

OCTOBER 2009

Building for the Future

Interview with Hanny Megally, ICTJ Middle East and North Africa Program Director

Q. What is the significance of the Sep. 15 report by the UN Fact Finding Mission on the Gaza Conflict?

A. It is a breakthrough in the sense that when Richard Goldstone was appointed as head of the mission, he extended its mandate to cover not just Israeli violations but violations by all parties. He also included looking at the West Bank rather than just Gaza.

The mission also looked much more into context and history than previous missions, so this report, much more than other reports, explains some of the context and reasons for the Israeli-Palestinian conflict so people can understand them.

Another positive thing is that the mission's report says there has to be accountability when there have been gross violations of human rights and humanitarian law. But given the structure of the international legal system—and we

all support it—accountability begins at home.

The commission is saying, both to Israelis and to the Palestinians living in Gaza: "Show us independent, genuine investigations. Show us that you're taking this seriously, that you will hold people to account and bring justice to victims, and we'll be happy. But we're going to give you six months, because if you look at the history in the area, we haven't had accountability, and people are getting very frustrated. If you don't do something, then here's what we intend to do: We're going to go to the UN Security Council and see if they can do something, maybe by getting the International Criminal Court (ICC) involved. We're also going to study universal jurisdiction as another way to ensure that accountability is brought to bear."

Q. How likely is it there will be independent inquiries from the Israeli and Palestinian sides?

A. On the Israeli side, if you look back at previous conflicts, there have been important commissions of inquiry. After the Sabra and Shatila massacre in Beirut in 1982, for example, the Kahan Commission found that Ariel Sharon, who was then Minister of Defense, failed in his responsibilities by not trying to reduce the danger of a massacre, and he was removed from office.

The difficulty is that it often takes a lot of internal pressure for an independent, impartial commission to be established. In times when that pressure hasn't existed, the Israelis have established either an operational investigation or other means by which the military has investigated itself. As the new UN mission says, these sorts of investigations fall short both in terms of methodology and a whole set of other standards that are required. But if there's interest within Israel, it's by no means out of the question that the government would set up an impartial, independent commission, if for nothing else than to clear their name.

INTERACTIVE TABLE OF CONTENTS

Building for the Future	1
World Report	
Africa	3
Americas	4
Asia	5
Europe	7
Middle East and North Africa	7
Thematic Report	8
Publications	8
Calendar and Course Offerings	10
Making a Difference	11

INTERVIEW

Q. An Israeli organization called Breaking the Silence recently released a report with soldiers' testimonies of abuses by the Israeli military during the conflict. Do you find that significant?

A. It's a good sign that within Israel, people are speaking up and that there's genuine concern that things done for the sake of security may be overstepping the mark.

In terms of investigations on the Palestinian side, there isn't much of a track record, particularly on the issue of firing rockets at civilian areas. That really needs to be looked at carefully, and that would be one area where the mission will be waiting to see how the authorities in Gaza tackle the issue. We should be mindful that we don't have a fully fledged state, but the Palestinians in Gaza and the West Bank have all the necessary attributes to conduct thorough investigations and to bring wrongdoers to justice.

Q. What aspects of the report are most important from the point of view of transitional justice?

A. The report brings up issues around truth-seeking with the call for an independent investigation. It raises issues of prosecutions, saying that where there's no domestic accountability, there may be accountability through a future referral to the ICC or universal jurisdiction. Interestingly, the report also brings up the issue of reparations, which could take the form of restitution, compensation, and even forms of apology.

We see all of those as very important stepping stones in restoring some trust between Palestinians and Israelis and thereby providing a firmer basis for peace talks.

Q. Previous experience has shown that if the matter were referred to the UN Security Council, a veto would almost certainly block a referral to the ICC. Is there a risk the report will simply be ignored?

A. Judging by history, there's a very large risk. What Goldstone and the other members have tried to do is to recognize where other fact-finding bodies failed to gain traction and to look for ways to make this one different. This mission is not putting all its eggs in one basket by limiting itself to a Security Council referral to the ICC. It is also saying it is going to look at universal jurisdiction and reparations. There are other ways of recognizing wrongdoing and dealing with victims that are not based solely on putting people on the dock or behind bars.

Still, the risk is there. The report has already been criticized as being one-sided, when it seems that the mission made a great effort to look at both parties. It's being criticized as a possible stumbling block to the peace process, when one of the reasons we've had 15 years of failed peace processes is because justice and rights issues have been either sidelined or undermined by road maps or other criteria. It really depends

now on how the international community responds to the report and talks to Israel and to the Palestinians about how they can move these recommendations forward.

Q. What kind of impact does the Israeli-Palestinian conflict have on attempts to pursue justice and accountability in the Middle East as a whole?

