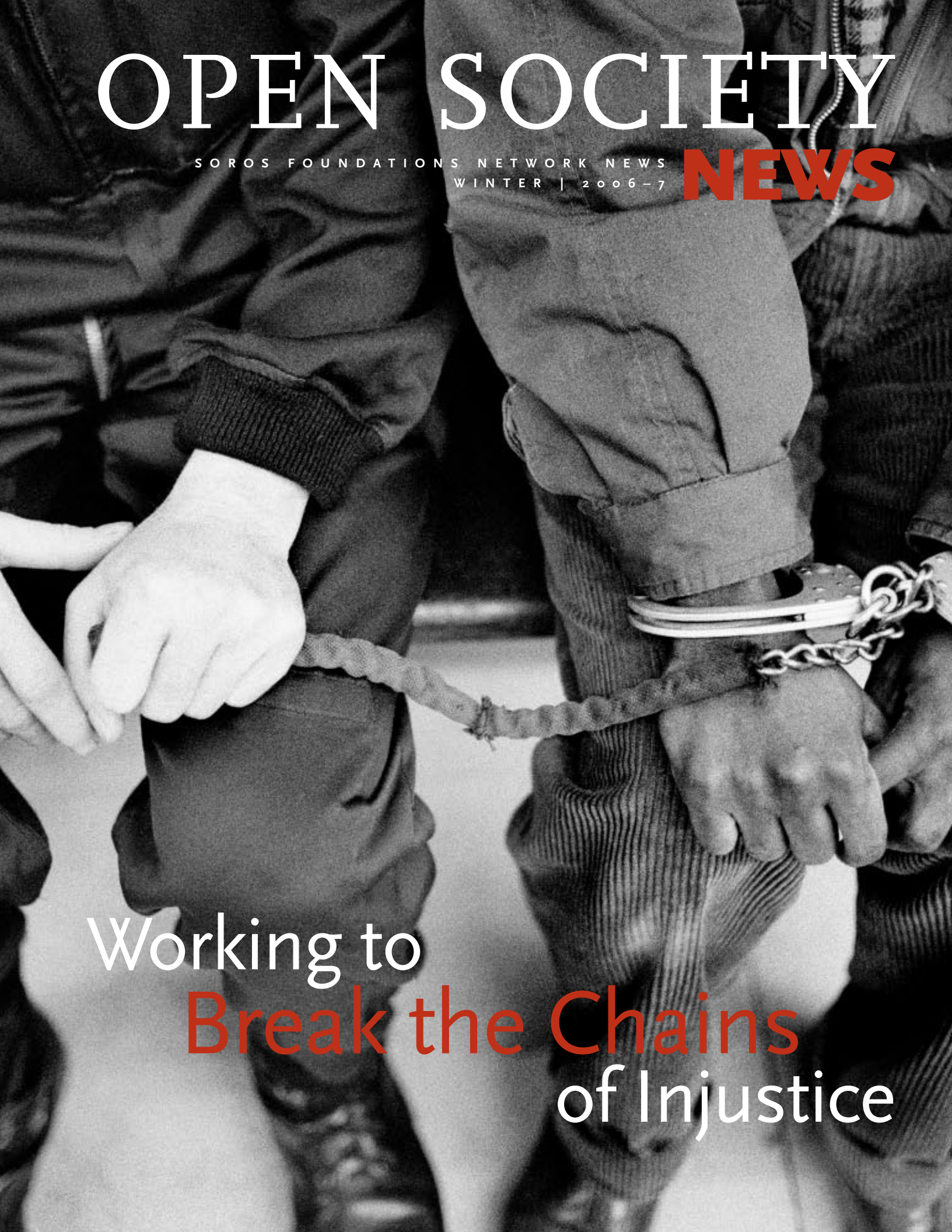
OPEN SOCIETY NEWS

SOROS FOUNDATIONS NETWORK NEWS
WINTER | 2006–7



Working to Break the Chains of Injustice

OPEN SOCIETY NEWS

WINTER 2006–7

SOROS FOUNDATIONS NETWORK

The Open Society Institute, a private operating and grantmaking foundation based in New York City, aims to shape public policy to promote democratic governance, human rights, and economic, legal, and social reform. On a local level, OSI implements a range of initiatives to support the rule of law, education, public health, and independent media. At the same time, OSI works to build alliances across borders and continents on issues such as combating corruption and rights abuses.

OSI was created in 1993 by investor and philanthropist George Soros to support his foundations in Central and Eastern Europe and the former Soviet Union. Those foundations were established, starting in 1984, to help countries make the transition from communism. OSI has expanded the activities of the Soros foundations network to other areas of the world where the transition to democracy is of particular concern. The Soros foundations network encompasses more than 60 countries, including the United States.

Open Society News, published by the Open Society Institute in New York, reports on programs and issues critical to advancing open society throughout the network and the world.

For additional information, see the Soros foundations network website at www.soros.org or contact the Open Society Institute, 400 West 59th Street, New York, NY 10019, USA; TEL (212) 548-0600; FAX (212) 548-4605; or email wkramer@sorosny.org

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EDITOR'S NOTE

War criminals enjoying comfortable retirements while their victims are plagued by unaddressed injuries, loss, and anger. Reporters and parents denied public information crucial to fighting corruption or protecting children from illness. Vast numbers of people having no options to defend their rights because of poverty and scarce legal resources.

The examples above contribute to reducing or eliminating access to justice for millions of people around the world. When inadequate and discriminatory legal systems offer few options for resolving disputes fairly, people suffer injustice and their grievances multiply until, sometimes, they reach the breaking point. Violence and chaos replace the rule of law as frustrated victims take the process of administering justice into their own hands.

This *Open Society News*, the first of a two-part series examining justice issues, focuses on a number of the Open Society Institute's international efforts to increase access to information and legal systems so conflicts can be resolved peacefully in ways that provide an enduring sense of justice. The second part of the series will examine the United States, with a particular emphasis on how issues of race continue to undermine fairness and justice in the American legal system.

The stories in this international edition highlight how OSI and its programs, such as the Open Society Justice Initiative, are working with the international community and local actors to strengthen the rule of law and provide a sense of justice to a growing number of people. Former Liberian president and indicted war criminal Charles Taylor is now behind bars awaiting trial; Cambodians may finally see aging Khmer Rogue leaders put on trial for genocide; journalists and parents in Argentina are organizing and asserting their rights to get public information about media and health policies; and impoverished, isolated communities in Sierra Leone are getting access to the law and resolving conflicts through local paralegals who blend traditional customary law with the formal legal system. Taken as a whole, these and other stories demonstrate that by making legal systems more accessible, we strengthen the rule of law and increase public confidence in its ability to guarantee justice for all.

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Confronting Flawed Justice Worldwide

Open Society Institute President Aryeh Neier describes the development of OSI's justice activities and the fundamental principles guiding OSI's efforts to promote human rights and the rule of law.

ARYEH NEIER

Cell block, Riker's Island, New York City, 2000.

A substantial portion of the Open Society Institute's international grantmaking is devoted to justice issues. We are a leading supporter of global, regional, and national organizations promoting human rights for all; of specialized groups dedicated to the protection of the rights of vulnerable groups such as prisoners, the mentally disabled, ethnic and religious minorities, women, and gays; and of groups addressing specialized issues such as transitional justice, criminal justice, military justice, and press freedom.

