

JANUARY 2011

Sudan: A Perilous Road Ahead

Interview with Suliman Baldo, ICTJ Africa Program Director

Q. On January 9, polls for a referendum on independence opened in South Sudan. Can you provide some background on why this referendum is taking place, and what is at stake?



A. Holding a self-determination referendum for South Sudan was agreed to under the Comprehensive Peace Agreement (CPA) of 2005 that ended two decades of a devastating civil war between the north and south. The agreement, between the ruling National Congress Party (NCP) in Khartoum and the Sudan People's Liberation Movement (SPLM) of South Sudan, established a six-year power and wealth sharing interim period. It also mandated

continued negotiations on key issues, the satisfactory resolution of which would, it was hoped, make unity attractive for southerners.

However, dialogue between the two sides hasn't been easy. While respecting the main security, power and wealth sharing provisions of the agreement, Khartoum didn't invest much into making unity attractive. Khartoum made little effort to reconcile with or assist the south to re-build after two decades of war that left the region without any infrastructure or basic services. This has been the source of a lot of frustration in South Sudan and has increased the appeal of separation.

It is now a foregone conclusion that southerners will vote for independence. The secession of the south will represent a heavy loss for Khartoum: a third of Sudan's territory, a quarter of its population and an estimated three quarters of Sudan's known oil reserves.

Q. How is the presence of oil in the south going to affect the referendum?

A. The question of oil is going to weigh heavily on the willingness of the parties to try to find a peaceful approach to the referendum and acceptance of its outcome. The CPA arranged for a 50-50 sharing of the oil revenue between the north and the south. While the oil is in South Sudan, the infrastructure for processing and export—the pipelines, the refineries, the port—are in the north.

South Sudan relies on its share of the oil revenue for up to a staggering 98 percent of its income, but it is landlocked and has no option but to agree to share the proceeds with the north, at least until it develops its own oil infrastructure which would be several years in the making.

In the north, on the other hand, oil has been a bit of a curse. The north has been, for the most part, agriculturally self-reliant and a successful exporter of surplus of agricultural and animal products. But since the oil boom in the late 1990s, the north has gradually neglected the agricultural and industrial sectors and instead became dependent on oil revenue for an estimated 60 percent of its income. The international community is hoping that harsh realities of the oil economy will force the two parties to continue cooperating in the post-referendum period.

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Q. Does the referendum represent a point of transition for the South? Will the vote open a space to begin addressing legacies of past violence and the effects of the civil war?

A. Right now the public space in South Sudan is entirely dominated by the issue of the referendum and will continue to be in the coming weeks. I think there was a feeling among southerners that the referendum would immediately create independence. The reality is that the results will not be known for another few weeks after the voting ends. If the vote favors independence, there will then be a transition period of six months during which the two parties will have to resolve outstanding issues such as border demarcation, citizenship and the division of oil revenue and state assets and liabilities. During the same time, the south must determine its name, currency and diplomatic and economic relations with north Sudan and other countries.

However, this focus on the referendum outcome is barely masking internal ethnic, regional and political tensions within the south. Independent southern political and civil society groups feel marginalized by the dominant SPLM. As soon as a decision is reached on the question of independence, these differences are going to resurface and will need to be addressed.

During the civil war, Khartoum recruited many proxy groups from within South Sudan. Because of this, the civil war in Sudan was also a south-south conflict. After the 2005 CPA, the south attempted to reconcile communities that were formerly at war. To that end they have established an independent human rights commission and a commission for peace and reconciliation to address issues of human rights violations that occurred during the conflict among southerners.

The commissions have been successful in putting the issues of human rights, reconciliation and accountability on the table. They have trained people and conducted human rights monitoring and issued status reports to the government.

However, South Sudan has a long way to go before it achieves reconciliation in the sense of truth-telling and assigning accountability for what happened. The SPLM doesn't take responsibility for past and current misconducts by its forces against southerners. It's as if the concept of reconciliation in the south is seen as reconciling factions within the SPLM itself rather than for the population as a whole.

Q. What is ICTJ's involvement in South Sudan?

A. Our engagement has a limited scope, but we act to have a multiplier effect by targeting constituencies with a broad reach and impact within South Sudan. We do much of our work in partnership with some of the few NGOs that are operating there, and have helped train members of both the human rights commission and the peace commission in transitional justice issues.

Currently, we have a program underway to train activists with the Catholic Church of South Sudan who are very involved in conflict resolution at the local level, and who work to reconcile communities that have clashed over natural resources, boundaries and other local issues. We are working to encourage them to use transitional justice concepts and best practices in their ongoing programs.

Q. What impact does this referendum vote have on the ongoing conflict in Darfur?

A. Over the past weeks there has been an escalation of violence in Darfur. The government wants to use the focus of the international community on the north-south issue to get away with increased attacks, attempting to weaken and divide Darfur insurgent movements.

After the referendum, I expect the Darfur movements will come together and increase their demands for political concessions from Khartoum before re-engaging in the talks. Khartoum by then will be politically and economically weakened by the separation of the south. To demonstrate the contrary, Khartoum will escalate attacks. We should expect the security situation in Darfur to continue deteriorating after the referendum.