A. It has a huge impact. Sometimes it's unfair to overemphasize it, but it does have a huge impact. People in the region will look at, for example, the efforts to bring Saddam Hussein to justice in Iraq, the involvement of the ICC in Darfur, and the Special Tribunal for Lebanon the UN set up to investigate the assassination of Prime Minister Hariri, and then say that nothing is being done about the situation in the Occupied Palestinian Territory (OPT). They pick up the message that international justice is not just politicized, it's unfair, because it picks and chooses, and that Israel is above the law in those terms.

The other thing people point to is that the ongoing conflict in the region—the larger Arab-Israeli conflict in addition to the Palestinian-Israeli conflict—has held up democratic development across the region. It would be unfair to say that it's the only reason, but it clearly has been a major factor. Leaders have used the ongoing conflict as an excuse to maintain states of emergency and draconian laws that limit freedoms of expression and association.

The Arab-Israeli conflict is not the only obstacle to democratic development and human rights in the region. But if the conflict were taken out of the equation, it might help people refocus on dealing with issues of democracy and human rights.

Q. What is ICTJ doing in Israel and the OPT to promote accountability?

A. We have focused on working with civil society groups and think tanks—both Israeli and Palestinian—to introduce transitional justice tools and methodologies and policy choices, with a view to these providing a useful basis when there are serious peace negotiations.

Also, we've seen that with hindsight, people will often say that they should have started work earlier on documentation efforts with a view to potential accountability or reparations initiatives in the future.

We are looking to work more with some of the peace negotiators to see if transitional justice tools will help them move forward on some of the obstacles. We're also seeking to introduce transitional justice into the curricula of universities, both in Israel and in the OPT, as we've been doing for example in Lebanon at the American University of Beirut, or in Morocco. We see this as something we want to nurture within countries where transitional justice processes are happening and where people are building for the future. ♦

AFRICA

DRC/CAR

The Appeals Chamber of the International Criminal Court (ICC) suspended the interim release of Jean-Pierre Bemba Gombo pending a final decision on an appeal by the prosecutor against the release. Bemba is a former Congolese leader who is awaiting trial for crimes allegedly committed by his troops in the Central African Republic, including alleged war crimes and crimes against humanity committed from October 2002 to March 2003.

- “Latest on Bemba Case,” Coalition for the ICC (<http://www.iccnw.org/?mod=newsdetail&news=3420>)

Kenya

The government has indicated that it will not establish a Special Tribunal for Kenya to address the violence after December 2007 elections, and the necessary legislation currently under discussion is highly unlikely to garner sufficient votes. This admission was made just nine days before the Sep. 30 deadline that the ICC set for a tribunal to be established.

In a statement in late September, the ICC reiterated its three-pronged approach to imposing accountability in Kenya, with the ICC trying the perpetrators who bear the biggest responsibility, a special tribunal being set up to try the executors of the violence, and a truth commission dealing with the root causes of the violence. ICTJ’s Kenya director Njonjo Mue and Kenyan civil society leaders met with ICC Chief Prosecutor Luis Moreno-Ocampo on Sep. 19 to discuss the situation.

On Sep. 21-24, the Truth Justice and Reconciliation Commission (TJRC) held an induction workshop, after which the post of Secretary/CEO to the Commission was publicly advertised.

- “ICC Prosecutor Supports Three-Pronged Approach to Justice in Kenya,” ICC-OTP (<http://www.icc-cpi.int/Menus/Go?id=7766129c-79d4-447a-80ae-283e86dc58cd&lan=en-GB>)
- “After Genocide: Prevention, Intention, and Capacity,” *Making Sense of Darfur* (<http://blogs.ssrc.org/darfur/2009/09/18/after-genocide-prevention-intention-and-capacity/>)

Liberia

On Sep. 17, President Ellen Johnson Sirleaf signed a law suspending action on the final report of the Liberian Truth and Reconciliation Commission (TRC). The report, which covers the two civil wars that took place in Liberia between 1989 and 2003, calls for the prosecution of nearly 100 people, and also recommends that Johnson Sirleaf be barred from office for being associated with formerly warring factions.

On Sep. 30, the Forum for the Establishment of a War Crimes Court in Liberia, a civil society group, threatened to bring the matter to the Supreme Court if the law is not reversed within seven days.

- “Liberia: Joint Resolution Suspending Action On TRC Report Signed Into Law,” *AllAfrica* (<http://allafrica.com/stories/200909180623.html>)
- “Liberia: War Crimes Group Pounces Legislature,” *AllAfrica* (<http://allafrica.com/stories/200909300743.html>)

Nigeria

Nigerian President Umar Yar’Adua should use his country’s upcoming chairmanship of the African Union Peace and Security Council to urge the AU to change course and support the ICC, ICTJ Deputy Africa Program Director Comfort Ero argued in an op-ed in Nigeria’s *Guardian*. If he does so, Ero says, Nigeria can play a pivotal role in the fight against impunity on the continent.