Though grantmaking is the largest part of our expenditure on justice issues, OSI has also established an operational program, the Open Society Justice Initiative, that focuses on a number of matters that we believe require additional attention. This issue of *Open Society News* provides some snapshots of how OSI grantmaking and programs such as the Justice Initiative are working to promote human rights and procedural justice in many parts of the world.

OSI established the Open Society Justice Initiative five years ago as a successor to an earlier program, COLPI (Constitutional and Legal Policy Institute), that had focused on creating capacity in the former Soviet bloc countries to address legal issues. As OSI's operations became increasingly global, we needed a new body capable of operating globally and able to deal with shortcomings in justice systems worldwide.

In a relatively brief period, the Justice Initiative has made a substantial contribution. It has had a leading role in the proliferation of freedom of information laws, which have now been enacted in some 65 countries, and in making them meaningful by promoting their implementation; it has been in the forefront of efforts to make effective such international mechanisms for accountability as the *ad hoc* criminal tribunals for Cambodia and Sierra Leone and the International Criminal Court; it has promoted criminal justice reform by addressing pretrial detention practices and by supporting the development of systems for legal aid; it has led the way in challenging racial profiling internationally and in addressing racial segregation in Europe; and much more.

Another significant part of the Justice Initiative's efforts build on COLPI's work in legal capacity development. The Justice Initiative plays a prominent role in promoting clinical law programs worldwide. In addition, it sponsors fellowship programs for lawyers working in the human rights field and has also developed a paralegal program that enhances access to justice for many persons in regions where lawyers are scarce.

OSI's grantmaking in the justice field and the operational programs carried out by the Justice Initiative reflect our commitment to the rule of law as an essential component of an open society; and also our belief that even societies that are relatively open often overlook or ride roughshod over the rights of their weakest and most vulnerable members, such as the mentally disabled or those belonging to minorities, that are feared or looked down upon by others.

The U.S. Supreme Court's Guantánamo decision in June 2006, *Hamdan v. Rumsfeld* (in which OSI grantees played important roles), was a strong affirmation of the importance of the fundamental right of defendants—regardless of who they are or what they are charged with—to have access to the legal system and basic protection of due process of law. The decision was also a reminder that even in countries with well-established legal systems, the basic principles underlying the rule of law can be threatened or disregarded.

As OSI moves forward with its justice-related grantmaking and activities, it will continue to be guided by the fundamental belief that rights must be defended and the shortcomings of legal systems must be addressed in open and closed societies alike.

Stop the Press: Censorship on the Rise in Latin American Democracies

Martha Farmelo of the Freedom of Expression Program at the Association for Civil Rights (Asociacion por los Derechos Civiles) examines how governments are turning to indirect methods of controlling the press and public information as democracy spreads through Latin America.

MARTHA FARMELO

> "Government advertising accounts allow the state to reward papers that tow the government line—and discipline those that dare to question official policies."

When an Argentine activist asked a municipal press officer to justify spending taxpayer money on lavish ads in a local paper warning citizens not to abandon their dogs, the official clenched a copy of the paper in his hand and said: "We purchase *this*!"

With a simple declaration, the press officer confirmed what activists and journalists in the province of Tierra del Fuego understand all too well—government advertising is a subtle and effective way of controlling a supposedly free press.

By selectively spending and withholding advertising money, government officials can exercise control over headlines and content and even publish stories produced by the government itself. And government advertising accounts allow the state to reward papers that tow the government line—and discipline those that dare to question official conduct or policies.

In the province of Córdoba, the municipal government of Villa María canceled all government advertising in 2004 to a local newspaper, *Diario de Villa María,* and refused to pay a debt of 16,000 pesos as apparent retaliation for articles critical of the mayor. The city also ceased sending the newspaper press bulletins and public service announcements on which local inhabitants rely.

As freedom of the press and information spread throughout Latin America, offering citizens greater opportunities to inform themselves and empowering them to pursue social justice, national and municipal governments are stifling democracy through politically motivated use of advertising money and regulations to control the press and access to information. These forms of control are components of indirect censorship systems in Argentina and elsewhere that violate international and regional free expression norms.

The extent of this indirect censorship was brought to light in December 2005 when the Open Society Justice Initiative and the Association for Civil Rights (Asociación por los Derechos Civiles, ADC) published *Buying the News: A Report on Financial and Indirect Censorship in Argentina*. The report uncovered government use of advertising and regulations to censor the press in four provinces and at the national level. Indirect censorship can be particularly powerful in the provinces because local papers that provide residents with vital information often depend on revenues from government advertising to survive.

The analyses and recommendations in *Buying the News* have helped local organizations such as Citizen Participation in Tierra del Fuego develop new legislation to combat indirect censorship. For activists and government officials in Uruguay, the report has also been an effective means of generating momentum for legislation and reforms to safeguard press freedoms.

The many obstacles faced by the producers of *Buying the News* in obtaining government-held information about government advertising and press policies highlight a related issue common to many countries in South America—the lack of legal frameworks and adequate policies for providing citizens with public information.

Without access to public information—a basic democratic right—citizens and civil society groups have much difficulty holding governments accountable, fighting corruption, and obtaining information to help them pursue social justice.

In 1998 in Chile, the Terram Foundation requested public information about the environmental record of a company proposing a controversial logging project that appeared to threaten local biodiversity. The government denied Terram's request and all appeals have been dismissed. The case was eventually brought to the Inter-American Human Rights Court, a regional body that rules on government violations of the American Convention on Human Rights.

The Justice Initiative, ADC, and others presented "friend of the court" briefs shoring up arguments that Article 13 of the convention guarantees everyone's right to access information held by public authorities, and that the Chilean government violated this right. On October 11, 2006, the court ruled that all people have a general right of access to government-held information and ordered the Chilean government to provide the requested information.

In Mexico, FUNDAR, a Mexico City-based anticorruption NGO supported by the Open Society Institute's Latin America Program, obtained government-held information revealing that some 30 million pesos (approximately $3.6 million) of the 2003 national budget for HIV/AIDS prevention was diverted to one nonprofit organization, Pro-Vida. Subsequent investigations showed that the government illegally favored Pro-Vida when distributing funds and that the NGO cannot account for a large percentage of the resources it received. FUNDAR and its NGO partners are monitoring the investigation, pushing for prosecution, and advocating for changes in the distribution of the national budget.

Unfortunately, success stories like those of the Terram Foundation and FUNDAR are the exception rather than the rule in Latin America. Only five countries have national freedom of information laws—a fact that has spurred OSI and several NGOs in the region to initiate public education efforts to promote and strengthen this fundamental right.

"Access to public information sparked the most interest at a civil rights presentation in the impoverished municipality of Florencia Varela," said Mariela Belski, coordinator of the ADC's Access to Public Information Program. "Many parents were frantic about the lack of vaccinations for their children, and wanted to make public information requests right away."

ADC and other groups are also working with officials by recommending measures on issues such as helping illiterate persons make requests, developing systems to avoid bureaucracy and keep track of inquiries, and training information officers on their obligations under the law.

As many countries in Central and South America continue to undergo democratic transitions, it is clear that press freedoms and access to information must be monitored and strengthened. Defending and expanding these basic rights will ensure that information critical to obtaining justice—whether it be to expose corruption, prevent environmental destruction, or improve public health—is available to all.

FOR MORE INFORMATION

To find out more about OSI activities in Latin America, go to www.soros.org/initiatives/lap. To learn about ADC, go to www.adc.org.ar. Information about FUNDAR can be found at www.fundar.org.mx.

