

JUNE 2010

Victims and the ICC Review Conference

Interview with David Tolbert, President of ICTJ

David Tolbert will participate in an official stocktaking discussion on victims at the Review Conference of the Rome Statute in Kampala, Uganda, May 31 – June 11.

Q. The Assembly of States Parties of the International Criminal Court (ICC) is holding the first review conference of the court's founding document, the Rome Statute, this week. Why is the topic of victims one of the foremost issues at the conference? What is significant about the roles of victims in the statute and the court?



The ICC deals with massive crimes that affect huge numbers of victims, so its relationship with victims is critically important on a number of levels.

First, victims are a key constituency of the court. The most important aspect of the relationship is that the court does justice and so to some extent vindicates the rights of the victim and allows their stories—their truths—to be told. This is in contrast to many national systems, particularly common law systems, where victims are involved primarily as witnesses and their interests have really been neglected.

Second, the Rome Statute embodies a number of important victim-related legal developments and so builds on the victims' rights movement, which goes back at least to the United Nations (UN) General Assembly's declaration on the rights of victims of 1985. The Rome Statute opened a door that didn't exist before in international criminal justice—a door to victim participation in proceedings and to obtaining reparations. Victims' voices are being heard in ways like never before.

Third, international law during the past 15 years has become significantly more sensitive to victims, and those developments are embodied in the Rome Statute. For example, we now have crimes of sexual abuse and rape categorized as war crimes, crimes against humanity and genocide. I think these achievements are very much tied to the whole victims' rights movement as well as to the efforts of activists for gender justice.

But, even with all of these developments in victims' rights, it's important to remember the court is not simply about victims. The court must, first and foremost, be about justice. The accused is innocent until proven guilty, but the victims' voices are an important part of that process.

Q. If you take yourself back to the 1998 Rome negotiations, what were people doing about victims' rights?

One of the innovations obviously is victims' participation in proceedings. It is very significant that, at least in the trial proceedings, as opposed to the investigative proceedings, victims can participate in

INTERACTIVE TABLE OF CONTENTS

Victims and the ICC Review Conference	1
World Report	
<i>Africa</i>	4
<i>Americas</i>	4
<i>Asia</i>	5
<i>Europe</i>	7
<i>Middle East and North Africa</i>	7
Publications	8
Calendar	10
Making a Difference	11

the process through counsel. This is the first time this has been possible on an international level. And victims have actually made their mark. Some may disagree with the process, but in the case against Thomas Lubanga, the victim participants disagreed with the charges made by the prosecutor, which omitted crimes of sexual violence. The victims moved for this charge to be added to the prosecutor's charges and it was accepted by the chamber, thus in essence overruling the scope of the prosecutor's indictment. That's a development I don't think any of us would have expected to see just a few years ago, even though it was reversed on appeal.

There's also the question of reparations. This has not really been addressed in practice because we don't yet have a final verdict in any of the cases, so there are no reparations orders. Nonetheless, the creation of the Trust Fund for Victims (TFV)—also created by the Rome Statute to fund opportunities for the benefit of victims and implement court-ordered reparations awards—is very significant. Let's face it, in general it's going to be fairly difficult to obtain reparations from perpetrators. If reparations are contingent on perpetrators, many victims could end up with nothing because assets aren't identified and recovered early or because convicted perpetrators don't have any assets to begin with. So the TFV is an important step in the right direction, but the problem is that it is underfunded. I am concerned an underfunded TFV will first raise victim expectations and then disappoint them, because victims will be, or expect to be, awarded reparations—and then the funds will not be there.

If state parties and the international community are going to hold out the possibility of reparations to victims then they need to take steps to enable the fund to be more effective than its current underfunded status suggests.

Q. How has actual practice developed since the statute was created?

Victims do not participate in the investigation phase, which was decided after extensive litigation.

However, victim participation in the trial phase has certainly come to life. The Lubanga case mentioned earlier is a great example of this. And if you watch the film *The Reckoning*, for example, you'll see the victims' advocates arguing quite persuasively and being heard on important legal points. Skeptics question whether victims' representatives become a kind of second prosecutor, whether they make proceedings more protracted, but with good courtroom management this is not an issue.

Q. The word “victim” has many meanings. How does the court define victims in situation countries and what are the practical consequences?

This is a significant problem for a number of reasons. How does a court decide who is a victim? How close do you have to be to the direct victim to qualify as a victim? These are the kinds of problems that have to be resolved in jurisprudence.

