

JANUARY 2010

Remedying Human Rights Violations

Interview with Ana Cutter Patel, deputy director, ICTJ International Policymakers Program

Q. Why organize a meeting on remedies for gross and systematic human rights violations?

A. A remedy is an action taken by a court or treaty body to enforce a right or impose a penalty. The Strasbourg Colloquium on Remedies for Gross and Systematic Human Rights Violations was convened last month at the European Court of Human Rights to look at the different

ways in which regional human rights courts and human rights commissions are providing remedy to victims who have endured the most serious human rights violations, such as genocide, systematic rape and torture.

It was an important moment to hold such a meeting. First, the conference marked the first such gathering that included participants from the new human rights body of the

Association of Southeast Asian Nations (ASEAN). It was very exciting to welcome this newest member of the evolving international human rights regime to our discussions. Second, it is an interesting moment for the European Court of Human Rights (ECHR) because of the entry into force of the Lisbon Treaty, requiring the European Union to adhere to the European Convention of Human Rights. Also, the remedies meeting took place a few months before a major conference in Interlaken, Switzerland, on the future of the ECHR, which is facing serious challenges in terms of its capacity to deal with the number of cases originating from new member states. The issue of strengthening the court's ability to provide and enforce remedies will be on the agenda of the Interlaken Conference, and this meeting provides an opportunity for judges and staff of the ECHR to see other regional approaches to these issues.



Q. What were the goals of the Strasbourg Colloquium?

A. We were primarily interested in creating an opportunity for exchange. We had representatives of the relevant UN human rights bodies, the human rights courts and human rights commissions of the Organization of American States, the African Union, Council of Europe and ASEAN, and asked them to discuss their jurisprudential approaches to remedies for these most serious human rights crimes. We focused on regional bodies because we believe they are a critical component of an evolving international system for human rights protection.

When national judicial institutions are unable or unwilling to deal with human rights violations of this nature, the regional bodies such as the Inter-American Commission on Human Rights and its counterparts in Europe, Africa, and now, Southeast Asia can and should play a role. Those bodies can re-emphasize states' obligations to provide justice, truth, reparations and reform. They provide another opportunity for victims to have their claims fairly heard and decided, and for receiving relief.

We were also interested in the comparative reception and implementation, at the national level, of UN and regional jurisprudence for gross and systematic violations. Each of these regional bodies has evolved in different judicial and cultural conditions and thus has a different approach to remedies and varying levels of success in terms of

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the enforcements of its decisions. But there has been little opportunity for exchange of information between them. It was interesting, for example, for representatives of these institutions from the Americas, Africa, Asia and Europe to see how the Inter-American Convention on Human Rights provides a platform that allows the court to make bolder decisions, some would say more interventionist decisions, than the other courts.

Q. How do some of the regional human rights courts stand out from the others?

A. Almost everyone agrees that the inter-American system—including the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights—has been bolder in thinking through the issue of remedy, including victims’ rights to apologies, or truth-seeking measures or the value of symbolic memorials for victims. The European system focuses largely on declaratory judgments, giving more latitude to the state to decide how to meet its obligations. The African Court on Human and Peoples’ Rights, which so far has had only one case, is only beginning to create a path.

We also had representatives of the regional human rights commissions. We were very pleased to be joined by the Indonesia representative of the ASEAN Human Rights Commission, a body inaugurated in Oct. 2009. Human rights commissions play important roles, such as filtering cases and ordering country studies if they see a series of cases coming in that suggest a pattern of abuses. The commissions can also investigate whether violations are systematic, thus representing a different category of crime.

The European court has roughly 125,000 cases on its docket, a figure that represents an enormous, probably impossible burden but that also tells us the human rights court is becoming part of the fabric of the continent. Representatives of the court were interested hearing about the practices and experiences of the Inter-American Court and how it thinks about remedies. All of the courts and commissions were interested in the rate of compliance with their decisions, since there is a considerable amount of progress to be made.

Q. In some regions, the rate of compliance with the decisions of these courts is below 15 percent, which seems problematic.

A. Juan Méndez, ICTJ’s president emeritus, said at the conference that what these courts do is show the path. It may not be the path that societies are following right now, but it’s still important to illuminate the path they *should* follow. The path includes the human rights conventions, including the Universal Declaration of Human Rights, the Convention against Torture, and many other agreements, including regional instruments that include a right to a remedy for victims.

States may move very slowly in a new direction, but they are moving. They have signed up to these new, regional human rights commissions,

and the trend is for these bodies to proliferate—more regional and national human rights commissions and courts as well as more special chambers. It’s reasonable to believe that an increasing number of people are both demanding and concerned with these obligations to protect human rights.

That said, there was a sobering understanding of how implementation of remedies is still a problem. These courts can prescribe a remedy to a state, but compliance is a huge challenge. There were long discussions during the meeting about what it takes to build an international system of human rights protection. The question was whether the actions of these different jurisdictions were producing a coherent body of jurisprudence. The judges and staff of these regional bodies were grateful for the opportunity to discuss the different regional experiences, and they all acknowledged the need for a more regular exchange of information.

There needs to be greater coherence among the different systems. The remedies for violations can vary widely between the courts. If a certain remedy has been decided upon by the Inter-American system—say, a certain level of reparation plus some truth-seeking measures—and the European court does not do any of that but instead imposes a fine that the perpetrator must pay to the claimant, then you have a very divergent ways of responding to the same type of crime. Without some shared understanding of what kind of remedies are appropriate for different kinds of crimes, it’s difficult for a shared jurisprudence to develop.