- “How Nigeria Can Become a Human Rights Leader,” *Guardian* (<http://odili.net/news/source/2009/sep/27/25.html>)

South Africa

The decision by the South African government to drop its opposition to a class-action lawsuit by victims belonging to the Khulumani Support Group is a significant step toward meaningful reparations and accountability, ICTJ said. The Khulumani Support Group is pursuing justice against corporations alleged to have been complicit in apartheid-era human rights violations.

- “South Africa: Opportunity for meaningful reparations measures,” ICTJ (<http://ictj.org/en/news/press/release/3025.html>)

Sudan

The African Union panel on Darfur (AUPD) said it would release its long-awaited report, on how to bring peace to Darfur, in early October. The AU established the panel last February in response to the imminent issuance of an ICC arrest warrant for Sudanese President Omar Hassan al-Bashir. The AU opposes the arrest warrant and is examining alternative ways to pursue justice for the violence in Darfur.

- “Sudan awaiting Mbeki’s panel report on Darfur,” *Sudan Tribune* (<http://www.sudantribune.com/spip.php?article32490>)
- “Sudan: Storm brewing over AU justice proposals,” *Institute of War and Peace Reporting* (<http://www.afrika.no/Detailed/18737.html>)
- “ICC Prosecutor Makes Case Against Sudan’s President,” *Public Broadcasting System* (http://www.pbs.org/newshour/bb/africa/july-dec09/icc_09-08.html)

Uganda

ICTJ organized a study tour by some 20 Ugandan justice officials, including the State Minister for Justice and Constitutional Affairs, to Sierra Leone, Bosnia and the The Hague to learn more about the conduct of war crimes trials and a holistic approach to transitional justice. The consultations were sponsored by the Danish International Development Agency.

AMERICAS

Chile

On Sep. 1, a judge issued arrest warrants against 129 former security officials allegedly involved in the illegal detention, torture, assassination and disappearance of 77 dissidents during Augusto Pinochet's dictatorship. The crimes were perpetrated by the National Intelligence Directorate within Operation Condor, a plan to kill critics of military regimes in Argentina, Brazil, Uruguay, Paraguay, Bolivia and Chile during the seventies.

- "Arrests in Chile for rights abuse," *BBC* (<http://news.bbc.co.uk/2/hi/americas/8234982.stm>)

Colombia

The Supreme Court ruled that high politicians accused of colluding with paramilitary groups will be investigated and tried by the court itself even if they leave their posts. The decision will affect some 20 cases of former congresspersons and governors currently handled by the Attorney General, who announced he will transfer 19 of them to the Supreme Court in the coming weeks. The court also recommended the creation of a truth commission on paramilitaries as a complement to the Justice and Peace system by which demobilized fighters are being prosecuted.

The Historical Memory Group of the National Commission for Reparation and Reconciliation released a report titled *Esa guerra no era nuestra* (That war was not ours) about the El Salado massacre, perpetrated by a paramilitary group with the alleged help of security forces in February 2000. The document is the second effort of the group to promote historical clarification on crucial events of the Colombian conflict.

- "Fiscalía enviará a Corte Suprema los expedientes de 19 políticos procesados por parapolítica," *El Tiempo* (http://www.eltiempo.com/colombia/justicia/fiscalia-enviara-a-corte-suprema-los-expedientes-de-19-politicos-procesados-por-parapolitica_6134947-1)
- "Corte Suprema insta al Gobierno a crear comisión para la verdad paramilitar," *El Espectador*

(<http://www.elespectador.com/noticias/judicial/articulo162642-corte-suprema-insta-al-gobierno-crear-comision-verdad-paramilitar>)

- "The Report 'El Salado: That war was not ours' was presented in Cartagena," *CNRR* (<http://www.cnrr.visiondirecta.com/09i/spip.php?article149>)
- "Paramilitary extraditions spark debate in Colombia," *NPR* (<http://www.npr.org/templates/story/story.php?storyId=113282620>)

El Salvador

The lack of investigation and punishment of serious human rights violations occurred during the civil war has left fertile ground for further offenses, said a report by ICTJ and the Human Rights Institute of the Central American José Cimeón Cañas University of El Salvador. The document, a review of efforts to address the legacy of past human right abuses, was submitted to the UN Human Rights Council for the next session of the Universal Periodic Review.