The End of Impunity for Charles Taylor

The extradition of Charles Taylor from Nigeria to Sierra Leone and then to The Hague to stand trial for war crimes was a major accomplishment for justice activists. Chidi Anselm Odinkalu, the Open Society Justice Initiative's senior legal officer for Africa, describes the civil society campaign that ended Taylor's asylum.

CHIDI ANSELM ODINKALU

In 2003, former Liberian president Charles Taylor, a fugitive accused of orchestrating atrocities in Sierra Leone, began a comfortable exile in a Nigerian villa at the invitation of Nigerian president Olusegun Obasanjo. Within three years, Taylor was in handcuffs on a helicopter bound for Sierra Leone to stand trial for war crimes.

Taylor is now waiting in The Hague to face the 11 judges of the United Nations-backed Special Court for Sierra Leone and the story of bringing him to justice is far from over. Yet the process of getting him to trial demonstrates that justice advocates can successfully challenge the impunity that powerful human rights violators often seem to enjoy.

The Nigerian government's initial offer of allowing Taylor, his family, and his entourage to reside in a government guest house was somewhat understandable. Getting Taylor out of Liberia, where he was accused of provoking and prolonging Sierra Leone's decade-old civil war, seemed like a quick and quiet way of muzzling a primary source of violence and instability in the region.

Yet Nigeria's pragmatism was challenged by a legitimate sense of outrage among human rights activists and the survivors of Taylor's violent campaigns. Taylor seemed undeserving of asylum from Nigeria, and it appeared that he was going to completely get away with the atrocities for which he stood accused.

Advocating the return of Taylor to face justice in Sierra Leone required a many-sided effort that balanced bringing peace to the region with giving justice to people whose rights and lives had been brutally violated.

Shortly after Taylor settled in the city of Calabar on the Nigerian coast, the Open Society Justice Initiative brought together human rights advocates and survivors of Taylor's violent campaigns to examine the legal basis of Taylor's presence in Nigeria. According to their investigations, Nigerian and international law prohibited the kind of asylum that Taylor had received because he was an indicted war criminal. Formal requests by the Justice Initiative asking Nigerian authorities to review Taylor's asylum were ignored, and several attempts to meet with the Nigerian government about the matter failed.

In May 2004, justice advocates shifted tactics and turned to Nigeria's Federal High Court. On behalf of David Anyaele and Emmanuel Egbuna—two west African businessmen who were set on fire and had their arms hacked off in 1999 by Taylor's militias in Sierra Leone—the Justice Initia-

> Advocating the return of accused war criminal Charles Taylor required a balance between bringing peace to the region and giving justice to people whose rights had been brutally violated.

LEFT **Former Liberian president Charles Taylor being transferred in Liberia to a helicopter bound for Sierra Leone, March 29, 2006.**
ABOVE **A guard at the gate of the compound for Special Court for Sierra Leone defendants, Freetown, Sierra Leone.**

tive began legal proceedings to lift Taylor's asylum and bring him to trial.

To bring public and official attention to the case and the issues it raised, local and international human rights groups formed the Coalition Against Impunity (CAI).

The coalition brought together over 345 NGOs in 17 African countries to ensure that Taylor would stand trial for the international criminal indictments against him. The CAI included the Open Society Justice Initiative, Amnesty International, Human Rights Watch, the Nigerian Coalition on the International Criminal Court, and the Transitional Justice Working Group in Liberia.

As the case proceeded, the details of the vicious attack on Anyaele and Egbuna and their courage as plaintiffs helped build support for examining Taylor's asylum status. Many senior government officials who had previously ignored the case began to quietly voice sympathy for the issues and victims. During the proceedings, the Nigerian government formally acknowledged that it had indeed offered asylum to Taylor, a likely violation of Nigerian and international law. Taylor's publicist, however, claimed that his stay in the country was a political arrangement not subject to Nigeria's judicial process—a statement that further alienated Taylor from the Nigerian public and his host government.

Although opposition to Taylor's presence was building among the public and within some sectors of the Nigerian government, the official response was to delay the court proceedings for months and intimidate human rights advocates affiliated with CAI. International pressure, however, eventually forced the government to end its surveillance and harassment activities.

After 18 months of legal wrangling, Nigeria's Federal High Court in November 2005 threw out the government's objections and upheld the rights of Anyaele and Egbuna. The ruling effectively removed any legal basis for Taylor's asylum in Nigeria. The government, however, initiated a new set of delays by promptly appealing the ruling.

In Liberia, CAI members had raised Taylor's impunity as an issue for candidates in the 2005 elections. In March 2006, Liberia's newly elected president, Ellen Sirleaf Johnson, presented President Obasanjo with an official extradition request for Taylor. Johnson's appeal, coupled with the court finding against Taylor's asylum and the efforts of the CAI to galvanize opinion against Taylor's continued stay in Nigeria all combined to estrange Taylor from his host government and put him on a helicopter to Sierra Leone.

The process that transferred Taylor from a villa to a holding cell is a testament to the use of coalitions, public outreach campaigns, and the legal system to pursue justice by overcoming the challenge of impunity. One of the most significant legacies of the effort to bring Taylor to court is the formation of the CAI. The campaign has started examining other cases involving impunity and human rights abuses in Africa and will continue to provide resources and expertise to justice advocates working to bring human rights violators to trial.

FOR MORE INFORMATION

To read about the history and latest developments regarding efforts to bring Charles Taylor to justice, go to www.justiceinitiative.org/activities/ij/taylor; and the Special Court for Sierra Leone at www.sc-sl.org

Citizenship: A Key to Rights and Justice

Julia Harrington, Justice Initiative senior legal officer for equality and citizenship, examines how citizenship continues to be a crucial but underacknowledged ingredient for protecting and expanding fundamental human rights.

JULIA HARRINGTON

Why was Adam Hussein Adam thrown off Kenya's national rugby team and not allowed to leave the country?

The answer lies in a fundamental but overlooked human rights issue: denial of citizenship.

"I was 22 years old and had grown up in Kenya when I found out my citizenship was in question," said Adam at a 2006 Open Society Institute forum. "I was selected to represent Kenya as a member of the national rugby team. Yet as soon as Kenyan officials learned I was of Nubian descent, they asked me to provide a document they knew I would not have—my great grandfather's birth certificate."

In addition to barring Adam from the national team, the refusal by Kenyan officials to recognize his citizenship and give him a passport prevented Adam from furthering his chemical engineering studies in New Zealand and from taking a job in Somalia. In all, it took Adam 10 years of cajoling and paying various "fees" before he was recognized as a citizen in 2000.

Lack of citizenship also has a high price for ethnic Haitians in the Dominican Republic. Although the principle of *jus soli*—meaning that anyone born on Dominican territory is a citizen—is in the country's constitution, recognition and proof of this citizenship is routinely denied to people like Sonia Pierre, the daughter of Haitian migrant workers.

According to Pierre, lack of citizenship means "no rights and no access to education, health care, and other public services."

Poverty and political instability prevent Haiti from assisting Haitians in the Dominican Republic. Meanwhile, the Dominican government denies the citizenship of ethnic Haitians born in the country, threatens ethnic Haitian activists, and tolerates rising nationalist, anti-Haitian violence.

"This is what happens when you are in legal limbo," said Pierre. "We do not exist for the Haitian government. We do not exist for the Dominican government."

The struggles of Adam and Pierre highlight the importance of citizenship to the enjoyment of human rights. Yet there is no clear, strong, and universal recognition that citizenship itself is a crucial right that serves as the foundation for many others. Today, lack of citizenship prevents millions of people across the globe from exercising basic human rights.

