged actively to cooperate, including helping to investigate cases, arresting suspects and handing them over to the Tribunal. The Security Council can build on the obligations states already have under international law to prosecute anyone found on their territory who may have committed crimes such as torture, genocide, crimes against humanity and war crimes, or to extradite them to a country that will try them.

### *Overriding unfair or fraudulent national trials*

National authorities have the primary obligation to bring violators to justice. If such trials are fair and just, there is no reason to disturb the verdict. However, recent trials in the former Yugoslavia may not have been either just or fair. If a person has been convicted at the national level in a trial which was unfair or which was a sham, perhaps in an attempt to avoid justice, the person should be retried by the international Tribunal. The conviction and punishment



imposed by the national court would have no effect. Conversely, to prevent political show trials, national authorities should be prohibited from retrying a person who has been convicted or acquitted by the international Tribunal.

### *Powers are useless without resources*

All of the Tribunal's powers will be of little use unless it has enough money and staff. It will need hundreds of people and one government estimate puts the cost at US \$16 million per year. But this amount should be put in perspective. UNPROFOR, the peace-keeping force in the former Yugoslavia, has over 23,000 personnel and costs more than US \$46 million *every month*. If the Tribunal is starved of resources, governments will have turned the whole process into an ineffective political gesture.

## **OBJECTIVE JUSTICE**

The role of a court is objectively to determine individual guilt or innocence. With anything less the court will start to look like a forum for political show trials.

### *Trials in absentia*

Some governments are proposing, for example, that the tribunal should be allowed to hold trials *in absentia* - without the presence of the accused - if he or she cannot be arrested. Trials *in absentia* were the exception at Nuremberg, but here, where the difficulties of bringing accused before the court are far greater, the risk is that this will become the norm. The creation of this Tribunal is already politicized and trials *in absentia* would be more like political show trials and should be prohibited. Anything which prejudices the objective determination of guilt or innocence must be avoided and given the likely complexity of the cases, the reliability of the verdict will always be in doubt if the accused is not present to challenge the prosecution case. To ensure the truth starts to be uncovered and evidence preserved, the Tribunal could still hold a preliminary hearing if the accused wilfully refuses to appear, provided it does not determine individual responsibility.

### *Membership of "criminal" organizations*

There is also a suggestion that a defendant will be deemed to have committed specific criminal acts merely by being a member of an organization that had as its object the commission of these crimes. For example, if defendant X joined a para-military group which intended to kill and terrorize particular civilians, defendant X would be held guilty of those killings merely by having joined the group. There is no place for such collective guilt in criminal law. Membership of the organization may be evidence towards proving that the accused participated in the crimes, but it does not prove guilt. The prosecution must still prove that the individual committed the crimes in a particular place at a particular time with the necessary criminal intent.

Amnesty International would also be concerned if the Statute included past membership of any organization declared by the Tribunal to be "criminal" as a separate offence. If the organization was not "criminal" under national or international law at the time an accused joined, such a declaration after the fact, with criminal consequences, would amount to a retroactive application of the law.

What is not prohibited by criminal law principles is the indictment, as a separate criminal act, of anyone who has set up or helped to set up a formal or informal group of people for the purpose of committing crimes punishable by the Tribunal. The prosecution would still have to establish, however, that the individual accused participated in the creation of the group with the necessary intent to create a group with such aims.

## **FAIRNESS: PROTECTING THE ACCUSED**

Even if the Tribunal prosecutes and convicts violators, it will be seen as a political exercise unless the accused receives a fair trial. It would be unthinkable for a UN court to fall below General Assembly approved guarantees for a fair trial and treatment of detainees. Some of these standards have been the result of 40 years of progress in human rights since Nuremberg<sup>4</sup>.

These safeguards apply from the moment the accused is arrested until the conviction or acquittal is finally confirmed. They are wide-ranging, but include the following:

Anyone who is arrested must be brought promptly before a judicial body after arrest and be able to challenge the lawfulness of the detention. An accused has a right to know the details of the criminal charge. He has a right to present a full defence or to be defended by a lawyer, and to have time and facilities to meet privately with lawyers to prepare the defence. Any detained person, including those awaiting trial and convicted persons serving sentences, must have access to the outside world, particularly to lawyers, family and doctors.

During the trial, everyone is presumed innocent until proved guilty. There must be no compulsion on the accused to confess or testify against himself. The accused or his lawyer must be able to cross-examine witnesses for prosecution and to present defence witnesses. Every accused must enjoy the same rights and responsibilities in court as the prosecution and other defendants. The accused has the right to an interpreter free of charge, at all stages of the proceedings. The trial must be in public, except in special circumstances and the judges must give written, public reasons for the verdict. The accused must be able to appeal against the sentence and conviction, particularly if there may have been a miscarriage of justice.

---

<sup>4</sup>. At the very least, the Statute of the Tribunal should incorporate by reference, and require all organs of the Tribunal to observe, Articles 9, 10, 14 and 15(1) of the UN International Covenant on Civil and Political Rights, the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, and the UN Standard Minimum Rules for the Treatment of Prisoners.

Because it may be difficult to ensure that defence lawyers with the necessary expertise are quickly available in this unique, international court, a separate public defender's office should be set up, independent of other Tribunal organs. It should provide free legal aid for those who cannot pay and should set up branch offices in the former Yugoslavia.