- "ICTJ e IDHUCA advierten sobre los problemas de la impunidad en El Salvador en reporte a Naciones Unidas," ICTJ (<http://www.ictj.org/es/news/press/release/3078.html>)

Guatemala

Ten years after the end of the civil war, a former security official was convicted to 150 years in prison for the disappearance of six indigenous persons between 1982 and 1984. The verdict against Felipe Cusanero, a former military commissioner, is the first of its kind in Guatemala and sets a precedent for the possible prosecution of crimes against humanity in this country, where some 45,000 persons are disappeared.

- "ICTJ resalta avances contra la impunidad en Guatemala en ocasión de la primera condena por desaparición forzada," ICTJ (<http://www.ictj.org/es/news/press/release/3085.html>)
- "Guatemala makes landmark civil war conviction," *Reuters* (<http://www.reuters.com/article/worldNews/idUSTRE5800F720090901>)

Peru

On Sep. 21, the Peruvian Government provided reparations to 310 rural communities of Ayacucho and the Apurímac and Ene river valleys, affected by terrorist actions between 1980 and 2000. The compensations, included in the national Collective Reparations Program, amount to 11 million dollars. Since its inception, the program has provided 41 million dollars in reparations.

- "Perú entrega 10 millones de dólares como reparación a las comunidades afectadas por el terrorismo," *El País*

http://www.elpais.com/articulo/internacional/Peru/entrega/millones/dolares/reparacion/comunidades/afectadas/terrorismo/elpepuint/20090922elpepuint_12/Tes

United States

Seven former CIA directors requested in an open letter that President Barack Obama stop a preliminary inquiry by a Department of Justice-appointed prosecutor into CIA abuse of counter-terrorism detainees. Obama declined to do so, saying in a televised interview that “no one is above the law.”

ICTJ, together with Human Rights Watch and Amnesty International, filed an amicus brief with the Supreme Court on Sep. 8 opposing the U.S. government’s attempt to block the release of photographs showing the abuse of detainees overseas. The government is asking the Supreme Court to review the Second Circuit Court of Appeals decision ordering the release of the photos.

The amicus brief discussed the importance of photographic documentation to human rights advocacy efforts, and detailed the reasons why the appellate court was correct in ruling that the Freedom of Information Act’s limited exceptions do not support withholding the photos from the public.

- “Obama says he won’t stop investigation into CIA interrogations,” *Wall Street Journal* (<http://blogs.wsj.com/washwire/2009/09/20/obama-says-he-wont-stop-investigation-into-cia-interrogations/>)
- Amicus brief in *U.S. Department of Defense, et al., v. ACLU, et al.* (http://www.ictj.org/static/Americas/Sep8_09_amicus.pdf)

Uruguay

A plebiscite will be held on Oct. 25 to determine if the Law of Expiry of the Punitive Powers of the State should be annulled. This regulation has prevented the Uruguayan State from prosecuting a large number of human rights abuses perpetrated by security forces during the dictatorship (1973-1985). A first plebiscite on the matter was held in 1989, and the law was backed by popular vote. Recent polls show that between 45-48% of Uruguayans support the annulment.

- “El plebiscito sobre la ley de impunidad es una oportunidad histórica para la justicia,” Informativo ICTJ Colombia y Américas (<http://www.ictjcolombia.org/edicion07/07uruguay.html>)

ASIA

Burma

Pro-democracy leader Daw Aung San Suu Kyi lost her appeal of a military’s court sentence of 18 months of house arrest. The 64-year-old Nobel Prize laureate has been confined in her house for 14 of the past 20 years.

In mid-September, the Burmese government released at least 128 political prisoners, including journalists and opposition activists, after announcing it would grant amnesty to more than 7,000 prisoners, on what it called “humanitarian grounds.” Critics said the releases were a public relations move rather than an indication of a change in attitude by Burma’s military leaders, and that most of those released were petty criminals rather than political detainees.

- “Court rejects Suu Kyi’s appeal,” *CNN* (<http://edition.cnn.com/2009/WORLD/asiapcf/10/02/myanmar.suu.kyi/index.html>)
- “Myanmar frees journalists, activists in amnesty,” *AFP* (<http://www.google.com/hostednews/afp/article/ALeqM5hUWL-douqQgO9AgCD-WKY-o5Tt-xA>)
- “At least 128 political prisoners released,” Assistance Association for Political Prisoners (Burma) (<http://www.aappb.org/release155.html>)

Cambodia

After seven months, the substantive portion of the first trial at the Extraordinary Chambers in the Courts of Cambodia (ECCC) has concluded, with final submissions in the case of former Khmer Rouge prison guard Kaing Guek Eav (alias Duch) scheduled to be heard in late November. The court heard from several experts about the importance of the confession of the accused to reconciliation in Cambodia.