Far from regarding citizenship as a human right, states fiercely guard control over it as a key element of sovereignty. Some countries' citizenship laws contain explicitly racist or discriminatory criteria. Other countries,

like Kenya and the Dominican Republic, simply discriminate in practice. Courts in many countries refuse to exercise jurisdiction over citizenship cases. Instead, citizenship provisions are implemented in administrative procedures devoid of transparency and independence and due process norms such as the right to counsel. The result is denial of citizenship to many individuals who are entitled to it.

Immigration activists in the Dominican Republic such as Pierre have begun to challenge the state's biased and selective granting of citizenship. In October 2005, a ruling by the Inter-American Human Rights Court determined that the government must respect the constitution's principle of *jus soli* and provide citizenship to all children born in the Dominican Republic. However, the Dominican Republic has refused to abide by the ruling, claiming it is an infringement upon its sovereignty and that Haitian immigrants are an exception to its application of *jus soli*. The government is now moving to amend the constitution to remove the *jus soli* principle.

To combat arbitrary state policies on nationality, human rights activists must develop clear, simple, and universal principles to underpin a citizenship norm. These principles would provide guidance for government policy and a universal standard for assessing state practice.

Two basic principles would do much to resolve most of today's statelessness: Granting citizenship based on where an individual was born, or on the length of residence in the country where he or she is seeking citizenship.

The principle of *jus soli* is fairer than the principle used by a majority of the world's countries, *jus sanguinis*, by which children inherit citizenship from their parents. *Jus soli* eliminates discrimination against women that occurs when states recognize citizenship as passed only from the father. *Jus soli* also solves the problem of children born to stateless parents. And *jus soli* gives every child immediate citizenship, while still leaving the option for states to grant citizenship to the children of their citizens, even if the children are born outside of the country.

Where a person is born, however, is not always the best determinant of citizenship. Residency is often a better basis for citizenship than *jus soli*, because it even more closely correlates with where an individual has the strongest links. If residency could convey citizenship, it would challenge the discriminatory ethnic or racial criteria that countries like Kenya and the Dominican Republic often invoke as prerequisites for citizenship, but which are impermissible as the conditions for any other right.

States' objections to granting citizenship based on residency—that members of certain ethnic groups or that those who enter illegally do not "belong"—ring hollow in the face of long-term residence. Nubians like Adam Hussein Adam have lived in Kenya for a century. Sonia Pierre and many other ethnic Haitians have now lived in the Dominican Republic for generations. To deny citizenship to these groups is to deny them the protection of the only state relevant to them.

Citizenship based on effective links to a country could be applied so that illegal entrants could be subject to deportation before they formed strong links—for example, within the first three years of entry. However, if these individuals remain as productive, law-abiding members of the society, each additional year of residence would strengthen their right to stay and they should eventually be entitled to citizenship.

If citizenship were properly treated as a right, another important principle to adopt would be for states to bear more of the burden in disputes about nationality and citizenship. Currently, most states place the burden on individuals to "prove" their entitlement to citizenship. States have the power to impose any requirement for citizenship and to thereby selectively deny citizenship by withholding necessary documents or changing the requirements. The result is often that citizenship is determined not by an individual's presence in and commitment to a country, but rather by his or her ability to cajole or bribe bureaucrats into issuing the necessary papers.

The ideas above provide a starting point for dialogue on how to end citizenship's status as the orphan of human rights thinking and activism. The sooner advocates, legal scholars, and politicians come together and develop a comprehensive citizenship norm, the sooner we will be able to bring rights and justice to those who continue to suffer in the limbo of statelessness.

FOR MORE INFORMATION

To learn more about statelessness and citizenship issues go to www.justiceinitiative.org/statelessness_meeting; Refugees International at www.refintl.org/content/issue; and the United Nations at www.unhcr.org/protect/3b8265c7a.html

OPPOSITE PAGE **Immigrants take the oath of American citizenship, Ellis Island, New York, 1996.**
BELOW **A Haitian migrant cuts sugarcane in Barahona, Dominican Republic, 2003.**

The Death Penalty: Cruel and Unusual

Of the over 190 countries in the world, 128 have abolished the death penalty—including all advanced democracies except for the United States—with over 40 countries joining this group within the last 15 years. Yet capital punishment continues to be used in a significant number of countries, including China, Iran, Iraq, and in the United States at the federal level and in 38 states and the District of Columbia. Two death penalty abolitionists, Shami Chakrabarti, director of Liberty, a U.K.-based NGO, and Bryan Stevenson, director of the Equal Justice Initiative in Montgomery, Alabama, spoke to *OSN* about efforts in Europe and the United States that have challenged the death penalty as barbaric and incompatible with societies that claim to respect human rights.

How did the campaign to abolish the death penalty originate in Europe? Is abolition vulnerable to reversal on the European continent?

SHAMI CHAKRABARTI (SC): European abolition efforts, which gained traction after World War II, concluded in 2002 with unequivocal and absolute prohibitions on capital punishment that are now part of the laws of both the European Union and the Council of Europe. Russia and Azerbaijan are the only states to either not ratify or sign the prohibitions. Moral arguments such as an individual's right to life as a basic value and the state's duty to protect citizens rather than sanction and carry out their killing were especially compelling. Discovery of cases—even within rigorous legal systems—in which the wrong people were convicted and/or executed also helped make the death penalty unacceptable to many Europeans.

The complex legal and political connections between abolition and joining the European Union make it difficult for an individual country to restore capital punishment and retain EU membership. In the current climate, a reversal of position by the EU and the Council of Europe is unimaginable. However, if the recent obsession with law and order politics were to continue in Britain and gain wider European currency or the largely discredited "war on terror" metaphor somehow regained popularity, there could be an increase in the vulnerability to reversal.

What lessons does Europe hold for abolitionists in the United States and other countries where the death penalty continues?

SC: I suppose the European historical lesson would be that gradual abolition can work. In Britain, the approach was first to reduce use of the death penalty in combination with abolishing it for more and more crimes and categories of offender. These steps were followed by temporary legislative moratoria of the death penalty for, say, five years at a time. These suspensions then paved the way for permanent quasi-constitutional abolition. Miscarriage of justice causes celebres were also very helpful in advancing the abolitionist campaign in Britain.

BRYAN STEVENSON (BS): One lesson from the European experience for abolitionists in the United States would be to highlight capital punishment as a form of human rights abuse and make it a factor in decisions by foreign economic actors investing in American states. Attracting European investment has been very popular in America's Deep South, where 80 percent of all U.S. executions have taken place in the last 30 years. Calling the attention of businesses to capital punishment as a human rights concern could be particularly influential in this region. Abolitionists should prompt foreign investors, particularly those from Europe, to consider whether a state's stance on capital punishment squares with laws and practices in that firm's home country. Conversely, states competing for investment can use their death penalty status to distinguish themselves as being either greater or lesser supporters of human rights.

Since 2002, the U.S. Supreme Court has held that the Eighth Amendment's prohibition against cruel and unusual punishment bars the execution of two groups of people with limited capacity to understand right from wrong—the mentally retarded and juveniles under the age of 18. Will the death penalty be abolished for other groups in the United States, such as those with mental illness?