Another question is: what you do about people who are victims of similar or related crimes that the court hasn't chosen to prosecute? These are issues that we can't expect the court to solve on its own. The question is whether you open a Pandora's box by tying victim participation and reparations directly to the perpetrator.

What I would say is that the court can lead in a demonstrative role. It can identify the crimes, it can bring some limited redress to the principal victims, or to the victims of those specific crimes, but it cannot be expected to do much more. There must be a broader response beyond the court. As is the case with all international and hybrid courts, the ICC has to work as part of a broader rule-of-law network.

In most countries, you have a lot of other actors on the ground, including development agencies, NGOs, the UN, as well as efforts to develop the national courts. This is where the principal of complementarity links up with the issue of victims. It is through a holistic transitional justice approach and the broader rule-of-law network that these issues need to be addressed. What do we do in national courts for victims? What do we do in terms of health programs or psychological support? No matter how expansive the court's role on victims' issues, in large part the work on the ground has to be carried out across a range of initiatives and agencies. And one has to be careful not to oversell the court in this sense.

Q. Whenever people say victims they tend to immediately also say “outreach.” Why the strong link, and what do people really mean when they say outreach?

They mean a lot of things and it may be useful to go back to the origins of the term. The first outreach program, in which I was involved, was not necessarily targeted to victims, it was much more about being responsive to or trying to combat the bad image the International Criminal Tribunal for the former Yugoslavia (ICTY) had in parts of that region. The court was being politicized and attacked in the media,

and was not well understood in the countries where it was supposed to have an impact. People expect these courts to do a great deal: establish a historical record, remove some of the worst actors from that society, and so on. However, the courts themselves are a long way away from where the crimes were committed, and they're frequently extremely misunderstood by local populations. Thus, the original outreach strategy was to ensure the ICTY's role, procedures, and limitations were well understood by local populations—to try to close the knowledge gap.

Outreach is important to enable victims to better understand a process that's unfamiliar to them. There is also an underlying issue of the court creating expectations that can't be met. The court shines the spotlight on victims and their suffering, but it's a double-edged sword: victims see greater possibilities, the court is put to the test, and so victims can in fact become more disappointed. I would say there needs to be more attention to and investment in outreach, but expectations probably need to be toned down as well: it's not a panacea. One can't send in a handful of outreach officers and expect fundamental political dynamics to change. In many of these very difficult settings there's a limit to what outreach can do.

Q. In practice thus far there has been real tension between victim expectations and demands and the court. Where has that been most pronounced in recent years and what have we learned?

It is very pronounced in the Democratic Republic of Congo (DRC) as well as other countries. Part of this phenomenon relates to misunderstandings about what the court is expected to do and part of it relates to the very difficult situation victims find in their own lives. I think part of it is just natural in this business and we have to accept it.

This is an area in which ICTJ's insights are invaluable. We are actually on the ground in these countries; we are dealing with local actors and with the local judicial infrastructure. The papers we prepared for the review conference do a good job of examining the kinds of tensions that exist between victim expectations and the court, and making proposals to address them. It is very difficult for people sitting in The Hague, no matter how well they do their work, to have a full picture of the situation on the ground. That's why it is important for organizations like ICTJ and others on the ground engaged with local actors to be in dialogue with relevant court officials.

Q. How can the TFV learn from national reparations programs when developing its own?

There's a very rich practice out there. People are increasingly realizing that effective reparations programs are not simply about financial payment or compensation; rather, they acknowledge the victims as rights holders—and that has important symbolic dimensions. Also, it's now clear that one needs to be sensitive to the particular culture and society when designing reparations programs in order to ensure they're effective in both practical and symbolic terms. In Uganda, for example, displacement is a major victims' issue, whereas in another country an official apology may be a vital step. An effective program must address these kinds of differences, as well as the more obvious factors of scale, economic resources, and feasible means of implementation.

Q. The review conference is spending half a day on victims in its stocktaking discussions. What is likely to be a good outcome?

That the state parties walk away with a renewed or new commitment on the victims issue and the other stocktaking items. They need to understand the expectations they've created for the victims and find mechanisms, whether the TFV or some of the other things we have just discussed, to address victims' concerns and suffering. Half a day is not much, but it is as much as any of the other topics will receive, other than aggression—which in my view is a less constructive topic of discussion than these principal issues we're speaking of. I hope participants will pay more attention to the items on the court's plate right now, which are victims' issues and complementarity as well as questions of peace and justice, and cooperation.