Because of the primary role of national courts, the Tribunal should be able to transfer cases down to national courts. But the Tribunal should not transfer a case to a national court unless it is satisfied that the trial at the national level will be just and effective, comply with all human rights guarantees, and be carried out by a court which is manifestly independent and impartial and which cannot impose the death penalty. The accused should have a right to appeal against a decision to transfer to the national court.

## **JUSTICE FOR THE VICTIM: COMPENSATION, RESTITUTION AND REHABILITATION**

Justice includes justice for the victims and their families. They have a vital interest in finding out the truth about human rights violations they have suffered, in seeing that justice is done and getting compensation for their suffering. Victims could, for example, be represented at the trial by a lawyer, provided that the right of the accused to a fair trial is not prejudiced.

The court should have the power to order a convicted person to pay compensation or return property if the victim has suffered because of the crime. But this will not be sufficient and Amnesty International is calling on the Security Council to indicate what mechanism will be established to protect the rights of victims to receive compensation, restitution and rehabilitation, including the establishment of a separate international commission to process claims against individuals, as well as claims against states. After the 1991 Gulf War, for example, the UN set up an international commission and fund to process compensation claims against Iraq for injury suffered by individuals during the occupation of Kuwait.

## **PROTECTING VICTIMS, FAMILIES AND WITNESSES**

The hostility between national groups in the former Yugoslavia has been so intense that the Tribunal will need wide powers to protect victims, their families and witnesses from reprisals - a danger which can linger long after the verdict. The Tribunal should be able to suppress the names of witnesses in exceptional circumstances, or even hide the identity of witnesses from the accused. In all cases the interests of the witness to be protected must be balanced against the right of the accused to hear all the prosecution evidence and to cross-examine witnesses. New techniques will have to be developed. At least defence lawyers from the Tribunal's public defender's office as well as judges, should always be able to confront and cross-examine witnesses.

In some cases the prosecution will need great care in selecting the evidence which will be sufficient to secure a conviction without unnecessarily endangering witnesses.

Victims and witnesses are also likely to suffer considerable mental anguish by having repeatedly to relive horrific events before investigators, prosecutors and judges and the Tribunal will have to provide real support and care. For example, if children testify in court, psychologists should advise on ways in which the potential psychological damage of the investigatory and court process could be minimized. A special unit should be set up to deal with all the protection issues which arise at each stage of the proceedings.

Witnesses and victims who fear the consequences of making a complaint or giving evidence should be able to seek protection, not only from officers of the Tribunal, but also from the UN in the field, including peace-keeping forces, civilian police monitors and any human rights monitoring mission which may be sent to the former Yugoslavia. Investigators, prosecutors and judges of the international Tribunal should all have a duty actively to refer witnesses and victims at risk to these other bodies as appropriate.

## **SPECIAL CONSIDERATIONS IN CASES INVOLVING VIOLENCE AGAINST WOMEN**

There have been consistent reports of widespread and sometime systematic rape, sexual abuse and forced prostitution in the conflicts in the former Yugoslavia. Collecting evidence has been very difficult. Some women try to obliterate the experience from their memory, others feel degraded and ashamed or fear they will suffer social stigma if they reveal what happened to them.

The trauma and stress has been exacerbated by women being repeatedly pressured to talk to journalists or fact-finding missions.

The Tribunal's extraordinary powers to protect victims from reprisals and anguish will be particularly necessary in cases of violence against women. How will the Tribunal deal with a female rape victim who may be willing to testify against an accused, but only if her husband and community do not find out what happened to her? In such a case the court might be justified in keeping her identity a secret. If prosecutions are to be successful while minimizing the trauma, the Tribunal will also need investigators, prosecutors and judges, including women, with specific knowledge of the cultural and religious mores and experience in collecting such evidence.

## **NO DEATH PENALTY**

Under no circumstances should the death penalty be imposed on those convicted. The Tribunal should be a model of high standards and it would be tragic for the death penalty to be imposed at a time when more and more countries are abolishing this ultimate form of cruel, inhuman and degrading punishment. The General Assembly itself has adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights which binds states that are parties to it not to carry out executions and to abolish the death penalty (similar treaties are in force in Europe and the Americas). Indeed, the General Assembly said in 1971 and reaffirmed in 1977, that to protect the right to life the number of offences for which capital

punishment may be imposed should be progressively reduced "with a view to the desirability of abolishing this punishment in all countries".

## **AUTHORITIES IN THE FORMER YUGOSLAVIA MUST STILL BRING VIOLATORS TO JUSTICE**

The creation of an international Tribunal will not remove the continuing obligation of all relevant authorities in the former Yugoslavia, whether or not recognised governments, to investigate all allegations of human rights violations and to bring violators to justice. The evidence must be collected quickly before it is destroyed, to be used in trials at either the national or international level. Some human rights crimes will not fall within the jurisdiction of the international Tribunal. For example, the Tribunal will only be able to try crimes which were committed after a certain date in 1991 (still to be decided, but probably either 1 January or 25 June 1991) so any crime committed before that date will have to be dealt with by national courts. In some cases the international Tribunal may be authorised to transfer a case back to the national courts for trial (see above).