

JULY/AUGUST 2009

At the Forefront of the Struggle

Interview with Suliman Baldo, ICTJ Africa Program Director

Q. African Union members held a meeting in Addis Ababa in mid-June that raised concern that African states would withdraw their support for the International Criminal Court. What happened at that meeting and why?

A. The meeting was for African states that have ratified the Rome Statute, the treaty that led to the formation of the International Criminal Court, as well as for other AU member states that wanted to take part.



There was some concern that this meeting would turn into a platform to denounce international justice—particularly the activity of the ICC in Africa—and to encourage defections from the ICC, by member states' withdrawing from the Rome Statute. The worry was that countries like Sudan or Libya or Zimbabwe—none of whom were members of the Rome Statute—

would use this meeting as platform to mobilize African states to remove their signatures.

At the last minute, the AU declared the meeting would be only for member states of the Rome Statute. It also released a background paper that was very supportive of the principles of international justice. It encouraged the idea of complementarity—that the ICC should be involved when there are no credible national prosecutions or the state is unable to deal with mass atrocities. In the end, the only state to withdraw from the Rome Statute was the Comoros Islands.

Q. What turned the tide?

A. We believe it was a result of the pushback by active AU member states who are on the side of accountability and non-impunity,

including Botswana, South Africa, Uganda, to name a few. There was a very active campaign by civil society organizations in Africa discouraging withdrawals and reminding member states that Africa had played a key role in the formation of the ICC by ratifying the Rome Statute in large numbers.

African countries also contributed to the ICC's entry into force by making immediate referrals to it. Out of the four cases in front of the ICC, three were made by African states: Uganda was the first in 2003, followed by the Democratic Republic of Congo and the Central African Republic. The fourth case, of Sudan, was a referral by the UN Security Council.

Q. What is the larger context of the struggle against impunity in Africa?

A. African countries have made many key contributions to the advancement of international justice. The first post-Nuremberg trials for genocide were held in Ethiopia through the office of the Special Prosecutor for Crimes during the Red Terror period in Ethiopia. Many people cite the International Criminal Tribunal for Rwanda as another example. There are also the domestic trials in Rwanda for crimes of the genocide in 1994, as well as the Special Court for Sierra Leone.

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INTERVIEW

The creation of the AU in 2002 was based on sound principles of international human rights and international justice. The AU is the first international institution that is founded on the principle of the responsibility to protect. The institution reserves for itself the right to intervene in an African state when authorities in that state have failed to protect their own civilians against mass atrocities, genocide, or mass human rights violations—even when these atrocities are committed by the government. The AU therefore has set a major precedent, and it is precisely because of these principles that the AU sent peacekeepers to Darfur at the height of the fighting in 2004.

It's not that Africa has been a retrograde force in the fight for non-impunity. On the contrary, it has been at the forefront of that struggle.

Q. Why then do we often read of a movement in Africa against international justice, and particularly against the ICC?

A. There are general frustrations in Africa with international justice and with the ICC. The first reason is the feeling that northern judiciaries are targeting African heads of state and African leaders unfairly under principles of universal justice, such as in the case of judges from France or Spain issuing arrest warrants against officials in the current regime in Rwanda on allegations of mass killing during the repression of the 1994 genocide.

Rwanda was very upset about this, because there is an international justice mechanism today looking into the crimes of that time—the International Criminal Tribunal for Rwanda—and there is a domestic process underway before Rwandan courts, the Gacaca courts. The Rwandan government feels that French and Spanish judges have no business ordering the arrest of Rwandan officials; they therefore mobilized African leaders to reject unidirectional justice—from north to south.

Senegal has a similar grievance with the French judiciary in relation to the drowning of some French citizens in Senegal when a ferry sunk. The Senegalese judiciary ruled this was an accident and that there was nothing the authorities could have done. The French wanted to have their own investigation, and when Senegal refused to cooperate, France issued arrest warrants against officials or former officials in the Senegalese government. This is what elicited a basically spontaneous threat from President Abdoulaye Wade to withdraw from the ICC.

Senegal is a heavyweight: it has a strong economy, a stable democracy and is a regional power. It's the first country ever to have ratified the Rome Statute, and its withdrawal would have been a huge symbolic blow to the ICC. It's good that the Senegalese authorities have rejected the rumor that they would withdraw.

Q. What about opposition to the ICC's work apart from these cases?

A. Certainly there are some in Africa who are hostile to the ICC, generally because of concerns about the reach of international justice for the war crimes or genocide or crimes against humanity that continue to occur in Africa. They have used the genuine concerns about international justice and the ICC to confuse the matter and present

them as one and the same. But instead of committing to non-impunity, which is the founding principle of the African Union, they are using a political argument that Africa's leaders are unfairly targeted, to call for a total rejection of the ICC.

Another dimension of the grievances of the AU is that the organization is heavily invested in Darfur. As I said, they sent the first peacekeeping mission to Darfur in 2004. They were the real mediators of the 2006 Abuja peace agreement, and now there is a joint UN-AU peacekeeping mission and the AU is the joint mediator representing both the union and the UN in these new peace talks.

Based on this involvement, the AU has called on the UN Security Council to defer proceedings against President Bashir so as to continue to count on the cooperation of the Sudanese government in this peace mission and the negotiations. There is a feeling in Africa and the AU that the Security Council has simply ignored their request—that it hasn't given it a fair hearing or the respect the union is due as a peacekeeper and a key mediator in Darfur.

But the African Union continues to remind people that it is not for impunity. It points to the fact that when it held the AU summit in Khartoum in 2007, it refused to hand the rotating presidency to President Bashir, breaking the custom of giving the presidency to the host country for the first time ever. They did this out of concern over the continuing war and crimes and violence in Darfur.