BS: The U.S. Supreme Court's recent decisions to ban the death penalty for these groups have been significant victories. Although the decisions affect less than 5 percent of the nearly 3,500 people currently on death row in America, the Court has indicated it is willing to use the Eighth Amendment to impose some limitations on the use of the death penalty. The Court also relied on the trend among state legislatures to ban the death penalty for juveniles and the mentally retarded, and the Court's decision on juve-

niles made reference to international norms in assessing the acceptability of capital punishment for children. It is likely that there will be a continuing push to ban the execution of any severely mentally ill person, not just the mentally retarded. Too many people on death row are there because of mental illness and disability that went untreated or unrecognized. Executing people for being disabled and sick is cruel and unusual and should be recognized by the Supreme Court as such.

Overall, the number of executions and new death sentences has been decreasing recently and the death penalty is no longer viewed as "100 percent good" in American political culture. Persistent questions about bias and discrimination, the guilt or innocence of many condemned prisoners, and the cost of capital punishment have made it so burdensome that it may eventually collapse under the weight of these problems.

In light of the majority opinion in the U.S. Supreme Court decision *Roper v. Simmons*, which cited international covenants that prohibit the execution of minors, are American lawyers and activists looking to increase the use of international law arguments to challenge the death penalty?

BS: International law will play an increasing role in civil rights and human rights litigation in the United States, with the death penalty possibly at the forefront of applying international law, norms, and values to the American legal system. While there was great resistance in some quarters to Justice Kennedy referencing international law in *Roper v. Simmons*, American courts are becoming more acquainted and responsive to international law as the world becomes smaller and globalization emerges as a dominant force shaping the 21st century.

OPPOSITE PAGE **Execution gurney at a United States prison, 2005.**
ABOVE **Protesters holding candles outside a United States prison during an execution, 2005.**

I think the death penalty has always been a human rights issue rather than just a criminal justice issue. Every society has the right to protect itself from criminal behavior. However, executions express something powerful about how we value human life, about our character, and about our commitment to human dignity. The death penalty offends basic core values at the heart of human rights. We must distinguish this barbaric act as conduct that cannot be confined to the realm of criminal justice or law enforcement policy.

Is the debate over the death penalty affected by the fight against terrorism? Does the fear of terrorism fuel efforts to restore the death penalty in Europe or expand the use of the death penalty in the United States?

SC: Periodically, terrorism crops up as a modern justification for restoring the death penalty. However, with the exception of a few maverick tabloid newspaper columnists, discussion of restoration in Britain is not very prevalent and is overshadowed by arguments about deportation, internment, and racial profiling.

Yet just as WWII delayed abolition in the United Kingdom, the current "war on terror" is unlikely to be conducive to abolition in the United States. In a more reflective post-Bush or post-war on terror period, Americans and their leaders might become uncomfortable with the international company the United States keeps by retaining the death penalty—in 2005, 90 percent of the world's executions occurred in four countries: China, Iran, Saudi Arabia, and the United States. An American abolitionist campaign could be part of a new agenda focusing on human rights values as crucial to liberty and democracy and seeking to place the United States in a real leadership position in the democratic world.

BS: Terrorism and the exploitation of terrorism have created enough anger, fear, and violence to make capital punishment appear less significant as a crucial human rights concern. In the United States, the substantial progress made toward restricting the death penalty was unquestionably slowed by the crimes of September 11. Government policies of retribution and violence that foster tolerance of killing people for some greater purpose present a serious challenge. Abolitionists must remind everyone that you judge the character of a society not by how it treats the rich, privileged, protected, and powerful, but rather by how it treats those who are poor, hated, disadvantaged, and disempowered. Responding to terrorism will require that we not simply mimic the violence and cruelty that victimize so many people in the world.

How close are we to living in a world in which the death penalty has been abolished in every nation?

SC: I am 37-years old. My son is four. I think it perfectly possible that the death penalty will be abolished in all but one or two pariah states within my lifetime. I am confident that this will be the case within my son's lifetime.

BS: We have a lot to overcome before we live in a world without the death penalty. However, I do think abolition in the United States, and in every Western democracy, will advance abolition elsewhere. Since many nations point to America regarding capital punishment, abolishing the death penalty here will be crucial to ending it worldwide.

FOR MORE INFORMATION

More information about these issues is available at www.liberty-human-rights.org.uk; and www.eji.org

Justice Detained:
The Impact of Pretrial Detention in Nigeria

Attorney and codirector of the Rights Enforcement and Public Law Centre Felicitas Aigbogun describes how civil society groups are trying to improve Nigeria's criminal justice system by challenging abuses of pretrial detention.

FELICITAS AIGBOGUN

Nigerians live in an Alice in Wonderland criminal justice world where flimsy evidence and wild claims prompt police to arrest people first and conduct investigations later.

Consider the case of Muazu and Isah Ibrahim. The two brothers were arrested in 2003 based on allegations made by the nephew of a man who had gone missing 10 years earlier. The police had no body and no witnesses, only new accusations from a nephew who may have been embittered by an old land dispute between the brothers and his uncle. Yet, Muazu and Isah languished in jail for three years before being released on bail in 2006.

The Ibrahim brothers are just two of the many thousands of people

> A lecturer at a state polytechnic college received project help that reduced his detention from possibly weeks or months to only a few hours.

who have been swept up in an epidemic of pretrial detention fueled by the multiple failures of Nigeria's criminal justice system.

A 2005 audit of the country's prisons revealed that pretrial detainees constituted about 63 percent of the 42,000 prisoners in Nigeria's prison system. The average period of pretrial detention in Nigeria is three and a half years, even though the constitution requires the arraignment of detainees before a court within 48 hours and trials for accused persons within a reasonable period of time.

Several factors drive the daily practices that fuel the unlawful use of pretrial detention in Nigeria.

As demonstrated by the case of the Ibrahim brothers, Nigerian police are quick to arrest first and ask questions later—a practice that defies the widely accepted principle of only arresting someone if an initial investigation links them to a crime. After making an arrest, Nigerian police start their investigation and can only release or prosecute a suspect with authorization from the director of public prosecutions, a process that can sometimes take more than five years. Meanwhile, the suspect remains in jail.

When suspects eventually make it to a court room, police frequently bring suspects before courts that lack the jurisdiction to try them, yet these courts will often commit suspects to prison custody anyway until the police finish their investigation. As it stands, Nigerian courts are not required to set time limits on investigations or monitor the duration of pretrial custody.

Dysfunctional court procedures are compounded by the near total failure of coordination and information management among the various state and federal criminal justice agencies. Responsibility for investigating crimes and managing evidence rests with the police, a federal-level agency in Nigeria. Yet 90 percent of the country's crime occurs at the state and local level. And most trial courts are state-level institutions whose prosecutors rely heavily on supervision and authorization from federal officials and agencies. These multiple layers and widespread dependencies lead to frequent miscommunication, loss of documents, and sluggish procedures that add to the length of a suspect's detention.

Finally, most suspects do not receive access to legal representation at the beginning of their detention. The police frequently deny suspects contact with family or lawyers until they have incriminated the suspects or extracted confessions—often through coercion. A 2005 presidential committee found that 75 percent of suspects in pretrial custody did not have any legal representation. Most Nigerians cannot afford private legal representation and the state-funded Legal Aid Council provides limited coverage in state criminal courts.

Because of the sluggishness of Nigeria's court system, litigation can take years and has done little to reduce pretrial detention. Instead, civil society organizations have started to challenge excessive pretrial detention by implementing strategies to better coordinate Nigeria's numerous criminal justice agencies. One such initiative, the Legal Aid and Pretrial Detention Project, is the result of a partnership between the Nigerian police, the Open Society Justice Initiative, the Legal Aid Council of Nigeria, and the Rights Enforcement and Public Law Centre, a Nigerian nongovernmental organization.