Darfur is solidly in the north of Sudan and is not making secessionist demands. The Darfur armed movements are fighting to reverse decades of political and economic neglect of their region.

Q. Is the North Sudan political climate likely to change if South Sudan votes for independence?

A. There is a good chance it will change for the worse. The CPA created some space for social organization, political and human rights activism and for the media. But the six-year interim period that the CPA introduced ended on January 9th, and the government has been giving signals that beyond the referendum it will have little tolerance for political dissent and democracy and human rights activism.

In December, President al-Bashir made a speech announcing that if the south separates, Sudan will revert to Islamic Sharia law and will have Islam as its official religion and Arabic as its official language. There will be no room for ethnic and cultural diversity, he warned.

South Sudan is not alone. The feeling of marginalization and second class citizen treatment is shared by Darfur, the Nuba Mountains, South Blue Nile and the Abyei region. Like southerners, the populations in these regions are predominantly of African origin and follow traditional African beliefs or popular forms of Islam. These regions fought in the civil war on the side of the south even though they are geographically in the north. Tampering with the concessions to religious and cultural diversity that the CPA introduced would spell new troubles in the new "south" of northern Sudan state. ♦

AFRICA

Cote d'Ivoire

Political violence erupted in Cote d'Ivoire following a presidential runoff election Nov. 28 in which both candidates—incumbent President Laurent Gbagbo and opposition leader Alassane Ouattara—claimed victory. An electoral commission, whose findings were later certified by the UN, claimed victory for Ouattara.

As of Dec. 28, the UN estimated that over 170 people had been killed by security forces, mostly those loyal to Gbagbo, while more than 470 people had been detained, 90 tortured and 24 disappeared. Approximately 20,000 people displaced by the violence had fled to eastern Liberia, and the country is preparing to cope with the influx of some 100,000 refugees, Liberian officials said.

Ivoirian opposition Prime Minister Guillaume Soro called on the International Criminal Court (ICC) Dec. 23 to send a mission to investigate the events following the runoff election. ICC prosecutor Moreno-Ocampo announced Dec. 21 that the ICC was actively monitoring the situation in Cote d'Ivoire and was prepared to investigate and prosecute if crimes under ICC jurisdiction, such as attacks on UN peacekeeping forces or crimes against humanity, were to have occurred.

- “Liberia Expecting 100,000 Ivory Coast Refugees, Wants Help, Minister Says,” *Bloomberg* (<http://www.bloomberg.com/news/2010-12-29/liberia-expecting-100-000-ivory-coast-refugees-minister-says.html>)
- “ICC urged to investigate Ivory Coast,” *Radio Netherlands Worldwide* (<http://www.rnw.nl/international-justice/article/icc-urged-investigate-ivory-coast>)
- “Cote d'Ivoire: ICC ready to investigate crimes in Cote d'Ivoire,” *Afrique en ligne* (<http://www.afriquejet.com/news/afrique-news/cote-d'ivoire-icc-ready-to-investigate-crimes-in-cote-d'ivoire-2010122264995.html>)

Democratic Republic of Congo/Central African Republic

The trial of Jean-Pierre Bemba Gombo before the ICC is scheduled to begin Jan. 11 after being delayed from its initial start date of Nov. 22. On Dec. 17 ICC judges rejected an application by the former Congolese vice president to be released from detention based on the gravity of confirmed charges against him, as well as concern that he

would not appear at trial were he to be released. Bemba is charged with alleged war crimes including rape, pillage and murder committed by his troops in the Central African Republic in 2002–2003.

A French appeals court on Nov. 3 ordered the extradition of Callixte Mbarushimana, a Rwandan rebel group leader accused of planning mass rapes and other crimes committed in the DRC, from France to the ICC in The Hague. Mbarushimana was detained in Paris Oct. 11 after the ICC issued an arrest warrant in September charging him with 11 counts of war crimes and crimes against humanity committed in North and South Kivu in 2009.

- “Judges reject Bemba’s release request,” *Bemba Trial* (<http://www.bembatrial.org/2010/12/judges-reject-bemba's-release-request/>)
- “French court orders DRC rape suspect sent to the Hague,” *Reuters* (<http://af.reuters.com/article/topNews/idAFJ0E6A20QI20101103>)

Kenya

On Dec. 15 ICC prosecutor Luis Moreno-Ocampo filed applications for summons to the ICC for six high-profile Kenyans allegedly bearing the greatest responsibility for crimes against humanity committed following the presidential elections in 2007. All six suspects, who include three cabinet ministers and a former chief of police, maintain their innocence, and five of those named have indicated they would appear voluntarily before the ICC. This is the best hope for justice to date for victims of the post-election violence, which left approximately 1,300 dead and 500,000 displaced, ICTJ said.

The Kenyan parliament passed a motion Dec. 22 requesting that the government repeal the International Crimes Act, effectively withdrawing from the Rome Statute of the ICC. If supported by the government, the withdrawal will take effect one year from that date, and will not affect obligations to cooperate with the ICC investigation currently underway. Kenya has been a party to the Rome Statute since 2005.