Q. Tell me about ICTJ's work directly with the AU.

A. ICTJ is working to assist the AU develop a policy framework on justice, peace and reconciliation. This is a long-term endeavor. We visited Addis Ababa in December for talks with different AU commissions already working on the issue. We started a dialogue that should lead to a policy proposal that will be presented at the Assembly of the African Union. Also, together with other NGOs, we are working on building the capacity of the various AU commissions that work on issues of non-impunity, truth, justice and reconciliation in Africa.

Q. What is the response of AU officials you've worked with?

A. We've been welcomed and encouraged by the AU officials we've met with. They have invited us to contribute both to their efforts to develop this policy framework and also to the AU High Panel on Darfur, which is chaired by former South African president Thabo Mbeki, as well as to advise them on issues of truth, justice and reconciliation elsewhere in Africa. Because of ICTJ's involvement in all the countries where we have a presence—DRC, Liberia, Sierra Leone, South Africa, Uganda and others—we are in a unique position to provide lessons learned and best practices from other African states. ♦

AFRICA

Central African Republic

In the International Criminal Court case against Jean Pierre Bemba Gombo, the pre-trial chamber confirmed charges against Bemba including murder, rape and pillage as war crimes and crimes against humanity. Bemba, the former leader of the armed Movement for the Liberation of Congo, is on trial for alleged crimes committed in the CAR from October 2002 to March 2003.

- “Pre-Trial Chamber II commits Jean-Pierre Bemba Gombo to trial,” ICC (<http://www.icc-cpi.int/NR/exeres/852AE61D-E05C-489A-9172-E6F68D87F182.htm>)

Democratic Republic of Congo

Congolese President Joseph Kabila signed a law that forgives combatants for war-related violence that occurred between June 2003 and May 7, 2009. ICTJ opposed the law, as it failed to establish procedures for granting amnesty and did not provide adequate definition of crimes eligible for amnesty, thereby promoting the culture of impunity already present in the region. In early June, for example, armed former rebels stormed a prison in the eastern town of Goma and demanded the release of a leading former rebel, claiming he should have been amnestied. He was released, though he had been convicted of crimes not covered by the amnesty law. The UN peacekeeping mission condemned this misapplication of the law.

United Nations Secretary General Ban Ki-moon expressed his distress over the rape of 20 female inmates during an attempted jailbreak from Goma’s central prison in DRC. The UN head called on the authorities to “bring to justice those who have committed these crimes and, more generally, to renew efforts to bring an end to the impunity too often enjoyed by perpetrators of sexual violence.”

- “Goma : Alan Doss condamne la libération illégale d’un violeur,” *Radio Kapi* (http://www.radiookapi.net/index.php?i=53&l=0&c=0&a=23583&da=&hi=0&of=242&s=&m=2&k=0&r=all&sc=0&id_a=0&ar=0&br=qst)
- “Militias Decry Kivu Amnesty Law,” *Institute for War and Peace Report* (http://www.iwpr.net/?p=acr&cs=f&co=353323&apc_state=henpacr)
- “Ban deeply distressed by rape of female inmates at DR Congo Prison,” *UN News Centre* (<http://www.un.org/apps/news/story.asp?NewsID=31246&Cr=democratic&Cr1=congo>)

- “Rioting Congo prisoners rape 20 women,” *Reuters* (<http://www.reuters.com/article/worldNews/idUSTRE55M-1RY20090623>)

Kenya

On June 3, United Nations Special Rapporteur on Extrajudicial, Summary and Arbitrary Execution, Professor Philip Alston, released his final report on extra-judicial killings by police in Kenya. Kenyan Justice and Constitutional Affairs Minister Mutula Kilonzo said the country had no choice but to implement the recommendations of the Alston Report—which include public acknowledgment of the killings, the resignation of the Attorney General, and compensation for victims—or else it would risk being labelled a failed state.

Mediator Kofi Annan extended the deadline he gave the Kenyan president and prime minister to create a Special Tribunal to try those responsible for the 2008 election violence, until the end of August. Creating such a Tribunal requires a constitutional amendment to immunize it from constitutional challenges, meaning progress depends on the support of two-thirds of parliament. Annan said that if the government fails to establish the court, he will give the International Criminal Court a list of the top 10 individuals suspected of inciting the violence.

Despite the support of President Kibaki and Prime Minister Odinga, a second attempt to pass the necessary amendment faces strong opposition in parliament, which does not return from recess until July 21, nine days before Annan’s deadline.

- “State Agrees to Implement Alston’s Report,” *The Standard* (<http://www.eastandard.net/InsidePage.php?id=1144016522&cid=4>)
- “Annan gives Kenya court deadline,” *BBC* (<http://news.bbc.co.uk/2/hi/africa/8094696.stm>)
- “ODM ministers walk out on Raila over tribunal,” *Daily Nation* (<http://www.nation.co.ke/News/politics/-/1064/617560/-/xx-c848z/-/index.html>)

Liberia

The final report of the Liberian Truth and Reconciliation Commission (TRC) was submitted to the Liberian legislature on June 28, the last official day of the commission’s mandate. As of July 2, the report had not been made public. In mid-June, the commission held a culminating event, a week-long National Reconciliation Conference at which public debate continued to focus on whether the TRC would recommend prosecutions. Delegates from the conference called for prosecutions and other accountability mechanisms. Separately, senior senator and former

rebel leader Prince Yormie Johnson claimed bias against indigenous Liberians and warned that prosecutions would violate a 2003 law granting a general amnesty to warlords and their fighters.