Q. One of the main challenges in international justice is funding fatigue. How important is it to remind states that it is possible to help strengthen the Rome Statute system by leveraging resources they may already be giving, for example in the development sector?

That is a key question. It comes up most in the complementarity discussion, but also applies to the victims' discussion. If the ICC is not seen as part of a greater effort for the rule of law, then it will become a solitary court in The Hague whose impact will be limited. For us to actualize the court a lot more needs to be done—and from the ground up. We should not see the ICC in one silo and rule-of-law programs in another. International justice is justice that happens to have an international element because there is simply no other way to have justice in that particular context at that particular moment. ♦

AFRICA

Guinea

Guinea's first free presidential elections are scheduled to take place June 27. As of May 26, the Guinean Supreme Court has approved 24 candidates to run for the presidency, including some former members of the military junta that took power in 2008. Despite the inclusion of former junta members on the ballots, many experts do not expect election fraud, given the transparency of the campaigning processes.

- "Guinea headed for free election, analysts say," *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2010/05/25/AR2010052502568.html>)

Kenya

Amid a continued credibility crisis surrounding Chairman Bethuel Kiplagat, the Truth, Justice and Reconciliation Commission (TJRC) began collecting statements from victims in the Mt. Elgon District May 24. The district is the site of serious human rights abuses allegedly committed by Kenyan security forces in 2008. The TJRC is expected to begin statement-taking in the rest of the country in July 2010.

ICC Prosecutor Luis Moreno-Ocampo conducted a visit to Kenya May 8–12 to officially launch investigations into the post-election violence following the 2007 presidential elections, and to meet with victims of the violence, business and government officials, religious leaders and the press. Ocampo requested ICC involvement in November 2009, and in March 2010 gave ICC judges a list of 20 individuals suspected of organizing or financing the violence.

- "TJRC visits Mt. Elgon mayhem centers," *Kenya Broadcasting Corporation* (<http://www.kbc.co.ke/story.asp?ID=64196>)
- "Kenya: Ocampo Arrives to Begin Probe Process," *AllAfrica* (<http://allafrica.com/stories/201005090001.html>)

Sudan

Sudan's president Omar al-Bashir was inaugurated to a second term May 27, after the country's first presidential elections in more than 26 years were held in April. Two top United Nations representatives, Haile Menkerios, head of the UN Mission in Sudan, and Ibrahim Gambari, joint head of the African Union and UN Mission in Darfur, were in attendance, sparking widespread controversy. UN Secretary General Ban Ki-Moon defended their attendance, stating that it was a strategic decision made for operational purposes of both missions. Al-Bashir has

been indicted by the ICC for war crimes and crimes against humanity allegedly committed in Darfur.

- "Ban defends decision authorizing U.N. officials to attend Bashir's inauguration," *Sudan Tribune* (<http://www.sudantribune.com/spip.php?article35185>)

Uganda

On May 25, U.S. President Barack Obama signed the LRA Disarmament and Northern Uganda Recovery Act of 2009, committing the United States "to work towards a comprehensive and lasting resolution" of the ongoing conflict in northern Uganda. The Act also authorizes funding for "reconstruction, reconciliation, and transitional justice" measures, including the establishment of war crimes trials, reparations programs, truth-telling, and memorialization efforts. The legislation passed Congress May 13.

The Review Conference of the Rome Statute, the treaty of the ICC, began May 31 in Kampala. The conference will decide upon proposed amendments to the statute, as well as examine the implementation and impact of the Rome Statute to date on issues of complementarity, cooperation, peace and justice, and victims and affected communities. ICTJ will be participating in the conference and has prepared a series of briefing papers on stocktaking and the impact of the Rome Statute in situation countries.

- "Obama signs U.S. law to help Uganda fight LRA rebels," *Reuters* (<http://www.reuters.com/article/idUSTRE6400JL20100525>)
- "The Rome Statute Review Conference," ICTJ (<http://www.ictj.org/en/news/features/3739.html>)

AMERICAS

Argentina

Julio Alberto Poch, an Argentinean pilot accused of illegal detentions, torture, disappearances, and deaths during the 1976–1983 military rule, was extradited from Spain to Argentina May 6. Poch is charged with piloting "death flights" that resulted in the deaths of over 1,000 people.