Started in 2005, and currently operating in six Nigerian states, the project works with the police to set up a case file management system from the moment of arrest and ensures that cases move expeditiously among various national and local agencies and levels of administration. The project monitors the processing of pretrial detainees and the issuing of detention orders by having project lawyers on 24-hour call at designated police stations to provide legal assistance as soon as suspects are detained. The project has also worked with chief judges at the state level to create a mandate requiring them to monitor pretrial custody cases and limit their duration to nine months.

Adubi Emmanuel, a lecturer at a state polytechnic college, received project help that reduced his detention from possibly weeks or months to only a few hours.

Emmanuel was arrested in January 2006 after providing a loan guarantee for a man who subsequently fled the country. A long detention could have worsened Emmanuel's already poor health and jeopardized his job by taking him away from work in the midst of a busy academic year. Two project lawyers assigned to the police station negotiated with the chief investigating officer and quickly obtained Emmanuel's release on bail. He went back to his teaching job, and his health improved.

Overall, during the first six months of its pilot phase, the project helped reduce the duration of pretrial detention by 60 to 35 percent in three states. Another state reduced pretrial detention by more than 200 percent. The government is now considering a criminal justice bill inspired by the project that would place a one-month cap on pretrial detention throughout Nigeria.

In May, the government, the Open Society Justice Initiative, and the Legal Aid Council signed an agreement to extend the project to 18 of Nigeria's 36 states by 2008. The project's expansion and new legislation should help ensure that detained individuals have access to legal advice and assistance. Immediate and effective legal representation for detainees will also prompt the police and prosecutors to respect the constitutional presumption of innocence and comply with due process provisions.

Although much work remains to be done, the Legal Aid and Pretrial Detention Project and other civil society–government efforts hold the promise of bringing efficiency and fairness to Nigeria's pretrial detention system.

FOR MORE INFORMATION

To find out more about justice reform efforts in Nigeria, go to www.justiceinitiative.org/regions/africa/southafrica/index

European Court Fails to Challenge Discrimination

Open Society Justice Initiative Director James Goldston examines two recent European Court of Human Rights decisions that failed to advance efforts to fight discrimination and further social justice.

JAMES GOLDSTON

> The court's recent decisions in two human rights cases fly in the face of promising antidiscrimination developments in the EU. Yet, the court still has a chance to reconsider its approach to equality issues.

In the past year-and-a-half, the European Court of Human Rights in Strasbourg—one of the most respected tribunals in the world—has enjoyed two major opportunities to underscore the importance of equal treatment for marginalized groups. In both cases, the court shied away from vigorously defending equal rights, and declined to overturn rules and practices that limit the educational opportunities and upward mobility of two vulnerable groups.

In November 2005, the court's Grand Chamber (its most authoritative body) made a sweeping decision that gave Turkey's government carte blanche to ignore the deeply felt preferences of Turkish Muslim women who consider it their duty to wear the Islamic headscarf. The case, *Leyla Sahin v. Turkey*, arose after university authorities barred a woman medical student from taking examinations in defiance of a rule forbidding students whose "heads are covered" from admission to courses.

Leyla Sahin was not associated with a fundamentalist Islamic group. She had not pressured anyone to wear a headscarf, nor had she felt pressure to wear one. Her choice of dress had caused no disruption, and there was no indication that she had engaged in disorderly conduct. Nonetheless, the court held, by a vote of 16 to 1, that the ban on headscarves violated neither Sahin's freedom of religion nor her right to education without discrimination. As a result, thousands of women in Turkey have been denied the opportunity to pursue higher education.

The *Sahin* case addressed the claims of religious Muslims—a substantial proportion of the Turkish public, notwithstanding the state's official secularism. The court's other disappointing decision dealt with the Roma, a distinct and long-oppressed minority.

In February 2006, the court's Second Section, an ordinary chamber composed of seven judges, issued a judgment in *D.H. and Others v. Czech Republic,* a case brought on behalf of 18 Roma children who had been assigned to remedial schools for the "mentally deficient" in the city of Ostrava in the Czech Republic. In some countries, special schools and classes may allow teachers to provide more individualized attention to children with special needs. In many parts of Central and Eastern Europe, however, schools for the "mentally deficient" often serve as no more than warehouses for Roma children. The level of education provided in these schools is well below that of normal schools, and leads almost inevitably to lives marked by low-wage jobs, pervasive unemployment, and poverty.

The evidence in this case showed that more than half of Ostrava's Roma children were assigned to special schools and that more than half of the children in these special schools were Roma. All told, Roma children were more than 27 times more likely than non-Roma to be sent to such schools. A United Nations expert body has characterized this treatment as racial segregation, plain and simple.

The court, however, was unmoved. Although it recognized that the claimants had raised "a number of serious arguments," the court held that, absent a showing of discriminatory intent on the part of school testers and administrators, the pervasive reality of racial disadvantage was not unlawful. In so holding, the court departed without justification from the prevailing standard in discrimination cases under European and international law.

These two decisions are particularly disappointing, in view of the increasing prominence within European public debate of the continent's growing ethnic and religious diversity, the speed and manner of immigrants' integration, and the continued viability of "multiculturalism" as social policy. They are also at odds with the expanding rhetorical commitment to equality evidenced in recent years among European politicians and administrators. Two binding European Union directives which came into force in 2003 mandate equal treatment in many spheres of public life and set clear and high standards against which discriminatory practices are to be measured. The European Commission has proclaimed 2007 the European "year of equal opportunities." Within the Council of Europe, institutions such as the European Commission against Racism and Intolerance and the Commissioner for Human Rights have made significant headway in raising the profile of equality as an issue on the agenda of European governments.

The court's decisions in *Sahin* and *D.H.* fly in the face of these promising developments. And yet, the court has one more chance in the very near future to reconsider its approach to equality issues. In July 2006, at the request of the 18 Roma children who first sought European Court redress back in 2000, the Grand Chamber agreed to review the Second Section's decision in *D.H.* The Grand Chamber traditionally reviews only a small portion of the court's judgments. The fact that it has agreed to hear the case raises at least the possibility of revising the all-too-narrow concept of nondiscrimination law that underpinned the February 2006 ruling.

The referral gives the Grand Chamber an opportunity to reaffirm and clarify Europe's commitment to equal justice. Oral arguments took place in January 2007. A decision is expected in the first half of the year. All those concerned with Europe's future will be watching.

**James Goldston is co-counsel for the applicants in the* D.H. and Others v. Czech Republic *case. Please email comments/inquiries about these cases to:* jgoldston@justiceinitiative.org

FOR MORE INFORMATION

To find out more about the Czech Republic case, go to www.errc.org and www.justice initiative.org. For commentary on the first EU court ruling in Turkey, go to http://hrw.org/english/docs/2004/07/01/turkey8985.htm

Muslim women protest in Istanbul against school and public office head scarf ban in 1998.

Three Decades After Two Million Killings, A War Crimes Tribunal Begins

Tracey Gurd and Kelly Askin of the Open Society Justice Initiative report on Cambodia's latest efforts to bring justice and closure to one of the bleakest chapters in its history.