Bethuel Kiplagat, former chair of the Truth, Justice and Reconciliation Commission (TJRC) of Kenya, stepped down Nov. 2 following widespread allegations made by activists, victims’ groups and human rights organizations, including ICTJ, of bias and misconduct. Kiplagat will now face a tribunal appointed on Oct. 29 by Kenyan High Court Chief Justice Evan Gicheru to investigate claims of “unethical practices and absence of integrity” leveled against the former TJRC chairman.

- “Kenya election violence: ICC names suspects,” *BBC* (<http://www.bbc.co.uk/news/world-africa-11996652>)
- “Kenya: International Court ‘Best Hope Yet’ for Victims,” ICTJ (<http://ictj.org/en/news/press/release/4316.html>)
- “MPs’ vote sets stage for Kenya to cut ties with ICC,” *Daily Nation* (<http://www.nation.co.ke/News/politics/MPs%20vote%20sets%20stage%20for%20Kenya%20to%20cut%20ties/-/1064/1077788/-/yo9wvg/-/>)
- “TJRC chair Kiplagat steps aside,” *Daily Nation* (<http://www.nation.co.ke/News/politics/-/1064/1045222/-/77roau/-/>)

Liberia

On Dec. 17 the UN Security Council requested that the Liberian government freeze the assets of former president Charles Taylor, on trial before the Special Court for Sierra Leone for war crimes committed in Sierra Leone during the 1990s. The UN announced that it was imposing the freeze because the assets were primarily obtained through the extraction and sale of illegally mined “blood diamonds” during the conflict in Sierra Leone.

Also on Dec. 17, the Security Council approved a resolution on sanctions seeking to eliminate support for conflict obtained through illicit funding, illegal trade in natural resources including blood diamonds, arms trafficking and more.

- “Liberia: UN demands Government take action to freeze former warlord’s assets,” *UN News Centre* (<http://www.un.org/apps/news/story.asp?NewsID=37107>)

Nigeria

ICC prosecutor Luis Moreno-Ocampo announced Nov. 18 that the ICC opened preliminary investigations into Nigeria and Honduras. (Refer to the entry on Honduras, page 7, for more information.) The prosecutor declined to comment on the specifics of the Nigerian case pending further communication with Nigerian authorities.

- “ICC opens preliminary investigations in Honduras and Nigeria,” *The Hague Justice Portal* (<http://www.haguejusticeportal.net/smartsite.html?id=12294>)
- “Nigeria: ICC is Analysing Jos Crisis, Says Prosecutor,” *allAfrica* (<http://allafrica.com/stories/201011080072.html>)

Rwanda

The Genocide Archive of Rwanda—a collection of over 20,000 photographs and written and audiovisual documentation of the 1994 Rwanda genocide—opened to the public in Kigali Dec. 6. The Archive, a joint project of UK-based NGO Aegis Trust and the Rwandan government, strives to gather and preserve existing material, trace information relating to the genocide and record survivor testimony.

The UN Security Council on Dec. 22 established the International Residual Mechanism for Criminal Tribunals (IRMCT), with two branches responsible for completing residual tasks of the International Criminal Tribunals for Rwanda and the former Yugoslavia (ICTR and ICTY). The Rwanda branch is scheduled to begin operating July 1, 2012, before the closure of the ICTR at the end of the year. Nine suspects wanted by the ICTR remain at large.

Security Council members welcomed the formation of the IRMCT as an action that sends a strong message against impunity and helping to preserve the legacy of the two tribunals. For more information, see the former Yugoslavia entry on page 8.

- “Rwandan genocide archives open in Kigali,” *Radio Netherlands Worldwide* (<http://www.rnw.nl/international-justice/article/rwandan-genocide-archives-open-kigali>)
- “Rwanda: Security Council Sets Up Body to Take Over From ICTR,” *allAfrica* (<http://allafrica.com/stories/201012260007.html>)

Sudan

Voting stations for a referendum on southern Sudan independence opened Jan. 9. The referendum is a product of the Comprehensive Peace Agreement (CPA) of 2005, signed by the Sudanese government and the Sudan People’s Liberation Movement (SPLM) to end the two-decades long civil conflict between the northern and southern portions of the country.

U.S. based NGO Not On Our Watch announced Dec. 29 it has partnered with the UN, Google and the Harvard Humanitarian Initiative to use satellite imagery to monitor the on-the-ground situation in Sudan post-referendum. The project will make commercial satellite images available in as little as 24 hours rather than the standard two weeks, and UN observers and satellite-analysis experts will examine the images for evidence of mass displacement, destruction of villages and other indications of violence.

A senior official in Sudan's governing National Congress Party (NCP) stated Dec. 20 that if outstanding issues—such as border demarcation, oil revenue sharing and the status of the Abyei region—are not resolved prior to Jan. 9, the vote will strictly be political, and “have no effect on the ground.” These preconditions were established in the CPA of 2005.