- "'Death flights' suspect returned to Argentina," *CNN* (<http://www.cnn.com/2010/WORLD/americas/05/07/argentina.death.flight.pilot/?hpt=Sbin>)

Brazil

The Supreme Court rejected a motion April 29 to modify Brazil's 1979 amnesty law which pardons civilians and military personnel for alleged crimes committed during the regime of 1964–1985. The amendment was proposed by the Brazilian Bar Association, who argued that individuals who committed torture should be excluded from the amnesty. If successful, the amendment would have required officials accused of human rights abuses committed under the former military regime to stand trial. The decision to reject the motion has the potential to undermine Brazil's current efforts to combat impunity and bring justice to the victims of the military dictatorship, ICTJ said.

- “Brazil: Amnesty Law Decision Undermines Obligations to Victims,” ICTJ (<http://www.ictj.org/en/news/press/release/3692.html>)

Colombia

The Colombian Attorney General's Office announced May 11 that they have exhumed over 3,000 bodies of victims killed by right-wing militias, located through the confessions of demobilized paramilitaries. As part of an attempt to resolve tens of thousands of outstanding disappearances, the government has offered reduced prison sentences to former paramilitaries who reveal the location of mass graves, a policy that has drawn widespread criticism from human rights organizations and the United Nations.

- “More than 3,000 Militia Victims Exhumed in Colombia,” *Latin American Herald Tribune* (<http://www.laht.com/article.asp?ArticleId=356810&CategoryId=12393>)

Honduras

A Truth and Reconciliation Commission (TRC), tasked with investigating the events surrounding the June 2009 military coup that ousted former president Manuel Zelaya, was inaugurated May 4. The TRC's mandate is cause for concern as it fails to cover widespread assassinations and attacks perpetrated since June 2009 against journalists and social activists, ICTJ said. In order to be effective, the TRC must meet international standards of best practice, including consultation with victims and a broad range of political and civil society actors.

- “Honduras: New Truth Commission Should Guarantee Victims' Rights,” ICTJ (<http://www.ictj.org/en/news/press/release/3711.html>)

United States

A federal appeals court ruled May 21 that detainees at Bagram Air Base in Afghanistan do not have the right to challenge their detention in federal court through *habeas corpus*. The opinion overturned a lower court ruling allowing detainees in Bagram to file *habeas* writs, which was appealed by the Obama administration. The administration's support of barring Bagram detainees from challenging their detention in U.S. courts has drawn heavy criticism from human rights advocates, who view the policy as permitting unlawful and perhaps indefinite detention.

The US government rejected a plea deal made by the Canadian government to ban information obtained through interrogations from the military commission trial of Omar Khadr. Khadr, a Canadian citizen held in Guantanamo Bay, is facing trial by the first military commission under the Obama administration for five counts of war crimes. His trial is scheduled to begin in July 2010, and is expected to set precedent with respect to suppression or admission of evidence obtained through unlawful detainee treatment.

- “Bagram Detainees in Afghanistan Cannot Ask U.S. Courts for Help, Court Rules,” *ABC News* (http://abcnews.go.com/Politics/Supreme_Court/story?id=10710491)
- “U.S. rejects Ottawa's plea to suppress Khadr interrogation by CSIS agents,” *Globe and Mail* (<http://www.theglobeandmail.com/news/world/us-rejects-ottawas-plea-to-suppress-khadr-interrogation-by-csis-agents/article1557861>)

ASIA

Bangladesh

Head of the war crimes inquiry Abdul Matin resigned May 17 over allegations that he was involved in the Jamaat-e-Islami student party, some of whose leaders are suspected of involvement in war crimes in 1971. The inquiry is investigating allegations of international crimes that occurred during the 1971 conflict that resulted in Bangladesh's independence. Minister of Law Shafique Ahmed stated the inquiry is not hurt by the resignation, and that investigations will continue.

From May 17–22, ICTJ conducted an assessment mission to Dhaka to examine current progress in the work of the newly established international crimes tribunal and to conduct consultations with a range of actors involved in the effort.

- “Probe not hurt by resignation, claims minister,” *bdnews24* (<http://www.bdnews24.com/details.php?id=161645&cid=2>)

Burma

The National League for Democracy (NLD), Burma’s pro-democracy party headed by Nobel laureate Aung San Suu Kyi, disbanded May 6, unwilling to accept the terms of recently passed election laws that prohibit Suu Kyi from running and formally nullified the NLD’s victory in the 1990 presidential elections. NLD leaders said that while the party would not take place in the elections scheduled for later this year, it would continue to operate as a social organization dedicated to pursuing democracy and respect for human rights in Burma.