A nine-month dispute between the ECCC national and international co-prosecutors over whether to open new investigations ended after the Pre-Trial Chamber announced it had failed to reach a decision. Under the court’s rules, this means that new investigations can be opened into suspects other than the five currently in custody. Prime Minister Hun Sen reacted angrily, warning that the trials could destabilize the country.

The ECCC judges decided to organize all victims in future trials into a single group who would be eligible for a single collective reparations award. This is in anticipation of over 2,000 civil parties in the court’s second case.

- “Presentation of evidence in the Duch trial concluded,” ECCC (http://www.eccc.gov.kh/english/news.view.aspx?doc_id=312)
- “ECCC ruling risks unrest: PM,” *Phnom Penh Post* (<http://www.phnompenhpost.com/index.php/2009090828258/National-news/eccc-ruling-risks-unrest-pm.html>)

Indonesia

Victims and families from the Tanjung Priok massacre of 1984 demonstrated outside the Jakarta Police station on the 25th anniversary of the event, when police killed scores of Muslims during a raid at a mosque. Demonstrators demanded that police fully investigate the crime or risk having activists bring the case to the ICC. They also wrote to the UN Special Rapporteur on the Independence of Judges and Lawyers, asking for intervention into the case.

Together with an environmental group, the Green Institute, ICTJ supported a one day discussion exploring the relevance of a TJ approach in advocacy around the impact of mining in Indonesia. The workshop will lead to a joint research project.

- “Victim’s ‘may not get compensation,’” *Jakarta Post* (<http://www.thejakartapost.com/news/2009/09/14/victims-may-not-get-compensation039.html>)

Nepal

On Sep. 26, Nepal’s Prime Minister Madhav Kumar Nepal said that his government is determined to establish a truth and reconciliation commission and a disappearance commission as a part of ensuring transitional justice and restoring social harmony and peace. This came during his address to the UN General Assembly a day after the UN High Commissioner for Human Rights in Nepal, Richard Bennett, demanded that the Unified Communist Party of Nepal (Maoist) allow investigations into several assassinations and a bus bombing.

On Aug. 30, International Day of the Disappeared, ICTJ joined other civil society and human rights organizations in calling on the Nepalese government to amend the draft Disappearances of Persons bill to make it comply with international law and standards. Ten of Nepal’s main western donors, including the US and Japan (as well as ICTJ donors Denmark and Norway), called for an independent probe into the fate of people missing during a decade-long civil war and urged the Nepal army and the Maoists to end their “long refusal” to cooperate fully on war-time disappearances and delayed justice.

ICTJ participated in district consultations on a TRC bill organized by Nepalese government in Jumla in August. The last of the four district level consultations was held in Dang in September.

- “PM MK Nepal address UNGA,” *Nepalnews.com* (http://www.nepal-news.com/archive/2009/sep/pm_address_64th_unga.pdf)
- “Nepal: “Disappearances” Law Must Meet International Standards,” ICTJ (<http://ictj.org/en/news/press/release/3012.html>)
- “Nepal: Enforced Disappearances Should Be Criminalized,” ICTJ (<http://ictj.org/en/news/press/release/3014.html>)

Solomon Islands

The Truth and Reconciliation Commission, with the support of ICTJ, conducted a pair of awareness-raising and consultation workshops in September. The first involved village chiefs, church leaders, women’s leaders, youth groups and former combatants from throughout Guadalcanal. The workshop was attended by more than 70 people, gave participants an opportunity to comment on their views for a TRC, and identified individuals from each district to be points of contact for future TRC-related activities. The second workshop had about 80 participants, including village chiefs, church leaders, women’s leaders, youth groups and former combatants from throughout the Island of Malaita.

Timor-Leste

Amid activities around Timor commemorating the 10-year anniversary of the vote for independence on Aug. 30, President Ramos Horta called for the closure of the UN Serious Crimes Investigations Team, and rejected the possibility of an international tribunal for crimes committed in Timor-Leste. He suggested that the CTF process was intended to bring closure to the issue of justice for past crimes, and repeated his belief that it was better to forgive and forget rather than pursue criminal accountability.

To mark the 10-year anniversary, ICTJ organized a trio of commemorative events in Dili together with local civil society groups and the Post-CAVR Technical Secretariat (established to disseminate the report by the country’s Commission for Reception, Truth and Reconciliation, or CAVR): a workshop on developing an illustrated version of the CAVR report for school-age children, a seminar on the progress of justice since 1999, and the Timor-Leste Victim’s Congress.

On Aug. 30, Maternus Bere, a former militia leader who had been arrested earlier that month after crossing over into Timor-Leste from West Timor, was released into the hands of the Indonesian embassy in Dili, under reported pressure from the Indonesian government. Bere had been indicted under the serious crimes process for murder, extermination, enforced disappearance, torture, inhuman acts, rape, deportation and persecution. The international community, Timorese parliamentarians, and civil society have called for an investigation into the release action, and the Parliament voted to prevent President Ramos Horta from traveling abroad in an attempt to force him to take responsibility.