- “George Clooney-backed satellite project to monitor volatile Sudan,” *Christian Science Monitor* (<http://www.csmonitor.com/Science/2010/1229/George-Clooney-backed-satellite-project-to-monitor-volatile-Sudan>)
- Satellite Sentinel (<http://www.satsentinel.org/>)
- «Unresolved Issues Will Render Referendum ‘Illegitimate’ Warns Sudan Party Official,» *Voice of America* (<http://www.voanews.com/english/news/africa/112636534.html>)

Uganda

U.S. president Barack Obama presented a strategy to Congress Nov. 25 to guide U.S. support to Uganda in disarming the Lord's Resistance Army (LRA), known for attacks on civilians and the abduction of children in northern Uganda and the DRC. The strategy has four key objectives: increase protection of civilians; arrest key LRA members, including leader Joseph Kony; promote defection and disarmament, demobilization and reintegration (DDR) of LRA fighters; and increase humanitarian assistance to affected communities. This strategy is the product of the LRA Disarmament and Northern Uganda Recovery Act signed into law by Obama in May 2010.

- “Strategy to Support the Disarmament of the Lord's Resistance Army,” *White House* (http://pulitzercenter.org/sites/default/files/WhiteHouseLRAStrategy_opt.pdf)

AMERICAS

Argentina

In December Memoria Abierta launched “Vestigios,” an online memorial displaying photos of objects that survivors and relatives of victims of the dictatorship kept in memory of loved ones and of their experiences. Memoria Abierta is a coalition of human rights organizations dedicated to preserving the memory of abuses that occurred under the authoritarian regime in Argentina by collecting and archiving information and evidence. The collection can be viewed at <http://www.memoriaabierta.org.ar>.

On Dec. 22 a Córdoba civil court sentenced Jorge Videla, military dictator from 1976–1981, to life imprisonment for crimes against humanity including abduction, torture and murder committed during Argentina's 1976–1983 “Dirty War.” Videla's regime has been accused of over 30,000 disappearances and the operation of more than 500 clandestine detention centers where tens of thousands of people were held, and many subjected to torture and execution. Also sentenced were former military leader Luciano Benjamin Menendez and 21 other police and military personnel for crimes committed during the same period.

On Dec. 21 a federal court sentenced 12 former military and police officials to life imprisonment for crimes against humanity committed in three clandestine detention centers—Club Atlético, El Banco y El Olimpo—during the military dictatorship. The charges included premeditated murder and disappearances, abduction and torture. Three other former army officials were sentenced to 25 years, and one suspect was acquitted.

- “‘Vestigios’ de la dictadura argentina alimentan la memoria colectiva en web,” *ABC* (<http://www.abc.es/agencias/noticia.asp?noticia=626624>)
- “Otro Cordobazo para Videla y Menéndez,” *Página 12* (<http://www.pagina12.com.ar/diario/elpais/1-159202-2010-12-23.html>)
- “Prisión perpetua para el ‘Turco Julián’ y 25 años de cárcel a Miara y Guglielminetti,” *Perfil* (http://www.perfil.com/contenidos/2010/12/21/noticia_0040.html)

Bolivia

President Evo Morales announced Dec. 22 his commitment to identify military records allegedly containing information about the location of remains of political opposition leaders disappeared in 1980. Morales invited the families of the disappeared to assist him in reviewing declassified military documents containing information about activities under prior dictatorships.

- “Evo acompañará a familiares a buscar archivos militares,” *FMBolivia* (<http://www.fmbolivia.tv/2010/12/evo-acompanara-a-familiares-a-buscar-archivos-militares/>)

Brazil

In a ruling Dec. 14, the Inter-American Court of Human Rights in effect nullified Brazil's 1979 amnesty law, finding that barriers to the investigation of serious human rights abuses contained in the law were invalid, as they contradicted the American Convention on Human Rights. The ruling in the case "Gomes Lund v. Brazil" found Brazil responsible for the torture, arbitrary execution and forced disappearance of 62 people between 1972 and 1974.

The court ordered the government to provide reparation to victims or direct relatives and to conduct a criminal investigation into the 1972–1974 military operation that resulted in these abuses. The ruling affirms that the 1979 amnesty cannot be interpreted as protecting military agents who committed serious human rights abuses and is a historic step forward for justice, ICTJ said.

- "Brazil: Amnesty to Tortures Nullified in Historic Ruling," ICTJ (<http://ictj.org/en/news/press/release/4320.html>)

Chile

On Dec. 17 a French court convicted 13 former Chilean officials for their role in the kidnapping, torture and disappearance of four French citizens during the 1973–1990 military regime under Augusto Pinochet. Two defendants, former head of Pinochet's secret police force Juan Manuel Contreras Sepulveda and army colonel Octavio Espinoza Bravo, were sentenced to life imprisonment and one suspect was acquitted. The 14 officials were tried in absentia, having refused to appear in court despite international arrest warrants.