After a commemoration of a pair of civil war-era massacres at Dupont Road, ICTJ Program Assistant Aaron Weah argued that public memorials are an important part of Liberia's efforts to come to terms with its violent past. ICTJ has supported meetings by community members and victims who witnessed atrocities committed under former President Charles Taylor.

- "Liberia: 'Virginia Declaration' Calls for New Seal, Motto," *AllAfrica* (<http://allafrica.com/stories/200906231088.html>)
- "Liberia: Fear Grips Prince Johnson for War Crimes Court Says Aborigines Names Listed," *AllAfrica* (<http://allafrica.com/stories/200906090686.html>)
- "Liberia: Dupont Road – Remembering Wartime Atrocities," *AllAfrica* (<http://ictj.org/en/news/coverage/article/2709.html>)

Nigeria

On June 18, Nigerian President Umaru Yar'Adua has offered a 60-day amnesty for militants in the Niger Delta as an effort to end years of attacks on the country's oil industry. Yar'Adua urged the militants to lay down their arms in exchange for a presidential pardon, rehabilitation program, education and training. The grace period for amnesty will end on Oct. 4.

On June 8, Royal Dutch Shell agreed to pay \$15.5 million to settle a class action lawsuit by Nigerians whose relatives were executed by the military government in Nigeria in 1995. The plaintiffs claimed that Shell hired the security forces who committed the executions in order to silence activists who opposed Shell's activity in the oil-rich Ogoni region.

- "Nigeria Offers Militants Amnesty," *BBC* (<http://news.bbc.co.uk/2/hi/africa/8118314.stm>)
- "Settlement Reached in Human Rights Cases Against Royal Dutch/Shell," Center for Constitutional Rights (<http://ccrjustice.org/newsroom/press-releases/settlement-reached-human-rights-cases-against-royal-dutch/shell>)

Rwanda

The International Criminal Tribunal for Rwanda (ICTR) sentenced Callixte Kalimanzira, interior minister of Rwanda during the 1994 genocide, to 30 years imprisonment. The court found that Kalimanzira had used promises of food and shelter to lure Tutsi civilians to Kabuye

Hill where they were murdered by militias. Kalimanzira's sentence was the 38th judgment to be handed down by the UN court, which was established to prosecute those responsible for the genocide.

Finland charged Francois Bazaramba, a Rwandan former preacher who has sought asylum in the country for more than two years, with genocide for his alleged role in the 1994 killings. Finnish law allows the prosecution of crimes against humanity regardless of where the crime took place. Rwanda's National Public Prosecutions Authority said that it would provide witnesses to testify at the trial.

- "Rwanda minister given 30 years' jail for genocide," *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2009/06/22/AR2009062200376.html>)
- "Finland charges Rwandan suspect," *BBC* (<http://news.bbc.co.uk/2/hi/europe/8077441.stm>)
- "Rwanda: Country Offers Help in Finland Genocide Trial," *AllAfrica* (<http://allafrica.com/stories/200906020010.html>)

South Africa

A coalition of civil society groups including ICTJ continued their legal battle to stop the South African president from granting pardons for apartheid-era crimes without greater involvement of victims in the process. After a lower court temporarily blocked the granting of pardons, the president and minister of justice sought leave to appeal to the Supreme Court of Appeal, South Africa's second highest court. Separately, a member of the right wing Afrikaner Resistance Movement jailed for racist attacks applied to the Constitutional Court for leave to appeal the lower court's order. ICTJ and the coalition are opposing both applications.

- "ICTJ opposes pardons appeal to South Africa's Constitutional Court," ICTJ (<http://ictj.org/en/news/features/2563.html>)

Sudan

On June 16, Sima Samar, Special Rapporteur on Sudan, presented her report to the Human Rights Council, noting Sudan's continued climate of impunity despite important advances with regard to human rights legislation. The Sudanese delegation argued that the situation could be monitored by thematic rapporteurs and other UN representatives that were already on the ground.

- "Report of the Special Rapporteur on the Situation of Human Rights in the Sudan," *ReliefWeb* ([http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7T32TD-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7T32TD-full_report.pdf/$File/full_report.pdf))

Zimbabwe

Growing numbers of children in Zimbabwe are turning to prostitution to survive, according to Save the Children. The aid agency says increasing poverty is leading girls as young as 12 to sell their bodies for as little as a packet of biscuits. It also claims that the current football World Cup in neighboring South Africa could exacerbate the problem.

- “Zimbabwe girls trade sex for food,” *BBC* (<http://news.bbc.co.uk/2/hi/africa/8096874.stm>)

AMERICAS

Argentina

The National Criminal Chamber confirmed a federal court decision in 2007 to void the pardons of former junta leaders Jorge Videla and Emilio Massera. Both were sentenced in to life in prison in 1985, then pardoned by President Carlos Menem in 1990. According to the Chamber, the former dictators committed crimes against humanity, and therefore the pardons were unconstitutional. Their lawyers appealed the decision to the Supreme Court. Videla is in prison, while Massera is under house arrest.

- “Confirmaron la condena a cadena perpetua de Videla y Massera,” *Clarín* (<http://www.clarin.com/diario/2009/06/19/elpais/p-01941962.htm>)

Canada

Canada’s Indian Residential School Truth and Reconciliation Commission appointed a new trio of commissioners in June, after the resignation of the original commissioners delayed the TRC’s work by a year. Justice Murray Sinclair, an aboriginal judge from Manitoba’s Court of Queen’s Bench, will chair the commission. He will be joined by Wilton Littlechild, the Alberta regional chief for the Assembly of First Nations, and Marie Wilson, a former regional director of CBC North. ICTJ hailed the appointments as an “important, necessary step toward restarting work to address historic injustices against Canada’s aboriginal people.”