- “Senior Burma NLD leader defiant as party disbands,” *BBC News* (<http://news.bbc.co.uk/2/hi/asia-pacific/8664741.stm>)

Cambodia

The Extraordinary Chambers in the Courts of Cambodia (ECCC) announced May 24 that the final verdict in the case of Kaing Guek Eav, alias Duch, will be handed down July 26. Prosecutors have asked for a sentence of 40-years imprisonment for Duch for his involvement in the deaths of more than 15,000 people at the S21 interrogation center and the Cheong Ek killing fields during the Khmer Rouge regime of 1975–1979.

On May 20, the Pre-Trial Chamber of the ECCC affirmed that the mode of liability known as Joint Criminal Enterprise (JCE), under which individuals can be held responsible for furthering a common criminal purpose, is partly applicable at the proceedings before the ECCC. The Chamber found that the basic and systemic forms of JCE (often referred to as JCE I and JCE II) were part of customary international law during the Khmer Rouge regime, and can therefore be applied to ECCC cases.

- “Cambodia’s Khmer Rouge trial verdict due July 26,” *Associated Press* (http://www.google.com/hostednews/ap/article/ALeqM5gkvDgd_ZwL0x_nwAEl-0V3V4iURAD9FT8Q1O0)
- “Decision on the Appeals Against the Co-Investigative Judges Order on Joint Criminal Enterprise (JCE),” ECCC (http://www.eccc.gov.kh/english/cabinet/courtDoc/605/D97_15_9_EN.pdf)

Indonesia

May marked the 12th anniversary of the violence that occurred in 1998 in Indonesia at the end of the Soeharto regime. Civil society groups, including ICTJ, organized a series of activities to commemorate the

victims of human rights violations under Soeharto, including a public hearing held May 3, the first truth-seeking event held in Indonesia, and the laying of a foundation stone for a monument to commemorate the victims of the massacre.

- “Remembering the ‘KKA Junction’ Massacre near Lhokseumawe, North Aceh, Indonesia,” ICTJ (<http://www.ictj.org/en/news/features/3760.html>)

Nepal

Calling for the dissolution of the current government on the grounds that it failed to fulfill its responsibilities to conclude the peace process and redraft the constitution, Nepal’s Maoist movement held a general strike May 2–7, effectively paralyzing the entire country. The resulting instability has hampered the ongoing peace process, which includes the integration of the Maoist People’s Liberation Army with Nepal’s National Army; 15,000 or more former combatants remain in cantonments overseen by the UN.

- “Maoists End Strike in Nepal,” *New York Times* (<http://www.nytimes.com/2010/05/08/world/asia/08nepal.html>)

Solomon Islands

On May 25, the Solomon Islands TRC held its first regional public hearings in Malaita, home to the majority of people displaced during the “tensions” of 1998–2003. More than 30 victims testified about their experiences during the conflict that primarily involved the populations of Malaita and Guadalcanal. Support from victims will continue to boost confidence in the TRC process and encourage widespread involvement, ICTJ said.

- “Solomon Islands: Participation a Key to Truth Commission Success,” ICTJ (<http://www.ictj.org/en/news/press/release/3765.html>)

Sri Lanka

On May 17, the International Crisis Group (ICG) published a report calling for an international inquiry into alleged war crimes and serious human rights violations committed by the Sri Lankan security forces and the Liberation Tigers of Tamil Eelam during the last five months of the 30-year civil conflict. The report asserts that from January – May 2009, government security forces were responsible for intentional targeting of civilians, hospitals, and humanitarian operations, resulting in tens of thousands of deaths. A national Commission for Truth and

Reconciliation is in place, but is widely considered to lack support and confidence from civil society.

- “War Crimes in Sri Lanka,” *International Crisis Group* (<http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/191-war-crimes-in-sri-lanka.aspx>)

MENA

Israel/OPT

The Israeli newspaper Ha'aretz, together with an Israeli art student, has petitioned the Israeli High Court of Justice for access to material relating to the alleged massacre of hundreds of Palestinians in the village of Deir Yassin in April 1948. Information about the incident was deemed secret in accordance with Israel's Archive Law, which permits the State to withhold publication of state documents for 50 years if the material is regarded as endangering Israel's security or foreign relations. The ban on access was subsequently extended by a ministerial committee until 2012. Petitioners have based their claim on the right to know, and argue the public has a right to confront the past. The High Court considered the matter in early May; its judgment remains pending at this time.