- "French court convicts 13 Pinochet-era officials," *Associated Press* (<http://www.washingtontimes.com/news/2010/dec/17/french-court-convicts-13-pinochet-era-officials/>)

Colombia

On Dec. 13 Colombia's House of Representatives approved a draft law on reparations to victims after amending the text to only apply to victims of violence committed after 1991. This decision drew criticism from human rights groups and political opposition for excluding thousands of individuals affected by violence prior to 1991. The bill must now be reviewed in further congressional sessions before becoming law.

On Dec. 2 a Superior Tribunal of Bogotá sentenced paramilitary commander Jorge Iván Laverde Zapata, alias 'el Iguano,' to eight years imprisonment for several homicides and 25 massacres carried out by the United Self-Defense Forces (AUC). During the criminal process, Laverde confessed to killing over 100 people and ordering the deaths 4,000 more. Under the Justice and Peace process intended to promote demobilization and confessions, Laverde's 40-year sentence was reduced to eight years and the former AUC commander was ordered to monetarily compensate 170 cases.

On Dec. 15 Colombia's Congress passed a bill to address the legal situation of some 17,000 demobilized paramilitaries who have not been criminally charged, but who have not received pardons or amnesties for criminal conduct resulting from their association with a criminal organization. The bill was a response to a November 2010 Constitutional Court ruling that struck down a law intending to use prosecutorial discretion as means to resolve their situation. The new law provides for a non-judicial confessional mechanism in exchange for a suspended sentence. According to the law, the benefits would not extend to former paramilitaries who have committed war crimes or crimes against humanity.

- "House approves adapted Victims Law," *Colombia Reports* (<http://colombiareports.com/colombia-news/news/13387>)
- "'El Iguano' condenado por masacres y asesinatos políticos," *VerdadAbierta* (http://www.verdadabierta.com/index.php?option=com_content&id=2895)
- "Ley evita que confesiones de desmovilizados sean usadas en procesos judiciales," *VerdadAbierta* (http://www.verdadabierta.com/index.php?option=com_content&id=2924)

Guatemala

On Dec. 20 the UN General Assembly unanimously approved the extension of the International Commission against Impunity in Guatemala (CICIG) mandate until September 2013. The two year extension was requested Oct. 6 by Guatemalan president Alvaro Colom. Upon adopting the extension, the UN urged the Guatemalan government to focus on strengthening permanent institutions within Guatemala responsible for upholding the rule of law and human rights norms.

- “Cicig se queda en el país hasta septiembre de 2013,” *Prensa Libre* (http://prensalibre.com/noticias/Cicig-queda-pais-septiembre_0_394160620.html)

Honduras

ICC prosecutor Luis Moreno-Ocampo announced Nov. 18 that the ICC has opened preliminary investigations into Nigeria and Honduras. (Refer to the entry on Nigeria, page 4, for more information.) The Honduras investigation will focus on events surrounding the June 2009 military coup that ousted Manuel Zelaya from the presidency. In the weeks following the coup, human rights groups reported serious abuses—including kidnap, torture and death—particularly targeting journalists and activists.

- “ICC prosecutor opens probes into Nigeria, Honduras,” *Radio Netherlands Worldwide* (<http://www.rnw.nl/international-justice/article/icc-prosecutor-opens-probes-nigeria-honduras>)

Peru

The Presidency of the Council of Ministers announced Nov. 30 that the Victims’ Registry identified 21,274 victims of violence from both sides of the conflict between 1980 and 2000 whose cases will result in reparations. The cases eligible for reparation included murder, disappearance, rape and disability resulting from the violence. The 2003 final report of a Truth and Reconciliation Commission responsible for examining violence that occurred from 1980–2000 estimated the number of victims to be around 70,000.

- “Perú: 21 mil 274 casos de víctimas del terrorismo recibirían reparación económica,” *Radio Onda Azul* (<http://www.radioondaazul.com/?c=noticia&id=12147>)

ASIA

Bangladesh

U.S. War Crimes Ambassador Stephen Rapp was invited to Bangladesh by the government in December to monitor and assist the proceedings of a war crimes tribunal, established to investigate the 1971 conflict between East and West Pakistan. The conflict, which resulted in Bangladesh’s independence, may have resulted in the deaths of between one and three million people. The invitation came after international lawyers and human rights organizations expressed concern about whether the tribunal would meet international standards.

- “War crimes trial: US special envoy to assist Bangladesh,” *Indo-Asian News Service* (<http://www.newkerala.com/news/world/fullnews-94176.html>)

Burma

On Nov. 7, in the first national elections held in Burma in 20 years, the military regime-backed Union Solidarity and Development Party (USDP) won over 78 percent of the contested seats, guaranteeing military control of the legislatures at national, state and regional levels. The elections were internationally condemned as having failed to meet standards of freedom and fairness, and the lead opposition party—the National League for Democracy—did not participate in protest of election laws.

Following her release from house arrest on Nov. 13, pro-democracy leader Aung San Suu Kyi stated she would seek dialogue with the junta leaders and emphasized the need for national reconciliation. Aung San Suu Kyi said she would consider recognizing the parliament elected Nov. 7 and support the softening of international sanctions if the new governance structure provides space for meaningful political dialogue.