- “Appointment of Canadian TRC Commissioners,” ICTJ (<http://ictj.org/en/news/press/release/2704.html>)
- “New commissioners for native reconciliation,” *CBC* (<http://www.cbc.ca/canada/story/2009/06/10/f-truth-and-reconciliation-commissioners-2009.html>)

- “Challenges for Canada,” ICTJ (<http://ictj.org/en/news/features/2694.html>)

Chile

A new Museum of Memory and Human Rights will open in Chile next December to document the violations committed during the period of military rule, which lasted from 1973 to 1990. The Museum will be located in a 5,000-square-meter building in Santiago. On June 16, President Michelle Bachelet held a ceremony to thank the donors of the material to be exhibited. “No one can deny, ignore, or minimize the tragedy of the violations of human rights in Chile. We are recovering our memory with the help of multiple vestiges and narrations, for everyone to read the past and reflect about the need of improving our coexistence,” said Bachelet.

The remains of the Chilean folk singer Víctor Jara—murdered by the military in September 1973 following the coup by Augusto Pinochet—were exhumed in early June. The exhumation was part of an investigation against José Adolfo Paredes, a former army conscript charged with the killing, as well as other former member of the armed forces thought to be involved in the crime.

- “El espacio que reivindicará memoria del Chile torturado,” *La Nación* (http://www.lanacion.cl/prontus_noticias_v2/site/artic/20090616/pags/20090616234244.html)
- “Chile’s Rights Museum to honor dirty war victims,” *Associated Press* (<http://www.msnbc.msn.com/id/31408107/>)
- “Chilean singer Jara is exhumed,” *BBC* (<http://news.bbc.co.uk/2/hi/americas/8084201.stm>)

Colombia

After two years of discussions, the proposed Victims’ Law that was intended to guarantee the right to justice, truth and reparation for crimes committed during Colombia’s decades of internal conflict was not approved by the Congress. President Álvaro Uribe had asked members of Congress to oppose the law, saying it was inconvenient and not viable economically. The government argued that the law would have treated victims of state agents and of rebels equally, which was politically unacceptable. Uribe also argued that reparations of victims of state agents were not economically viable. ICTJ said that the bill’s rejection was a lost opportunity to improve the benefits currently granted to victims.

United Nations Special Rapporteur on Extrajudicial Executions, Professor Philip Alston, met with authorities and relatives of victims of the more than 1,800 cases of executions by security forces and paramilitaries that were falsely represented as casualties of war. Alston will publish a report on the killings by the end of the year.

Colombia's Congress passed a law that seeks to resolve the legal situation of an estimated 19,000 demobilized paramilitaries through prosecutorial discretion. The law will allow prosecutors to use "the principle of opportunity" (prosecutorial discretion) to end criminal action against demobilized fighters without investigating whether they are responsible for heinous acts. Michael Reed, ICTJ's Colombia Program Director, wrote in a commentary that the law promotes impunity for past atrocities, and that any judicial solution for the demobilized should take into consideration victims' right to know the truth.

- "Es necesario aplicar las herramientas ya existentes para proteger los derechos de las víctimas," ICTJ (<http://www.ictj.org/es/news/press/release/2739.html>)
- "U.N. says Colombian army killed innocent civilians," *The Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2009/06/18/AR2009061802983.html>)
- "¿Oportunidad?" *El Tiempo* (http://www.eltiempo.com/domingo-domingo_eltiempo/ARTICULO-WEB-PLANTILLA_NOTA_INTERIOR-5491787.html)

Honduras

On June 29 Honduran military forces detained President Manuel Zelaya and forcibly exiled him to Costa Rica, carrying out the first coup in Central America since the end of Cold War. The Organization of American States strongly condemned the coup, while Latin American, European, and the U.S. governments called for the immediate return of the deposed president. In a statement, ICTJ acting President Alex Boraine said the coup was an alarming step backward for the rule of law in Latin America.

- "Honduras Gets Ultimatum from American Nations," *New York Times* (<http://www.nytimes.com/2009/07/02/world/americas/02honduras.html>)
- "Honduras: Prompt Return to Democracy," ICTJ (<http://ictj.org/en/news/press/release/2763.html>)

Mexico

The Federal Institute for Access to Public Information ordered the Attorney General to disclose information about the kidnapping of community leader Rosendo Radilla and 121 other persons by the Mexican army between July and October 1974 in Atoyac de Álvarez (Guer-

ero). The order set a precedent for the truth-seeking process related to Mexico's "dirty war" against suspected rebels, which lasted from 1964 to 1982. The Attorney General has not complied with the ruling.

- "La CMDPDH obtiene una resolución favorable frente a la negativa de la PGR de entregar copias del expediente de Rosendo Radilla," Mexican Commission for the Defense and Promotion of Human Rights (http://www.cmdpdh.org/cmdpdh/index.php?option=com_content&view=article&id=82:notaifai)

United States

A much-anticipated report from the CIA Inspector General on Bush-era detentions and interrogations in the "war on terror" was repeatedly delayed past its planned release date of June 19. The report, which a court ordered to be released after a lawsuit from the ACLU, has reportedly been delayed due to an internal struggle over how much of it to declassify.

Twenty-seven former detainees held at the Bagram military base in Afghanistan between 2002 and 2008 told the *BBC* they were beaten, deprived of sleep and threatened with dogs during detention. The Pentagon insisted that all the inmates, who were accused of belonging to or helping al-Qaeda or the Taliban, were treated humanely.