TRACEY GURD AND KELLY ASKIN

In July 2006, prosecutors began the job of assembling cases at Cambodia's new war crimes court, the Extraordinary Chambers in the Courts of Cambodia (ECCC). This court is the first serious, systematic effort to try the persons most responsible for the mass murder, torture, and other misery inflicted upon civilians in Cambodia from 1975 to 1979, the years Pol Pot and the Khmer Rouge led "Democratic Kampuchea," the years nearly two million people lost their lives.

Despite its seemingly clear mandate to address the injustice created by the Khmer Rouge, the court continues to be hobbled by controversy.

Supporters embrace the court as Cambodia's last chance to prosecute Khmer Rouge leaders who have escaped justice for three decades.

"If we don't have this court, I am afraid that the Pol Pot regime will happen again one day," said a 53-year-old Cambodian farmer when asked what the court meant to him. "People may still be angry, and

they cannot release their anger unless we have a court to bring justice for them."

Critics predict that political interference will undermine these trials and build on deep public disillusionment with accountability processes for this period. The last, and only, trial designed to deal with these atrocities was the People's Revolutionary Tribunal, which sentenced Pol Pot and Ieng Sary, another top Democratic Kampuchea leader, to death in 1979 after finding them guilty in absentia of genocide. Neither man served a day in prison. Cambodia's king pardoned Ieng Sary in 1996. Pol Pot died a free man two years later.

CREATING A COURT

For the past three years, the Open Society Justice Initiative has supported efforts to establish a new war crimes court that satisfies a deep need for justice among many Cambodians and also guarantees fair trials and impartial verdicts for all participants.

The Justice Initiative has worked to present officials responsible for designing and implementing the court with the views of lawyers, nongovernmental organizations, political leaders, diplomats, and other professionals. The Justice Initiative has also collected a wide range of opinion from ordinary citizens across rural Cambodia, which is home to about 85 percent of the country's people as well as the vast majority of the Khmer Rouge's victims.

The new court's Cambodian and international administrative personnel began work in Phnom Penh in February 2006. Cambodian judges and justices from Australia, Austria, France, Japan, the Netherlands, New Zealand, Poland, Sri Lanka, and the United States will preside over upcoming trials in a former military compound on Phnom Penh's outskirts. Other court personnel will include investigating judges, prosecutors, and defense counsel; the international prosecutor is from Canada; the international court administrator is from China; and several of the ranking international professionals are women. Foreign donors, particularly Japan, have provided most of the funding, but the Cambodian government must find funding for part of the court's operations.

THE CHALLENGES OF PERCEPTIONS AND EXPECTATIONS

While some Cambodians see the court as a way of bringing their country long-term peace, others are more skeptical. "I think this is a waste of money" said a 47-year-old small business owner. "This is a small case and Cambodia is a small country—we could use the money for other things."

Sentiments such as these coupled with the fact that the court is drawing most of its judges from Cambodia, where the judicial system is weak and susceptible to government interference, underscore the need for the court to be as transparent as possible. The Justice Initiative worked to address these issues by placing a full-time monitor in Phnom Penh in October 2005 to evaluate whether the court is meeting minimum due process and fair trial standards.

As of February 2007, key areas of concern—including allegations of serious corruption, the adequacy of witness protection, judicial independence, the competence and availability of investigative resources, and the ability of foreign lawyers to fully and independently participate as defense counsel in a list approved by the ECCC—remain. Meeting international standards will allow the court to provide a measure of justice to the victims and gain the respect of the international community and, most importantly, the Cambodian people.

In addition to functioning properly, the court must adequately inform and respond to the public. Its ability to render justice must be accurately described to the public so expectations do not exceed the realities.

Many Cambodians assume the court will provide compensation for victims and their survivors, indict and punish low-level perpetrators, prosecute leaders from other countries that supported the Khmer Rouge, and hold a posthumous trial of Pol Pot.

The reality is that the court is budgeted to operate for three years and will prosecute fewer than a dozen individuals. No victim-compensation fund currently exists. No foreigners will be tried. And no trial of Pol Pot will take place.

The Justice Initiative is working to make sure that the court gives a high priority, and dedicates significant funds, to explaining these and other limitations to rural Cambodians—whose literacy rates tend to be low—as well as engaging them in a meaningful way and listening to their thoughts and ideas about the court. The Justice Initiative team, in collaboration with the Khmer Institute for Democracy, has been traveling to rural communities showing videos and hosting discussions about the court and obtaining information about how the court and the justice process is perceived. Other NGOs have organized community forums throughout the provinces often involving high-level ECCC officials.

> "The court's ability to render justice must be accurately described to the public so expectations do not exceed the realities."

By working to make the court more comprehensible and accessible to ordinary Cambodians, this outreach can allow people to engage with their history and experiences, address issues of racism against non-Khmer Cambodians, and contribute to the story of how even powerful individuals responsible for mass atrocities can be held accountable for their actions.

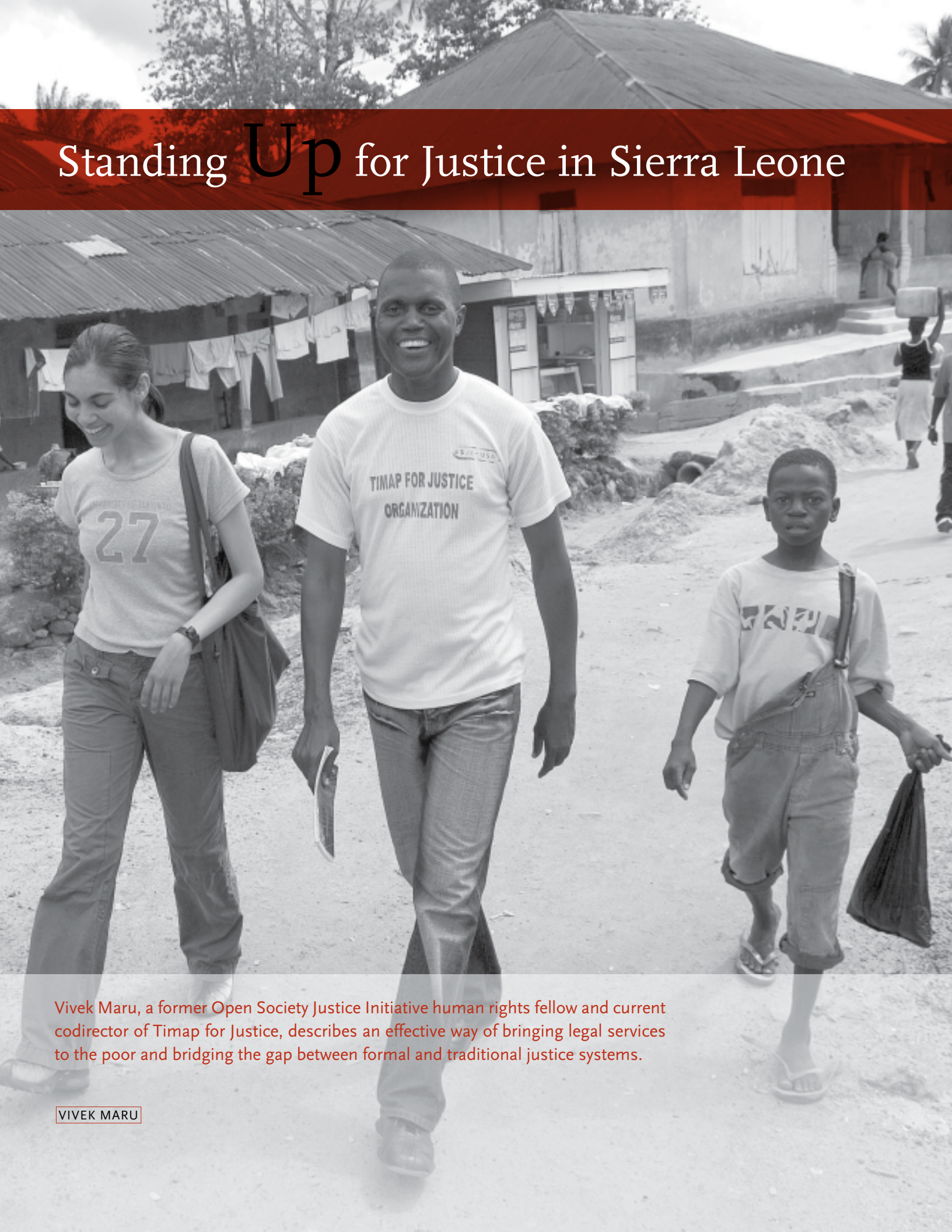
One Cambodian man expressed optimism that the court will rise to the occasion, engage the Cambodian people and meet standards of due process: "This tribunal will be a model, not only for the Cambodian people, but also for all the world's people." Time and events will tell, but the Justice Initiative remains committed to helping Cambodia make the most of its last, best chance at justice.