- “Burmese election results show sweeping victory for pro-military party,” *The Star* (<http://www.thestar.com/news/world/article/888678>)
- “Suu Kyi urges ‘real genuine talks’ with junta,” *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2010/11/15/AR2010111507472.html>)

North Korea

The ICC Office of the Prosecutor announced Dec. 6 that the ICC had opened a preliminary investigation into attacks committed by North Korea in the territory of South Korea. The purpose of the investigation is to determine whether two incidents—the sinking of a South Korean warship on Mar. 26 and the shelling of South Korean territory on Nov. 23—constitute war crimes under the jurisdiction of the Court.

- “ICC Prosecutor: alleged war crimes in the territory of the Republic of Korea under preliminary examination,” *ICC OTP* (<http://www.icc-cpi.int/NR/exeres/204FAB0A-28AC-4310-A933-DB4F4215C9DA.htm>)
- “ICC Prosecutor to Conduct Preliminary Examination into Possible N. Korean War Crimes,” *Voice of America* (<http://www.voanews.com/english/news/asia/111403179.html>)

Philippines

On Dec. 7 the Supreme Court of the Philippines declared unconstitutional the truth commission proposed by President Benigno Aquino to investigate allegations of rights abuses and corruption committed by the 2000–2010 Arroyo administration. The court ruled that the commission violated equal protection laws by targeting specific political officials suspected of corruption.

On Dec. 10 President Aquino witnessed the signing into law of the implementing rules and regulations of Republic Act No. 9745, or the Anti-Torture Law, which criminalizes torture and other cruel, inhuman and degrading treatment or punishment. The signing occurred during a celebration of International Human Rights Day and the 62nd anniversary of the Universal Declaration of Human Rights.

- “Philippines high court rules ‘truth commission’ unconstitutional,” *Jurist* (<http://jurist.org/paperchase/2010/12/philippines-high-court-rules-truth-commission-unconstitutional.php>)
- “Anti-torture rules inked,” *Journal Online* (<http://www.journal.com.ph/index.php/national/24024>)

Solomon Islands

Twenty-two women and youth testified before the TRC during thematic public hearings in Honiara held Nov. 22–26. This was the seventh public hearing held by the TRC in 2010. The mandate of the TRC—to investigate the “tensions” of 1998–2003—has been extended for one year by the Solomon Islands cabinet.

- “TRC hearing for women, youth,” *Solomon Star* (<http://www.solomonstarnews.com/news/national/9059>)

Sri Lanka

On Nov. 7 President Mahinda Rajapaksa extended the six-month mandate of the Lessons Learnt and Reconciliation Commission (LLRC), giving it six additional months to collect evidence, conduct hearings and draft a final report. The eight member commission was appointed in May 2010 to investigate events that occurred between 2002 and 2009 in the Sri Lankan civil conflict.

In reversal of an earlier decision to prohibit UN involvement, the Sri Lankan government announced Dec. 18 it would allow a three-member UN panel, established in June 2010 to examine alleged civil war atrocities, to hold consultations with the LLRC. In response to demands by opposition parties, the government clarified Dec. 30 that the UN panel would be granted visas only to testify, and would not be allowed to conduct an independent investigation.

- “Sri Lanka’s Lessons Learnt and Reconciliation Commission (LLRC) tenure extended,” *Asian Tribune* (<http://www.asiantribune.com/news/2010/11/07/sri-lanka%E2%80%99s-lessons-learnt-and-reconciliation-commission-llrc-tenure-extended>)
- “Sri Lanka says U.N. panel can not conduct own war crimes probe,” *Reuters* (<http://af.reuters.com/article/worldNews/idAFTRE6BT11820101230>)

Timor-Leste

Former militia leader Eurico Guterres called on the Indonesian government Nov. 27 to campaign for the annulment of outstanding indictments against former militia, Indonesian security forces and government officials implicated in the 1999 violence in East Timor. Over 400 former fighters are suspected of violations constituting “serious crimes” committed in events surrounding the 1999 East Timor referendum for independence. The Timor-Leste Prosecutor General has the power to annul these indictments.

- “403 Mantan Pejuang Integrasi Timtim Berstatus DPO,” *Media Indonesia* (<http://www.mediaindonesia.com/read/2010/11/27/184429>)

EUROPE

Former Yugoslavia

The UN Security Council on Dec. 22 established the International Residual Mechanism for Criminal Tribunals (IRMCT), with two branches responsible for completing residual tasks of the International Criminal Tribunals for Rwanda and the former Yugoslavia (ICTR and ICTY).

The former Yugoslavia branch will begin operating July 1, 2013, the same year by which the ICTY aims to complete all cases, with the exception of that of Radovan Karadžić, scheduled to be complete in 2014. Two primary suspects charged by the ICTY—Ratko Mladić and Goran Hadžić—remain at large. For more information, see the Rwanda entry on page 4.