On June 18, the Senate unanimously passed a resolution apologizing for two and a half centuries of slavery. Unlike a similar resolution passed in the House of Representatives last year, however, the Senate version explicitly states that it cannot be used to support claims for reparations by descendants of slaves.

- "CIA report on interrogation delayed again," *Associated Press* (<http://www.google.com/hostednews/ap/article/ALeqM5iOTk-5mUIVTPTRGU5hoR5JJrr38BAD995QP1G1>)
- "Ex-detainees allege Bagram abuse," *BBC* (http://news.bbc.co.uk/2/hi/south_asia/8116046.stm)
- "Senate backs apology for slavery," *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2009/06/18/AR2009061803877.html>)

ASIA

Bangladesh

The government of Bangladesh has moved to try Bangladeshi perpetrators of war crimes committed during the country's 1971 struggle for independence. The government alleges that Pakistani militias and Bangladeshi cohorts killed unarmed civilians and targeted those sympathetic to the independence movement, as well as religious minorities.

The government has sought help from the UN and allocated funds for the trials. The initiative has the potential to cause diplomatic tensions between Bangladesh and the government of Pakistan, which has sought to block the participation of the UN.

- “Bangladesh seeks justice for 1971 crimes, Pak says ‘move on,’” *Times of India* (<http://timesofindia.indiatimes.com/World/Bangladesh-seeks-justice-for-1971-war-crimes-Pak-says-move-on/article-show/4631193.cms>)
- “War crimes trial may make ties frosty: Pakistan,” *The New Nation* (<http://nation.ittefaq.com/issues/2009/06/08/news0452.htm>)

Cambodia

Canadian prosecutor Robert Petit resigned his post as the international co-prosecutor at Cambodia’s Khmer Rouge tribunal, the Extraordinary Chambers in the Courts of Cambodia (ECCC). Petit cited “personal and family reasons.” A dispute between Petit and his Cambodian co-prosecutor over the question of whether to investigate further suspects is awaiting a decision by the pre-trial chamber of the court. Allegations of corruption have also hurt the ECCC’s credibility.

The ECCC trial of former Tuol Sleng prison chief Kaing Guek Eav, known as Duch, continued in Phnom Penh with testimony from a rare survivor of the prison. The court ruled recently that Duch was detained unlawfully for eight years by the Cambodian Military Court prior to his transfer to the UN-backed ECCC, although responsibility for this earlier detention lay with the Cambodian authorities and could not be transferred to the ECCC. The decision could, however, reduce any time served in the event Duch is convicted in his trial for crimes against humanity.

- “Khmer Rouge Survivor Testifies,” *BBC* (<http://news.bbc.co.uk/2/hi/asia-pacific/8123541.stm>)
- “International prosecutor quits Cambodia’s Khmer Rouge tribunal,” *Radio Netherlands Worldwide* (<http://www.rnw.nl/int-justice/article/international-prosecutor-quits-cambodias-khmer-rouge-tribunal>)
- “S-21 chief’s detention ‘unlawful,’” *Phnom Penh Post* (<http://www.phnompenhpost.com/index.php/2009061626510/National-news/S-21-chief-s-detention-unlawful.html>)

Nepal

In early June, the 22-party alliance supporting newly appointed Nepalese Prime Minister Madhav Kumar Nepal endorsed the “common minimum program” for the government. The program reiterates prior transitional justice commitments and adds commitments regarding the integration of the Maoist army and the formation of a TRC, a Commission on Disappearances, and a Peace and Rehabilitation Commission. It also stresses the formation of a national consensus government and drafting of new constitution.

The prime minister blamed ongoing protests by Maoists for delays in the peace process that followed the country’s decade-long civil war. He has asked the Maoists to join his government and said he would reshuffle ministerial portfolios to accommodate them in the Cabinet. He has also proposed a series of measures to integrate and rehabilitate former Maoist combatants into the Nepalese army.

- “Nepal PM says Maoist peace process stalled,” *Reuters* (<http://in.reuters.com/article/domesticNews/idINDEL49285620090625?pageNumber=1&virtualBrandChannel=0>)
- “Common Minimum Programme: 22 parties put final seal of approval,” *eKantipur* (<http://www.kantipuronline.com/kolnews.php?&nid=197449>)

EUROPE

Former Yugoslavia

Serb nationalist Vojislav Seselj’s trial at the International Criminal Tribunal for the former Yugoslavia (ICTY) on charges of contempt of court began on May 29. Seselj is alleged to have disclosed names and details of three protected witnesses from his separate trial on war crimes charges. That trial, in which Seselj is accused of war crimes and crimes against humanity committed in Bosnia-Herzegovina and Croatia between 1991 and 1994, began in November 2007. Also on trial for contempt of court is Florence Hartman, who served as spokeswoman for the ICTY’s former chief prosecutor, Carla Del Ponte. Hartman is accused of two counts of contempt for publishing the contents of confidential decisions made by appeals judges during the trial of the late Serbian president Slobodan Milosevic.

On June 4, ICTY President Patrick L. Robinson told the UN Security Council the trial of wartime Bosnian Serb leader Radovan Karadzic could begin in late August 2009 and be wrapped up in early 2012. Both the President and the ICTY Chief Prosecutor Serge Brammertz stressed the urgency of arresting two remaining war crimes fugitives, Ratko Mladic and Goran Hadzic.

Forensic experts have identified a mass grave in Bosnia with 12 bodies they believe to be victims of the Srebrenica massacre. More bodies are expected to be found in the grave, which is located in the eastern town of Vlasenica. Over 70 mass graves around the area of Srebrenica have been found since the end of the Bosnian war, and more than 3,700 victims have been identified.