- “East Timor: A long way from international justice,” *Jakarta Post* (<http://www.thejakartapost.com/news/2009/09/30/east-timor-a-long-way-international-justice.html>)
- “Indonesia-Timor Leste: Is this true friendship?” *Jakarta Post* (<http://www.thejakartapost.com/news/2009/09/25/indonesiatimor-leste-is-true-friendship.html>)
- “Timor-Leste: Marking the 1999 violence,” ICTJ (<http://ictj.org/en/news/features/3052.html>)
- “East Timor probes legality of militant’s release,” *Associated Press* (<http://www.google.com/hostednews/ap/article/ALeqM5icztLa0r-wTdUiHGh163FCjv0O9AD9AOTN8G0>)

EUROPE

Georgia/Russia

In a 1,100-page report sponsored by the European Union, investigators examining the “roots and causes” of the five-day war between Georgia and Russia in August 2008 found both sides to blame. The independent investigation team said that Georgia fired the first shots during its “unjustifiable” attack on the breakaway region of South Ossetia, though Russia had spent months provoking Georgia through a heavy military build-up in the region and support for separatist movements in Georgia’s breakaway regions of South Ossetia and Abkhazia.

- “Both Sides to Blame for the Georgia-Russia War,” *Time* (<http://www.time.com/time/world/article/0,8599,1927033,00.html>)

Former Yugoslavia

Former Bosnian Serb leader Radovan Karadzic asked the International Criminal Tribunal for the Former Yugoslavia to order the United States to provide documents that may exonerate him. Karadzic says the U.S. has evidence of arms smuggling by UN peacekeepers, including American ones, to the army of Bosnia and Herzegovina in 1995, in spite of an arms embargo.

Karadzic says the documents would support his legal defense that his military action in March 1995 against Bosnian Muslim enclaves including Srebrenica was justified, since the enclaves were allegedly receiving smuggled weapons and launching attacks on Serb civilians.

Karadzic is facing 11 charges of genocide, war crimes and crimes against humanity, including for the 44-month siege of Sarajevo that left 10,000 people dead, and the July 1995 massacre of around 8,000 Muslim men and boys in Srebrenica. His trial is set to start on Oct. 19.

- “Order US to provide documents, Karadzic asks court,” *AFP* (<http://ph.news.yahoo.com/afp/20090912/twl-warcrimes-serbia-bosnia-icity-karadzi-7e07afd.html>)

Russia

Russia’s Education Ministry has made excerpts from Alexander Solzhenitsyn’s 1973 epic “The Gulag Archipelago,” which was banned during Soviet times, mandatory reading for high-school students. The decision was based on the work’s “vital historical and cultural heritage,” the ministry said. The move surprised critics, who accuse Russian authorities of glorifying Soviet dictator Josef Stalin and glossing over the Soviet authorities’ crimes against their own people.

- “Russia Makes Gulag Horrors Book Required Reading,” *Associated Press* (http://www.nytimes.com/aponline/2009/09/09/arts/AP-EU-Russia-Gulag-Required.html?_r=1)

MIDDLE EAST AND NORTH AFRICA

Israel/Occupied Palestinian Territory

The United Nations Fact Finding Mission on the Gaza Conflict released a highly anticipated report on Sep. 15. The report documents violations of international law by the Israeli army, Hamas and other armed groups, as well as the Palestinian Authority, and concludes that some of those violations may constitute war crimes or crimes against humanity. The report finds that the task of holding alleged Israeli and Palestinian violators to account belongs to their national institutions and authorities. If those authorities fail to make genuine, independent efforts, the report said, the international community must take action through such bodies as national or international courts.

ICTJ praised the report as creating a much-needed opportunity for accountability, and called on Israel and authorities in the Gaza Strip to proceed immediately with independent investigations into the serious breaches of international human rights and humanitarian law identified by the UN mission. Should national institutions and authorities fail to take action, the international community must hold to account those responsible for violations, and ensure that reparations are provided. Finally, ICTJ called on the UN Human Rights Council to endorse the report and recommendations of the mission.