- “Security Council sets up new body to finish work of UN war crimes tribunals,” *Accra Mail* (http://accra-mail.com/index.php?option=com_content&view=article&cid=30244)

MIDDLE EAST AND NORTH AFRICA

Iraq

Iraq became the 20th UN member state to formally adopt the International Convention for the Protection of All Persons from Enforced Disappearance Nov. 23. The treaty entered into force Dec. 23, 30 days after achieving ratification by 20 member states.

- “UN forms anti kidnap body,” *AFP* (http://www.channelnewsasia.com/stories/afp_world/view/1100906/1/.html)

Israel/OPT

Israeli officials announced Dec. 9 a government proposal to pay \$100,000 in compensation to each of the families of Turkish citizens killed during a May 2010 raid on a Gaza-bound aid flotilla. On May 31 Israeli commandos raided an aid flotilla that crossed into a maritime blockade off the coast of Gaza, killing nine Turkish activists. Israel and Turkey remain in dispute over language to be included with the offer; the Israeli proposal expresses “regret” over the incident, and Turkish officials have demanded a formal apology.

- “Israel offers compensation for Gaza flotilla deaths,” *Guardian* (<http://www.guardian.co.uk/world/2010/dec/09/israel-offers-compensation-gaza-flotilla-deaths>)

Lebanon

The UN-backed Special Tribunal for Lebanon (STL) announced Dec. 9 that indictments in the 2005 Hariri case would be filed for confirmation in the coming weeks. Hezbollah, a Shia paramilitary group and political party represented in Lebanon’s cabinet, has stated it expects to be implicated in the indictment and that the accusation will have grave repercussions. This has created fears of instability and of a return to violence. The STL is mandated to investigate the 2005 attack that killed former Lebanese Prime Minister Rafiq Hariri and 22 others.

The Lebanese government is launching an initiative to provide aid to victims of mines and cluster bombs, Social Affairs Minister Salim Sayegh announced Dec. 17. The project will offer physical rehabilitation training sessions and make loans for small-scale projects available to victims in 2011.

- “Lebanon approaches new year with crises hanging,” *Daily Star* (http://www.dailystar.com.lb/article.asp?edition_id=1&category_id=1&article_id=123113)

- “Government to assist cluster-bomb victims,” *Daily Star* (http://www.dailystar.com.lb/article.asp?edition_id=1&category_id=1&article_id=122646)

Morocco

In December, the Advisory Council for Human Rights (CCDH) published annexes to the 2010 report on the Implementation of the Equity and Reconciliation Commission’s (IER) recommendations. The report details the CCDH’s accomplishments in truth-seeking, individual and community reparation, and institutional and legal reforms. The annexes document known victims of enforced disappearances, list recipients of individual reparations, and provide a review of the CCDH’s work in the fields of legal and institutional reform. A fourth annex on community reparation is forthcoming.

- “Publication of the Annexes of the Follow-up Report on the Implementation of the IER’s Recommendations,” *CCDH* (<http://www.ccdh.org.ma/spip.php?article4283&lang=eng>)

PUBLICATIONS

Children and Truth Commissions

Children and Truth Commission, produced by ICTJ and UNICEF, explores the role of children in post-conflict situations and suggests methods to engage children in transitional justice processes. This report is intended to inform the work of truth commissions, child protection advocates and organizations, legal experts and other professionals in efforts to protect the rights of children involved in truth and reconciliation measures. It includes an analysis of emerging good practices and recommends policies and procedures for children's participation in truth commissions.

- “Children and Truth Commissions,” UNICEF (http://www.ictj.org/static/Publications/children_truth_commissions_eng_2010.pdf)

Impunity or Reconciliation in Burma's Transition

This new ICTJ briefing discusses Burma's recent elections, the outbreak of armed conflict and Aung San Suu Kyi's November release from house arrest. The briefing makes key recommendations to the UN and the ruling party in Burma, and concludes that the elections and upsurge in violence mark a step backward on the road to a genuine democratic transition, but Aung San Suu Kyi's emergence from house arrest may offer an alternative to the military's roadmap for transition.

- “Impunity or Reconciliation in Burma's Transition,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_MMR_transition_pb2010.pdf)

Theater and Transitional Justice in Afghanistan: Creating Space for Change

In Afghanistan, community theater has begun to be used as a method of transitional justice to give victims a voice and create positive impulses for peacebuilding. According to a new ICTJ briefing paper, through theater, victims are able to create a “safe space” to discuss experiences of conflict and explore accountability. The main focus is on dialogue, with the explicit aim of allowing participants to propose solutions, discuss plans for change and train themselves for social action.

- “Theater and Transitional Justice in Afghanistan: Creating Space for Change,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_AFG_theaterbriefing_pb2010.pdf)

ICTJ, Gender, and Transitional Justice

Gender-based violence has been endemic in recent conflicts throughout the world. This violence has often been dismissed as an unfortunate consequence of conflict, resulting in widespread impunity for these crimes. ICTJ has released a fact sheet highlighting the work of the

Gender Justice Program, which seeks to promote truth, justice, and accountability for gender-based human rights violations.