- “Hague to try Seselj for contempt,” *BBC* (<http://news.bbc.co.uk/2/hi/europe/8073928.stm>)
- “Florence Hartmann, former prosecutor’s spokeswoman, goes on trial for contempt,” *Human Rights Tribune* (<http://www.human-rights-geneva.info/Florence-Hartmann-former,4614>)
- Speech by Serge Brammertz to the UN Security Council (PDF) (http://www.icty.org/x/file/press/pr_attachments/pr1321e_annex.pdf)
- Speech by Patrick Robinson to the UN Security Council (PDF) (http://www.icty.org/x/file/press/pr_attachments/pr1320e_annex.pdf)
- “Tribic: 3,737 Genocide Victims Confirmed” *BIRN* (<http://www.bim.ba/en/172/10/20424/>)

Northern Ireland

On June 24, the Northern Ireland Affairs Committee at Westminster held a hearing on the report of the Consultative Group on the Past (GP), at which Secretary of State for Northern Ireland Shaun Woodward launched a public consultation on the CGP proposals in an attempt to generate a more detailed debate on them.

- “Government launches consultation on Eames/Bradley recommendations,” Northern Ireland Office (<http://www.nio.gov.uk/government-launches-consultation-on-eames-bradley-recommendations/media-detail.htm?newsID=16068>)

MIDDLE EAST AND NORTH AFRICA

Israel and the Occupied Palestinian Territory

A lawsuit filed by residents of the Palestinian village of Bil’in alleges that Green Park International and Green Mount International, two Canadian companies registered in Quebec, are committing war crimes by constructing Israeli settlements on land in the West Bank. A three-day trial in Quebec Superior Court will be the first time that Canada’s Crimes Against Humanity and War Crimes Act, passed in 2000, will be used in a civil case. The villagers of Bil’in claim that the construction projects which would be marketed as homes to Israelis, violates the law which prohibits an occupying power from transferring parts of its own civilian population into the territory it occupies. The West Bank has remained under Israeli occupation since the Six Day War of 1967.

ICTJ Board of Directors member, Justice Richard Goldstone, returned to Gaza for the second time on a UN fact-finding mission into possible violations of international human rights and humanitarian law during the recent conflict there. Israel has refused to cooperate with the investigation, claiming that the U.N. mission is biased against Israel. During the visit, the mission held two days of public hearings where Gazans were able to tell their stories about what happened during the 23-day conflict in Gaza and southern Israel. The head of ICTJ’s Israel/OPT Program, Anne Massagee, was in Gaza and monitored part of the hearings. Human rights organizations have denounced both Israel and Hamas for violations of international law during the conflict.

- “Montreal firms building settlements in West Bank want civil suit dismissed,” *Associated Press* (<http://www.google.com/hostednews/canadianpress/article/ALeqM5h8GTFzGCojJXS3LQrQ1W1Vle6pbQ>)
- “Seeking the Brutal Truth,” *The Times* (<http://www.thetimes.co.za/News/Article.aspx?id=1020028>)
- “UN public hearing in Gaza broadcasts accounts of war victims,” *The Guardian* (<http://www.guardian.co.uk/world/2009/jun/28/inquiry-gaza-palestine-israel-war>)

Lebanon

The Special Tribunal for Lebanon (STL) remained without suspects after releasing four Lebanese generals it had in custody earlier this year. The tribunal has set up a website where citizens can submit anonymous information about the case. Lebanese Judge Ralph Riachi was formally appointed as Vice-President of the Tribunal and took office in June 2009.

- “Tribunal sets up website to get information on Hariri killing,” *Daily Star* (http://www.dailystar.com.lb/article.asp?edition_id=1&category_id=2&article_id=103490)
- “A Museum for Collective Healing,” *NOW Lebanon* (<http://www.nowlebanon.com/NewsArticleDetails.aspx?ID=98207&MID=123&PID=2>)

Morocco

The UN Working Group on Enforced or Involuntary Disappearances visited Morocco from June 22-25. After its visit, the UN body said that the experience of Morocco’s Equity and Reconciliation Commission “is a commendable one that other countries in the region and elsewhere in the world can look to as an example, should they wish to adopt a transitional justice approach to dealing with the past.” The working group added that it “welcomes the fact that, according to the final report of the IER, its investigations have led to the elucidation of 742 cases of enforced disappearance” and “looks forward to the publication as soon as possible of a consolidated list of persons and circumstances of the 742 cases, as well as the 66 cases which are still pending.”

- “UN Working Group on Enforced or Involuntary Disappearances concludes visit to Morocco,” UN press release (<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/B6349F4D7B52D1B3C12575E100546396?opendocument>)
- “Morocco, model in transitional justice, WGEID,” *Maghreb Arabe Presse* (http://www.map.ma/eng/sections/social/morocco_model_in_tt/view)

THEMATIC REPORT

Prosecutions

The International Criminal Court’s Trust Fund for Victims (TFV) recently published the first progress report on its programs which administer assistance to victims in Northern Uganda and the Democratic Republic of the Congo (DRC). The programs target victims of gender-based violence, ex-child soldiers and abducted children, families of victims, handicapped victims and victimized villages. They emphasize

sustainability and victim engagement by involving victims in the planning and execution of projects.

- “The Trust Fund for Victims” International Criminal Court (<http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Victims/Trust+Fund+for+Victims/>)

The Organization of American States (OAS) adopted a resolution on the Promotion of the ICC, calling for member states of the OAS to ratify and implement the Rome Statute. The U.S. expressed reservations but, in stark contrast to previous policy, noted that it was in the process of reviewing its policy on the ICC.