- “A Massacre of Arabs Masked by a State of National Amnesia,” *The Independent* (<http://www.independent.co.uk/news/world/middle-east/a-massacre-of-arabs-masked-by-a-state-of-national-amnesia-1970018.html>)
- “Army may release all Deir Yassin docs,” *The Jerusalem Post* (<http://www.jpost.com/Israel/Article.aspx?id=174720>)

Iraq

Iraqi politicians reached an agreement May 11 to halt the barring of candidates from politics for ties to the Baath Party, a practice commonly known as the de-Baathification. The disqualification of hundreds of candidates before the March 7 parliamentary elections created a political crisis and deepened the sense of sectarian division. Under this new agreement, none of the winning candidates would be barred, government officials announced.

- “Iraqis Reach Deal to Stop Barring Candidates” *New York Times* (<http://www.nytimes.com/2010/05/12/world/middleeast/12baghdad.html?partner=rssnyt&emc=rss>)

Lebanon

Daniel Bellemare, prosecutor for Special Tribunal for Lebanon (STL), announced May 17 that the tribunal will file charges later this year, and hopes to begin holding trials in 2011. The STL was established by the UN to try suspects in the 2005 assassination of former Prime Minister Rafik Hariri; to date, the tribunal has no suspects in custody.

- “STL's Bellemare to press charges in Hariri case ‘by fall’” *The Daily Star* (http://dailystar.com.lb/article.asp?edition_id=1&catgeg_id=2&article_id=114929#axzz0oA8U3AqI)

Morocco

In an interview May 8, Ahmed Herzenni, the President of the Advisory Council of Human Rights (CCDH), stated that reconciliation should not be limited to repairing the harm caused to individuals only, and affirmed commitment to a program of community reparation. Expressing support for memorialization efforts, Herzenni also declared that the preservation of former detention centers participates in the process of reconciliation with the past.

- “Ahmed Harzenni, président du Conseil consultatif des droits de l'Homme : «La réconciliation ne doit pas se limiter à la réparation des torts causés aux individus»” *Libération* (http://www.libe.ma/Ahmed-Harzenni-president-du-Conseil-consultatif-des-droits-de-l-Homme-La-reconciliation-ne-doit-pas-se-limiter-a-la_a11036.html)

EUROPE

Cyprus

Peace talks between Greek and Turkish Cypriot leaders resumed May 26, the first meeting since nationalist Dervis Eroglu replaced Mehmet Ali Talat as the Turkish Cypriot leader following elections April 18. Eroglu is seen as taking a more hardline stance than his predecessor, advocating a confederation of two independent states rather than a single state federal solution endorsed by the Greek Cypriot side. Since 2008, the two sides have held over 70 meetings aimed at negotiating the reunification of Cyprus after 36 years of partition.

- “New hardliner joins Cyprus talks,” *BBC News* (<http://news.bbc.co.uk/2/hi/world/europe/10165771.stm>)

Former Yugoslavia

ICTY prosecutors filed an amended indictment against former Bosnian Serb General Ratko Mladic May 17, aimed at speeding up his trial when he is arrested. The amended indictment charges Mladic with 11 counts of genocide, crimes against humanity and war crimes for his role in the ethnic cleansing in Bosnia and Herzegovina from 1992–1995, the terror campaign against civilians during the siege of Sarajevo from 1992–1995, the taking of UN personnel as hostages in May and June 1995, and the masterminding the deaths of over 7,000 men and boys in and around the town of Srebrenica in 1995. Mladic's family is currently seeking to have him declared officially dead, a motion Serbian officials say will not affect their search for the general.

The United States extradited former Bosnian Serb Marko Boskic to Bosnia April 29, where he is under investigation for his alleged involvement in crimes of genocide committed in 1995 in Srebrenica.

- “Prosecutors shorten indictment against Ratko Mladic,” *Reuters* (<http://www.reuters.com/article/idUSTRE64C28X20100513>)
- “Family wants Ratko Mladic declared ‘legally dead,’” *BBC News* (<http://news.bbc.co.uk/2/hi/world/europe/10154507.stm>)
- “U.S. extradites Bosnian Serb suspected of genocide,” *The US Daily* (<http://theusdaily.com/articles/viewarticle.jsp?id=1061410&ctype=home>)

Spain

On May 14, a judicial panel suspended Judge Baltasar Garzón from his position as a judge pending his trial on charges that he knowingly exceeded his authority by ordering an investigation into disappearances and deaths that occurred during the Spanish Civil War. On May 18, the panel granted Garzón a leave of absence to work as an advisor for the ICC for the next seven months, an appointment requested by ICC Prosecutor Luis Moreno Ocampo.