- “ICTJ, Gender, and Transitional Justice,” ICTJ (http://www.ictj.org/static/Factsheets/ICTJ_GenderJustice_fs2010.pdf)

Sierra Leone: Submission to the Universal Periodic Review of the UN Human Rights Council 11th Session

This ICTJ submission examines Sierra Leone's progress in implementing transitional justice commitments under the Lomé Peace Agreement (LPA) and international law. It analyzes Sierra Leone's ratification of a number of human rights treaties, highlights both progress made and concerns in implementation and makes recommendations for the next steps to be taken by the government in order to facilitate the establishment of long-term peace.

- “Sierra Leone: Submission to the Universal Periodic Review of the UN Human Rights Council,” ICTJ (http://www.ictj.org/static/UPR/UPR_SierraLeone_ICTJ_Nov_2010.pdf)

Documenting Truth: Ethiopia

The Documentation Affinity Group (DAG) has released a new case study on Ethiopia. DAG sent a mission to Ethiopia in 2009 to meet with the founder of the Ethiopia Red Terror Documentation and Research Center (ERTDRC) and help determine the most effective approach to launching the center's documentation activities. As a result, ERTDRC is making an information package to be used for educational and outreach purposes.

- “Documenting Truth: Ethiopia,” ICTJ (http://www.ictj.org/static/Publications/dag_briefing_Ethiopia_2010.pdf)

Documenting Truth: Zimbabwe

The Documentation Affinity Group (DAG) has released a new case study on Zimbabwe. In 2003 the Counseling Services Unit (CSU) was established to continue previous rehabilitation work for victims of organized violence and torture. Its position as a healthcare provider gives CSU a unique level of access to people who have suffered from violence, documenting a more complete picture of the way violence is carried out throughout Zimbabwe. The challenges that CSU has faced and strategies it has developed to overcome them provide important lessons for similar initiatives around the world.

- “Documenting Truth: Zimbabwe,” ICTJ (http://www.ictj.org/static/Publications/dag_briefing_Zimbabwe_2010.pdf)

Making a Difference

ICTJ works in an ever-shifting environment; new crises emerge and new opportunities for examining the past present themselves. At the close of 2010, events unfolded around the world that affect prospects for transitional justice and shape the impact ICTJ may have in the future.

In Burma, developments over the past few months may portend genuine change or merely raise false hope and the danger of international complacency. Elections in November were widely seen as an entrenchment of the current regime. The military junta did however release pro-democracy leader Aung San Suu Kyi from house arrest, and she has called for dialogue and reconciliation with the regime.

Drawing on information acquired through close monitoring over the past two years, ICTJ released a new briefing paper on Burma in December. The report calls for a commission of inquiry to examine systemic crimes that may be referred for prosecution by the ICC and spells out steps that would constitute genuine reform by the government.

Historic steps were taken in December to advance accountability and international jurisprudence. In Kenya, justice for victims of widespread post-election advanced December 16 when the ICC announced its intention to issue summons to six key leaders of organized violence following the 2007 presidential elections. ICTJ's office in Nairobi supports truth-seeking, institutional reform and criminal justice efforts, working on the ground with civil society groups engaged in accountability seeking in Kenya.

On the same day, the Inter-American Court of Human Rights issued a historic ruling invalidating a 1979 Brazilian law that gave amnesty to military personnel involved in human rights abuses during military rule in the 1960s and 70s. ICTJ has long supported lawyers who sought to overturn the amnesty, and today is actively engaged in efforts to design an effective truth and reconciliation commission in Brazil. Looking forward, the Inter-American court has ordered Brazil to try perpetrators in civilian courts. In tandem with truth-seeking efforts, such trials would at last vindicate victims who have waited decades for justice.

Over the past year ICTJ has worked more broadly to foster domestic prosecution of such atrocities, pushing forward strategic thinking on the complementarity principle. In October, ICTJ hosted a retreat of



ICTJ Senior Associate Njonjo Mue talks with participants after a panel discussion on transitional justice in Kenya, June 2010.

UN and national government officials, legal scholars and others to discuss strategies for promoting domestic courts' role in prosecuting international crimes.

Complementarity will be an important part of ICTJ's work in the near future; today, we are reviewing the ideas that have emerged from these discussions, and the ICC Review Conference last June, as we plan our next steps.

Our Kenya office, meanwhile, will monitor the work of the ICC as well as a recently announced domestic tribunal that will consider criminal charges against other alleged perpetrators. And in Brazil, we will continue to lend our expertise to support the truth commission, and leverage this work to form a regional network of transitional justice advocates.

While it is impossible to be certain, the chances for a democratic transition in Burma remain dim. However, the work we do to help Burmese activists gather and preserve evidence of widespread atrocities will ensure that, when the time comes, the architects of these crimes will not walk away with impunity.

Your support has enabled ICTJ to stand up for justice in many places, and to make the tools of transitional justice an integral part of international policy and local practice. This year, too, will bring exciting opportunities. We look forward to telling you about them as they unfold.

About ICTJ

The International Center for Transitional Justice works to redress and prevent the most severe violations of human rights by confronting legacies of mass abuse. ICTJ seeks holistic solutions to promote accountability and create just and peaceful societies.

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