- *Report of the United Nations Fact Finding Mission on the Gaza Conflict* (<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>)
- “Israel and the Occupied Palestinian Territory: Sustainable Peace Depends on Breaking Cycle of Impunity,” ICTJ (<http://ictj.org/en/news/features/3091.html>)
- “UN Human Rights Council: Endorse the Gaza Report,” ICTJ (<http://ictj.org/en/news/press/release/3102.html>)
- “Justice in Gaza,” *New York Times* (<http://ictj.org/en/news/coverage/article/3066.html>)

Lebanon

Howard Morrison resigned from the Special Tribunal for Lebanon as an international judge. The resignation fueled questions by Lebanese media about the viability of the UN-backed tribunal, which was set up to investigate the 2005 assassination of Lebanese Prime Minister Rafik Hariri. The tribunal has had no suspects in custody since releasing four Lebanese generals in had held for a month in April. The tribunal remains a sensitive political issue domestically as opposing coalitions continue to try to form a new government.

- “The failures of the Special Tribunal for Lebanon are lessons to be learned,” *Daily Star* (http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=30&article_id=106595)

THEMATIC REPORT

Prosecutions

ICC Chief Prosecutor Louis Moreno Ocampo said the ICC was gathering information about war crimes and crimes against humanity in Afghanistan after the 2001 U.S. invasion. The inquiry could lead to a criminal investigation targeting both NATO forces and the Taliban. The ICC has jurisdiction over crimes taking place in Afghanistan, as the country is an ICC signatory, though the Afghan government has an immunity deal with the U.S. that protects U.S. troops in Afghanistan from being handed over to the ICC.

From Sep. 9-11, a Consultative Conference on International Criminal Justice was held at UN headquarters. ICTJ staff, senior ICC officials, leaders of the Assembly of States Parties to Regional Courts and Commissions and civil society leaders discussed complementarity and the role of domestic justice systems; the peace versus justice debate; the interactions of the ICC with domestic systems; plans for outreach; and the scope of the Rome Review Conference.

On Sep. 16-17, ICTJ and the Netherlands Ministry of Foreign Affairs held a conference titled “Fighting Impunity in Peacebuilding Contexts.” Representatives of governments, multilateral organizations and non-governmental organizations, along with practitioners and researchers, discussed the contributions and challenges of transitional justice to peacebuilding; the ICC; and complementarity and the legacy of ad hoc and hybrid tribunals.

- “ICC prosecutor eyes possible Afghanistan war crimes,” *Reuters* (<http://www.reuters.com/article/gc05/idUSTRE58871K20090909>)

- “New Briefing Paper Series: Fighting Impunity in Peacebuilding Contexts,” ICTJ (<http://ictj.org/en/news/features/3068.html>)

PUBLICATIONS

ICTJ Briefing Paper Series

At the Sep. 16-17 conference “Fighting Impunity in Peacebuilding Contexts,” held jointly by ICTJ and the Netherlands Ministry of Foreign Affairs, ICTJ launched a new series of briefing papers focusing on the conference’s key questions:

- What are the potential contributions of transitional justice to peacebuilding and what are the possible tensions between the two?
- How can the international community contribute to peacebuilding strategies that recognize the rights of, and create equal benefits and opportunities for, victims as well as armed actors?
- How can the aims of justice be appropriately balanced with other peacebuilding aims such as security and development?

The papers are available for download in PDF format at the links below.

- “The Right to Reparations in Situations of Poverty,” ICTJ Reparations Unit Acting Director Ruben Carranza (http://www.ictj.org/static/Publications/bp_carranza_reparations_EN_rev2.pdf)
- “Transitional Justice in the Context of Ongoing Conflict: the Case of Afghanistan,” ICTJ Afghanistan Program Director Sari Kouvo (http://www.ictj.org/static/Publications/bp_kouvo_afghan_rev2.pdf)
- “Limitations and Opportunities of Reparations for Women’s Empowerment,” ICTJ Gender Specialist Kelli Muddell (http://www.ictj.org/static/Publications/bp_muddell_gender_rev3.pdf)
- “Where to From Here for International Tribunals?” ICTJ Prosecutions Program Deputy Director Caitlin Reiger (http://www.ictj.org/static/Publications/bp_reiger_hybrid_courts_rev4.pdf)
- “The Charles Taylor Trial and Legacy of the Special Court for Sierra Leone,” Sierra Leone Court Monitoring Program Director Mohamed Suma (http://www.ictj.org/static/Publications/bp_suma_impunity_rev3.pdf)
- “The Potential of Complementarity,” ICTJ Prosecutions Program Director Marieke Wierda (http://www.ictj.org/static/Publications/bp_wierda_complement_rev2.pdf)

El Salvador: Submission to the Universal Periodic Review of the UN Human Rights Council Seventh Session

ICTJ's transitional justice review of El Salvador, submitted as part of the UN Human Rights Council's Universal Periodic Review process, says that the lack of investigation and punishment of serious human rights violations in the past has left fertile ground for further offenses. It notes, however, that recent political changes may contribute toward ending impunity and upholding rights, with the participation of civil society.