- “Promotion of the International Criminal Court,” OAS (http://www.iccnw.org/documents/PROMOTION_OF_THE_INTERNATIONAL_CRIMINAL_COURTENGLISH1.pdf)

Spanish legislators have voted to amend a law that previously allowed Spanish judges to indict the likes of Osama bin Laden and former Chilean dictator, Augusto Pinochet. The law, known as the doctrine of universal jurisdiction, allowed Spain to pursue and try individuals for crimes such as torture, terrorism and genocide even if the crime was not committed in Spain. The amended law limits jurisdiction to cases in which the victims are Spanish, the alleged perpetrators are in Spain, or a link to Spain can be established. The amended law will now be turned over to the Senate, where it is expected to pass.

Though the amendment to the law will not be retroactive, allowing many of the cases under investigation to continue, it has been announced that the investigation into the 2002 Israeli bombing in Gaza that killed a Hamas militant and 14 civilians has been tabled because of a lack of Spanish jurisdiction. The Palestinian Center for Human Rights said that it will appeal to the Spanish Supreme Court.

- “Spain reins in crusading judges,” *BBC* (<http://news.bbc.co.uk/2/hi/europe/8119920.stm>)
- “Spanish court ends Israel bombing probe,” *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2009/06/30/AR2009063001019.html>)

African Union member states that have ratified the Rome Treaty, which formed the ICC, met in Addis Ababa to discuss the ICC arrest warrant for Sudanese President Omar Al-Bashir. Despite concern that the meeting might bring a number of withdrawal from the treaty, only the

Comoros Islands withdrew. Instead, states confirmed their commitment to non-impunity and agreed to discuss the matter at the AU summit in Libya.

- “Reaffirming Africa’s commitment to non-impunity,” ICTJ (<http://ictj.org/en/news/press/release/2676.html>)

In an op-ed on AllAfrica, ICTJ Deputy Africa Program Director Comfort Ero and Senior Associate Piers Pigou argued that South African President Jacob Zuma’s call to “not emphasize punishment” in dealing with perpetrators of serious crimes is embarrassing and retrogressive. Zuma’s approach is out of step with the global trend toward accountability, and would protect the perpetrators and architects of violence at the expense of redress for their victims, Ero and Pigou said.

- “South Africa’s Zuma Is Out of Step with History,” *AllAfrica* (<http://ictj.org/en/news/coverage/article/2756.html>)

Reparations

Five veterans of Kenya’s independence struggle filed a reparations case in the British High Court against the British government. The three men and two women are seeking compensation for alleged human rights abuses by British colonial authorities in the 1950s and 1960s during the Kenya Mau Mau uprising. The Kenya Human Rights Commission has said that 90,000 Kenyans were executed, tortured or maimed during this time period, and that 160,000 were detained in appalling conditions. The claimants want the British government to acknowledge responsibility and to reward compensation.

- “Kenyan Veterans in UK Court Bid,” *BBC* (<http://news.bbc.co.uk/2/hi/africa/8114001.stm>)

PUBLICATIONS

Transitional Justice and Security System Reform

Reforming the security system in postconflict environments to ensure security agents become protectors of the population is vital for peacebuilding and state-building. Justice-sensitive SSR aims to prevent recurrence and repetition of human rights violations by reforming abusive institutions, increasing their integrity, accountability and legiti-

macy, and transforming the institution’s role in society, including by empowering the citizens. This paper draws on research into SSR and transitional justice in Afghanistan, Burundi, the Democratic Republic of Congo and Timor-Leste, and suggests ways in which the EU could improve the substance of its SSR programming and implementation by drawing on lessons from these cases.

- *Transitional Justice and Security System Reform* (http://ictj.org/static/Publications/Trans_Justice_SSR_5.pdf)

From the Taylor Trial to a Lasting Legacy: Putting the Special Courts Model to the Test

ICTJ consultant Thierry Cruvellier analyzes the achievements and flaws of the Special Court for Sierra Leone, established in 2002. Many observers praised the Special Court model as an innovation because of important features that distinguished it from purely international tribunals. Cruvellier reflects on the court as one of the most important attempts to reshape international justice.

- *From the Taylor Trial to a Lasting Legacy: Putting the Special Courts Model to the Test* (http://ictj.org/static/Publications/Cruvellier_SL_FromTaylorTrial_specialreport_2009.pdf)

Peace versus Justice? The Dilemma of Transitional Justice in Africa

This new book includes chapters from ICTJ Board Chairman and Acting President Alex Boraine, as well as ICTJ Gender Program Africa Coordinator Helen Scanlon. The book offers fresh insights on the so-called “peace versus justice” dilemma, particularly in African countries affected by conflict or political violence.

- *Peace versus Justice? The Dilemma of Transitional Justice in Africa* (<http://ictj.org/en/news/features/2720.html>)

CALENDAR AND COURSE OFFERINGS

july

July 1-3:
Judicial Exchange: Clerks of the Criminal Chamber of the Colombian Supreme Court visit Argentina
Buenos Aires, Argentina
For more information, contact Camilo Bernal:
cbernal@ictj.org

July 2:
Presentation of research on reparations for the victims of the Villatina massacre
Medellín, Colombia
For more information, contact Catalina Díaz:
cdiaz@ictj.org

July 2-3:
Follow up on the implementation of the Protocol on Prevention and Suppression of Sexual Violence against Women and Children in the Great Lakes Region
Brazzaville, Republic of the Congo

July 3:
Registration deadline for course: Human Rights, Human Security and Participation: Documenting Women's Experiences in Situations of Armed Conflict
Kathmandu, Nepal
For more information, visit <http://www.isis.or.ug/news/press-releases/104-exchange-institute-training-announcement>