- “Garzón suspended, will move to ICC,” *Radio Netherlands Worldwide* (<http://www.rnw.nl/international-justice/article/garz%C3%B3n-suspended-will-move-icc>)

PUBLICATIONS

Fact Sheet: ICTJ and the Review Conference on the Rome Statute

The ICC is the most significant international development of our time in the fight against impunity. The Review Conference is a landmark opportunity to assess the workings of the Statute of the Court, to be held in Kampala, Uganda from May 31 – June 11. ICTJ contributes unique expertise on development of the complementarity principle, issues of peace and justice, and the needs and expectations of victims.

- “ICTJ and the Review Conference on the Rome Statute,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_RSRC_fs2010.pdf)

In advance of the Review Conference of the Rome Statute, ICTJ has produced a series of seven briefing papers:

Stocktaking: Complementarity

The ICC can only investigate and prosecute when national jurisdictions are genuinely unable or unwilling to do so. This paper analyzes the practical challenges of complementarity, and concludes that supporters of the Rome Statute and the ICC should seek to increase domestic legal reform and technical assistance initiatives.

- “Stocktaking: Complementarity,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_RSRC-Complementarity_bp2010.pdf)

Stocktaking: Peace and Justice

Although in force only recently, the Rome Statute has changed many of the assumptions of earlier peace versus justice debates. Early signs are that the Statute may have strengthened motivations to negotiate, and to put a wider array of justice options on negotiating agendas.

- “Stocktaking: Peace and Justice,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_RSRC-PeaceandJustice_bp2010.pdf)

Colombia:

Impact of the Rome Statute and the International Criminal Court

Colombia is one of the most conflict-ridden parties to the Rome Statute, kept under “preliminary examination” by the ICC Prosecutor. Existing national proceedings are not addressing Rome Statute crimes, and victim expectations are high. Whatever measures are adopted, they should be more effective than those pursued to date.

- “Colombia: Impact of the Rome statute and the International Criminal Court,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_CO_RSRC-ImpactofICC_bp2010.pdf)

DRC:

Impact of the Rome Statute and the International Criminal Court

All of the accused in current ICC trials are from the DRC; while there are signs of early impact the Court should consider expanding its prosecutorial strategy, and improving outreach. More should be invested in improving domestic justice initiatives, including a comprehensive approach to address victims’ needs for truth, justice, reparations, and institutional reform.

- “DRC: Impact of the Rome Statute and the International Criminal Court,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_DRC_RSRC-ImpactofICC_bp2010.pdf)

Kenya:

Impact of the Rome Statute and the International Criminal Court

Kenya experienced severe violence after its 2007 presidential elections. This paper analyzes the impact of the ICC’s recently announced investigation into the post-election violence, and cautions that the Court’s involvement must be supplemented by other reforms, including political, constitutional, and security sector reforms.

- “Kenya: Impact of the Rome Statute and the International Criminal Court,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_KE_RSRC-ImpactofICC_bp2010.pdf)

Sudan:

Impact of the Rome Statute and the International Criminal Court

Atrocities in Darfur compelled the UN Security Council to refer the situation to the ICC in 2005. The Court has been met with a complete lack of cooperation on the part of the Sudanese government. Despite the short term political backlash to the arrest warrants, however, there are tentative signs that the ICC’s involvement may have helped unblock stalemated peace negotiations.

- “Sudan: Impact of the Rome Statute and the International Criminal Court,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_SDN_RSRC-ImpactofICC_bp2010.pdf)

Uganda:

Impact of the Rome Statute and the International Criminal Court

While Uganda has taken first steps to establish domestic capacity to try international crimes, neither these measures nor the ICC can provide a complete solution to justice in Uganda. Other transitional justice options such as truth-seeking and reparations should not be neglected, especially in light of the expressed desires of affected populations for these forms of justice.

- “Uganda: Impact of the Rome Statute and the International Criminal Court,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_UG_RSRC-ImpactofICC_bp2010.pdf)

Other publications:

Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia

ICTJ has published an analysis of the Liberia TRC final report, which was released in December 2009. The ICTJ report emphasizes the need for a comprehensive debate on the TRC recommendations, one that is inclusive of all stakeholders. It covers a range of issues critical to Liberia’s post-conflict recovery efforts, which include the need for criminal accountability, reparations, memorialization, and institutional reform.