- *El Salvador: Submission to the Universal Periodic Review of the UN Human Rights Council Seventh Session: February 2010* (http://www.ictj.org/static/Publications/UPR_ElSalvador_Spanish.pdf)

Bosnia and Herzegovina: Submission to the Universal Periodic Review Of the UN Human Rights Council Seventh Session

ICTJ's transitional justice review of Bosnia and Herzegovina, submitted as part of the UN Human Rights Council's Universal Periodic Review process, says that in spite of important achievements in Bosnia and Herzegovina in terms of transitional justice, a number of substantive concerns remain. The report's recommendations include supporting the implementation of the National War Crimes Strategy, applying harmonized legislation throughout Bosnia and Herzegovina, establishing an effective witness support and protection programme, and strengthening local capacities for war crimes prosecutions.

- *Bosnia and Herzegovina: Submission to the Universal Periodic Review Of the UN Human Rights Council Seventh Session: February 2010* (http://www.ictj.org/static/Publications/UPR_BiH_Sep2009.pdf)

CALENDAR AND COURSE OFFERINGS

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October 9-10

My Neighbor My Killer: Screenings and discussion with filmmaker Anne Aghion

Hamptons International Film Festival

East Hampton, NY

For more information, visit <http://ictj.org/en/news/event/3115.html>

October 12

American Democracy Project lecture by ICTJ Senior Associate Ruben Carranza

Seymour College, Brockport, NY

For more information, visit <http://ictj.org/en/news/event/3087.html>

October 13

Expert Round Table on reparations within the Canadian Project

ICTJ Bogota

For more information, contact Angélica Zamora at azamora@ictj.org

October 16-23

Solomon Islands TRC commissioners and staff exposure visit to Timor-Leste

For more information, contact Ari Bassin at abassin@ictj.org

October 24-27

Solomon Islands TRC commissioner orientation retreat

Bali, Indonesia

For more information, contact Ari Bassin at abassin@ictj.org

October 29-31

ICTJ Essentials Course in Transitional Justice

In partnership with the Ministry of Justice of Brazil and the United Nations Development Program

Rio de Janeiro, Brazil

For more information, please contact Estefanie Robertson at erobertson@ictj.org

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November 2 - 20

Cape Town Transitional Justice Fellowship Program

ICTJ Cape Town, South Africa

For more information, visit <http://ictj.org/en/news/event/2767.html>

November 7

Presentation of final report of Palace of Justice Truth Commission

Paipa, Colombia

For more information please contact Catalina Uprimny at Cuprimny@ictj.org

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.

Timor-Leste's journey to independence has been turbulent and traumatic. In the violence which followed Timor-Leste's vote for independence from Indonesia in 1999, almost two-thirds of the Timorese population was displaced. Over 250,000 people were forcibly herded across the border into Indonesian territory in West Timor. More than 1,300 were murdered and hundreds were raped and assaulted. Over 75 percent of Timor-Leste's infrastructure was razed.

Ten years later, Timor-Leste is still struggling with the issue of justice for crimes committed during the brief civil war and Indonesian occupation. The Timorese parliament has delayed discussion on the final report and recommendations by the Commission for Reception, Truth and Reconciliation (CAVR). However, victims and local groups are finding constructive ways of addressing their concerns. In late August and early September, ICTJ commemorated the 10-year anniversary of the Timorese vote for independence with a trio of successful events with local actors, victims and community groups.

The first of these was a workshop with educators and high school students on a series of justice-themed comic books to be published later this year. Written in Tetun, the national language of Timor-Leste, the comic books recast the CAVR report in simple, accessible language. The drawings and text in the books allow children to learn about their national history through a modern medium.

On Sep. 1, ICTJ and the Post-CAVR Technical Secretariat held a seminar to reflect on the progress of justice since 1999. The seminar highlighted the achievements and challenges in accounting for past crimes in Timor-Leste. The seminar was held at the former Balide prison, a former detention and torture center that has been converted into a center for reconciliation, and houses a permanent exhibition on the CAVR report.



Participants of the Sep. 2-4 victims' congress in Dili discussing the memorial exhibition for the dead and disappeared. Photo by ICTJ Indonesia.

Together with Timorese civil society, ICTJ also organized a three-day congress for victims' representatives to take stock of their present situation. Victims' representatives from 13 districts in Timor-Leste met from Sep. 2-4. They asserted the need to strengthen networks among victims and continue efforts to seek justice through the engagement of both local and international judicial mechanisms. Suggestions for future redress included collecting information on human rights violations and sending existing arrest warrants to Interpol. Participants also discussed the need to open trauma centers for victims, and to provide training for livelihood, compensation and other reparations measures for vulnerable groups.

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 Carol Skyrms, Director of Development, at 917-637-3840, or cskyrm@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.

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