July 3:
Non-official truth-seeking initiative opens the Never Again Area victims' museum
Granada, Colombia
For more information, contact Carlos Lozano:
clozano@ictj.org

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July 7-9:
ICTJ testimony before AU High-Level Panel on Darfur
Addis Ababa, Ethiopia
For more information, contact Jacky Viglino:
jviglino@ictj.org.za

July 8-9:
Work session of ICTJ and UNDP with victims' advocates to diagnose their role within the Ombudsman Office
Medellín, Colombia
For more information, contact Camilo Bernal:
cbernal@ictj.org

July 10:
Application Deadline for ICTJ Intensive Course: Truth, Memory and Justice
Barcelona, Spain
For more information, visit: <http://ictj.org/en/news/event/2715.html>

July 13-17:
Judicial Exchange: Justices and clerks of the Criminal Chamber of the Colombian Supreme Court visit Peru
Lima, Peru
For more information, contact Camilo Bernal:
cbernal@ictj.org

July 14:
PBS Point of View Documentaries Presents "The Reckoning: The Battle for the International Court"
For more information, visit: <http://www.pbs.org/pov/reckoning/>

july

July 15:

**Beyond the Headlines presents
“Prosecuting Heads of State”**

*International Peace Institute with ICTJ
Prosecutions Program Deputy Director Caitlin
Reiger*

New York, NY

*For more information, visit: [http://ictj.org/en/
news/event/2771.html](http://ictj.org/en/news/event/2771.html)*

July 21-22

**Work session of ICTJ and UNDP with
victims’ advocates to diagnose their role
within the Ombudsman Office**

Barranquilla, Colombia

*For more information, contact Camilo Bernal:
cbernal@ictj.org*

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August 10:

**Application Deadline for Cape Town
Transitional Justice Fellowship Program**

Cape Town, South Africa

*For more information, visit: ([http://ictj.org/en/
news/event/2767.html](http://ictj.org/en/news/event/2767.html))*

August 9-22:

**International Summer School Sarajevo
2009: Transitional Justice in South East
Europe**

Introductory lecture by ICTJ Europe Director

Dick Oosting on Aug. 10

Sarajevo, Bosnia-Herzegovina

For more information, visit www.kas.de/rspsoe

Making a Difference

ICTJ needs your support to help societies address the past as they emerge from conflict, to give them a better chance for a decent future and a lasting peace. Since 2001 ICTJ has worked in more than 35 countries, partnering with justice and truth-seeking institutions, local civic groups, governments and international organizations.

While much of ICTJ's work takes place in the global south, our Americas and Truth-Seeking Programs are also monitoring and supporting Canada's recently reinvigorated Indian Residential Schools Truth and Reconciliation Commission (TRC).

For more than a century, Inuit, Métis and First Nations children were forcibly taken from their families and placed in church- and state-run institutions that sought to "civilize" the country's indigenous population through forced assimilation. Accounts by thousands of students document the physical and sexual abuse they suffered, and many died from poor care. Authorities did not close the last of the schools until 1996.

In 2006, the Government of Canada approved a settlement agreement that provided a lump sum payment for former students, and collective measures including the TRC, a commemoration initiative and funding for health support programs. On June 1, 2008, the Canadian TRC, was established, and on June 11, Prime Minister Stephen Harper offered the first ever apology to his country's Aboriginal peoples.

The apology was a significant step toward reconciliation of Aboriginal people with other Canadian citizens, and a recognition that the Residential School system contributed to the problems that affect Aboriginal peoples today. This TRC is the first to deal with systemic and massive abuse committed in peace time and under a democratic regime; the first to deal with cultural rights and children's rights.

The commission's work has suffered a one-year delay due to the resignation of its first three commissioners, who stepped down over procedural issues. The crisis that followed exposed weaknesses in the commission's design, and raised questions about its independence. In recent testimony before the Canadian Senate Standing Committee on Human Rights, ICTJ Deputy Americas Director Eduardo Gonzalez discussed the unique challenges facing the country. Gonzalez argued that the



Thomas Moore before and after his entrance into the Regina Indian Industrial School in Saskatchewan in 1874. Photos courtesy of the Assembly of First Nations.

TRC cannot and must not repeat last year's crisis, and that the new commissioners will need to devote themselves to extensive outreach and consultation in order to restore trust and create an ongoing dialogue with their main constituency, the survivors.

"Reconciliation is a long process, measurable only in historic time, not in the news cycle," said Gonzalez. "The commission will need each day of its five-year mandate. We believe that properly begins with the appointment of these new commissioners."

ICTJ has consistently supported Canadian initiatives to redress the legacy of forced assimilation in the Indian Residential Schools. We provided information to the parties negotiating the Settlement Agreement and to the TRC Secretariat, and during the interruption of the commission's work last year, we encouraged the parties and the public to keep committed to this indispensable process. We will continue to monitor the commission's progress.

ICTJ provides expertise that transforms the lives of victims and creates healthy judicial systems and sustainable societies. International demand for our assistance increases each year, and your support has never been more important. Learn more at www.ictj.org or contact MaryClaire Brooks, Director of Individual Giving, at 917-637-3844, or mbrooks@ictj.org.

About ICTJ

The International Center for Transitional Justice assists countries pursuing accountability for past mass atrocity or human rights abuse. ICTJ works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

Contact

ICTJ New York Headquarters
5 Hanover Square, Floor 24
New York, NY USA 10004

Tel: +1 917 637 3800
Fax: +1 917 637 3901
www.ictj.org