- “Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_LBR_BeyondTRC_pb2010.pdf)

Outreach Strategies in International and Hybrid Courts

In collaboration with the ECCC, the Research Unit of ICTJ organized a three-day workshop as part of a research project on *Making an Impact: Guidance on Designing Effective Outreach Programs for Transitional Justice*. This workshop report presents a summary of some of the topics discussed, providing a general overview of the ECCC functions and outreach strategies, and highlights the outreach challenges and opportunities faced by the ECCC.

- “Outreach Strategies in International and Hybrid Courts,” ICTJ (http://www.ictj.org/static/Publications/ICTJ_Research_Outreach_ECCCWorkshop_Apr2010.pdf)

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May 31 – June 11

Review Conference of the Rome Statute of the ICC

Kampala, Uganda

For more information, visit

<http://www.ictj.org/en/news/features/3739.html>

June 2

Review Conference – Taking Stock of the Impact of the ICC in Kenya, Uganda, the DRC, Sudan and Colombia

Kampala, Uganda

For more information, visit

<http://www.ictj.org/en/news/features/3739.html>

June 2

Review Conference – Stocktaking: Impact of the Rome Statute system on victims and affected communities

Kampala, Uganda

For more information, visit

<http://www.ictj.org/en/news/features/3739.html>

June 2

Review Conference – Stocktaking: Peace and Justice

Kampala, Uganda

For more information, visit

<http://www.ictj.org/en/news/features/3739.html>

June 4

Review Conference – The Reckoning Screening

Kampala, Uganda

For more information, visit

<http://www.ictj.org/en/news/features/3739.html>

June 14

Roundtable on Transitional Justice and the European Union

Brussels, Belgium

For more information, visit

<http://www.ictj.org/en/news/event/3689.html>

June 16 – 19

Truth and Reconciliation: It's about respect

The Canadian TRC's first national event
Winnipeg, Manitoba

For more information, visit

<http://www.trcnationalevents.ca/websites/trcevent2010/index.php?p=1>

June 18–20

Enemies of the People: Screening and Q&A with the Filmmakers

New York, NY

For more information, contact Sarah Anderson at sanderson@ictj.org

Making a Difference

Five years into the implementation of the Aceh peace agreement, signed in Helsinki by the Indonesian Government and the Acehese rebel movement (GAM) on August 15 2005, commitments to establish a truth and reconciliation commission and a human rights court for Aceh remain unmet. Despite this climate of impunity, victims of human rights violations in Aceh continue to mark key events in their history, such as the “KKA junction massacre” on May 3, 1999, an incident where Indonesian security opened fire on protesters, killing roughly 50 and wounding more than 100.

Working alongside local civil society organizations, ICTJ helped to organize a day long commemoration of the lives lost in the massacre ten years ago, which included an informal truth-telling initiative organized by civil society actors. About 1,000 victims, local residents, local government representatives, journalists, and NGO members attended the commemoration, which was held May 3, 2010.

Five survivors of the massacre testified at the public hearing, before onlookers and five commissioners made up of representatives from Acehese civil society. The event was modeled on draft legislation for a local truth and reconciliation commission in Aceh, developed by civil society and submitted to the provincial government in 2007. Testimony



Commissioners hear testimony from victims of the KKA Junction massacre in a civil society-led truth-telling exercise.

showed that the memory of past violations remains fresh in the hearts and minds of the community members affected by the violence.

Following the hearing, the vice regent of North Aceh and a member of the local parliament laid the foundation stone for a monument to commemorate the victims of this massacre. Prayers and singing accompanied the ceremony, which was held at 12:30 pm, exactly the time eleven years ago when the first shots were fired.

“For five years now, victims and civil society groups have pressed for a human rights court and a truth and reconciliation commission—both of which are promised in the peace agreement and in the national law implementing the peace process,” explains Wiratmadinata, coordinator for ICTJ’s Aceh program. “This civil society-led truth-telling initiative was the first of its kind in Indonesia. It has provided room for victims to come forward and speak of their experiences in public. With their demands repeatedly ignored, victims in North Aceh have taken things into their own hands to demonstrate what a truth-seeking mechanism for Aceh could look like.”

ICTJ continues to support civil society working locally in Indonesia through activities such as trainings, workshops, and exposure visits, to enable informed participation in developing transitional justice options for the country.



Local officials lay the foundation for a monument dedicated to the victims of the KKA Junction massacre.

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.

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