FOR MORE INFORMATION

To find out more about the tribunal, go to www.justiceintiative.org/activities/ij/krt; and www.eccc.gov.kh

OPPOSITE PAGE **Cambodian Buddhists at opening ceremonies of the new war crimes court to try former Khmer Rouge leaders, February 26, 2006.**

Standing Up for Justice in Sierra Leone



Vivek Maru, a former Open Society Justice Initiative human rights fellow and current codirector of Timap for Justice, describes an effective way of bringing legal services to the poor and bridging the gap between formal and traditional justice systems.

VIVEK MARU

> Fear of a well-organized human rights organization—not an internal disciplinary board—prompted the police to apologize and pursue a settlement.

If a person in Sierra Leone feels they have been wronged and wants to pursue legal justice, their hopes are immediately dimmed by these grim statistics: Sierra Leone—by many measures the world's poorest country—only has about 100 lawyers for almost 6 million people. Of these 100 lawyers, 90 reside and work in the capital, Freetown, with a population of about 1 million. For the remaining 5 million Sierra Leoneans, most of whom reside in isolated villages, there are 10 lawyers scattered about the country.

These were the odds that faced Kadiatu T., a destitute woman in her thirties, who needed legal help because of what happened to her as a cigarette street vendor in a neighborhood outside of Freetown.

In 2004, a drunken, off-duty police officer asked Kadiatu for a cigarette on credit. She gave him one and was then beaten and kicked by the officer until she was unconscious. Passersby stole all her money and the supply of cigarettes she carried in a basket atop her head. Kadiatu complained to the police internal disciplinary board and sought compensation for the medical bills and the material and financial losses that resulted from the beating. For weeks, authorities glibly told her they "were looking into the matter." Meanwhile, the policeman continued to work in the neighborhood and laughed with impunity whenever he saw Kadiatu.

Given the scarcity of lawyers in Sierra Leone, the inability of Kadiatu and most Sierra Leoneans to pay for legal representation, and the country's deeply corrupt and dysfunctional legal system, Kadiatu seemed to have no options for obtaining justice. People told her to forget the incident and move on with her life.

Before Kadiatu gave up completely, however, she visited Jow Williams, a paralegal at Timap* for Justice, an independent NGO that evolved out of a 2003 rural paralegal project initiated by the Open Society Justice Initiative and the Sierra Leone National Forum for Human Rights.

Williams took Kadiatu's story and corroborated it by conducting interviews in the neighborhood and at the local police station. Williams concluded that the case was a serious violation of the law. He informed the police with a note summarizing the allegations on Timap letterhead. The accused officer came to the Timap office and gave his account of events. Williams said Timap would be monitoring the police disciplinary board. At this point the officer asked if there was anything he could do to settle the affair. Williams said he would discuss it with Kadiatu. Soon senior police officers approached Kadiatu and pleaded on the accused officer's behalf for her to accept the officer's apology, as well as a sizable payment, in return for dropping her complaint. Kadiatu agreed and received further help from Timap to ensure that she received her entire payment.

Some would say the police bought impunity for the illegal behavior of a policeman who acted like a vicious thug. Others, including Kadiatu and Williams, would argue that Kadiatu got compensation for her pain and material losses. More importantly, they would insist, it was remarkable for senior police officers to apologize and offer compensation to an impoverished female street vendor. According to Williams, people in the neighborhood paid great attention to the case. To many, it seemed that fear of a well-organized and independent human rights organization—not an internal disciplinary board—had prompted the police to apologize and pursue a settlement.

The use of community-based paralegals like Williams and NGOs like Timap offers an effective way of delivering urgently needed legal services to impoverished people. Paralegals can also play an important role in increasing access to justice and resolving disputes in societies marked by parallel legal systems.

In Sierra Leone, there is the formal legal system, which is concentrated mostly in Freetown and survives as the legacy of the country's former colonial ruler, Great Britain. There is also a second, parallel customary legal system, which is far more relevant for most of Sierra Leone's people. Customary law varies by tribe. It is not codified. It is supposed to comply with the national constitution and not contradict "enactments of parliament" or "principles of natural justice and equity"; but these formal limitations are seldom if ever enforced. Within Sierra Leone's 147 chiefdoms, the paramount chief and the elders he favors have almost all the say over how the local courts function. Favoritism and excessive fines are common in the customary legal system. Independent review of decisions barely exists.

Timap for Justice began work in five rural chiefdoms and the capital Freetown with 13 paralegals, all of whom had at least a secondary school education and were recruited from the communities they now serve. Experienced lawyers act as project directors and provide the paralegals with ongoing training and supervision. Oversight boards, appointed by community members, ensure that the program serves the needs of the chiefdom's people.

The paralegals use diverse methods to tackle individual and community problems. They provide clients with information on rights and procedures, assist the clients in dealing with government and chiefdom authorities, and often mediate settlements with all concerned parties present. Timap's actual litigation capacity is small, and the organization chooses to litigate only as a last resort.

Timap's paralegals address a much wider range of disputes than a typical legal services program. Villagers in Tikonko Chiefdom, for example, approached Timap paralegals to complain that they were cut off from basic services because of the condition of the feeder road that connects their community to a main road; in response, paralegals organized village residents for a day of voluntary, collective road maintenance. Timap's paralegals have mediated land disputes, contested cases of wrongful detention, and helped farmers apply for a grant of seed rice.

If paralegal programs such as Timap are well adapted to the contexts in which they work, they offer the potential of making justice accessible for individuals and communities that have little chance of contacting or affording lawyers. Paralegal programs also offer the possibility of reconciling formal and customary legal systems and establishing functioning justice systems where the rule of law has been undermined by conflict, corruption, and poverty.

* Timap means "stand up" in Krio, a type of Creole language spoken by about 4 million Sierra Leoneans.

OPPOSITE PAGE **Timap paralegal John Sabondo (center) walking with intern Minakshi Poddar (left), and an unidentified child, Bo, Sierra Leone, 2006.**

FOR MORE INFORMATION

To read about the latest paralegal developments in Sierra Leone, go to www.justiceinitiative.org/activities/ncjr/atj/sierraleone_atj; and timapforjustice.org

Keys to cell doors hang on a wall at a maximum security jail, Riker's Island, New York City, 2000.

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