Q. What are the contributions of transitional justice to the concept of remedies to gross violations of human rights?

A. Dinah Shelton of the George Washington University Law School outlined the general obligations of states and the role that transitional justice has played in making those obligations more specific. The idea of “remedy” has both procedural and substantive aspects, and it’s transitional justice that sets out the process that societies follow in confronting legacies of widespread abuse.

International and regional human rights treaties call for an effective remedy for victims of human rights abuses, and states have an obligation to end violations and to take measures to prevent future violations. Transitional justice has helped identify four core obligations for states: full exploration of the truth; prosecution of human rights abuses; reparations that respect the human dignity of victims, and reforms of laws and institutions.

AFRICA

DRC

The International Criminal Court (ICC) began hearings in a second trial involving two Ituri warlords on Nov. 24. Germain Katanga and Mathieu Ngudjolo-Chui are charged with three counts of crimes against humanity and seven counts of war crimes including murder, sexual slavery, pillage and the use of child soldiers in the DRC, and for their role in planning and commanding an attack on the village of Bogoro in February 2003, which left over 200 civilians dead.

On Dec. 2, the Appeals Chamber of the ICC reversed an earlier decision that would have freed Jean-Pierre Bemba from detention during his trial, and ordered him to remain in custody in The Hague. Bemba is charged with alleged war crimes and crimes against humanity committed by his troops in the Central African Republic. His trial is scheduled to begin Apr. 27.

- “DR Congo: ICC Opens Second Trial for Ituri Violence,” *ReliefWeb* (<http://www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-7Y4TNE?OpenDocument>)
- “International Court: Ex-Congo VP must stay in jail,” *AP* (<http://www.google.com/hostednews/ap/article/ALeqM5jim5vol2x-nmRWY8Ss2RzsQ5kBKwD9CB6P2O1>)

Guinea

A United Nations Commission of Inquiry began an initial investigation Nov. 15 into the September 28 events in Conakry, where an estimated 150 people were killed by the Guinean military. Military personnel opened fire on civilians peacefully demonstrating against the expected presidential candidacy of Guinea’s military ruler Moussa Dadis Camara. Though Camara has expressed willingness to cooperate with the Commission, the ongoing arrests of activists including human rights leader Muctar Diallo have raised concerns about the protection needed for witnesses who testify on the events.

Camara was wounded in an assassination attempt Dec. 3 and flown to a military hospital in Morocco. Reports say the shooting followed an argument between Camara and military aide Aboubacar Sidiki Diakite about who should assume responsibility for the Sept. 28 killings.

- “Unearthing the truth of Guinea ‘bloodbath’,” *BBC World News* (<http://news.bbc.co.uk/2/hi/africa/8376800.stm>)
- “Guinea Military Arrest Human Rights Official,” *VOA News* (<http://www1.voanews.com/english/news/africa/Guinea-Military-Arrest-Human-Rights-Official-78107702.html>)

- “Guinea’s Military Leader Recovering in Morocco from Gunshot Wounds,” *VOA News* (<http://www1.voanews.com/english/news/africa/Guineas-Military-Leader-Recovering-in-Morocco-From-Gunshot-Wounds-78693047.html>)

Kenya

A majority of members of Kenya’s parliament, in an apparent boycott, skipped a Dec. 2 debate on the Special Tribunal Bill which calls for the creation of a court to try suspects allegedly involved in the post-election violence of Jan. 2008. The boycott came shortly after ICC Chief Prosecutor Luis Moreno-Ocampo urged the ICC to investigate the violence.

To enhance the effectiveness of Kenya’s Truth, Justice and Reconciliation Commission (TJRC), ICTJ organized two workshops in Nyeri. One targeted civil society organizations and focused on strategies for advocacy, monitoring and support of the TJRC. The second, organized for reporters and editors, highlighted the opportunities and challenges in reporting on transitional justice issues.

- “Kenyan MPs frustrate special courts Bill again,” *Capital News Kenya* (<http://www.capitalfm.co.ke/news/Kenyanews/Kenyan-MPs-frustrate-special-courts-Bill-again-6700.html>)

Liberia

The Truth and Reconciliation Commission on Dec. 2 released an edited version of its final report, some five months after the release of an earlier version. The three-volume report, containing the TRC’s findings and recommendations, includes recommendations for public sanctions and prosecutions as well as a wide range of public interest issues, including public integrity, corruption, human rights, economic empowerment, governance, national identity and reparations.

- “Liberia: Truth Commission Releases Final Report,” *All Africa* (<http://allafrica.com/stories/200912020713.html>)

Rwanda

German authorities arrested Ignace Murwanashyaka, leader of a rebel group held responsible for the Rwandan genocide in 1994, on Nov. 17. He and his deputy, Straton Musoni, are being held in Germany on charges of war crimes, crimes against humanity and international terrorism.

The International Criminal Tribunal for Rwanda (ICTR), whose mandate has been extended by the UN Security Council to 2012, acquitted Father Hormisdas Nsengimana, a priest at a Catholic secondary school during the genocide, for lack of evidence. Nsengimana

had been charged with weapons gathering, organization, recruitment of students at his school and participation in the 1994 genocide.

Also acquitted was former Rwandan presidential advisor Protais Zigiranyirazo, charged with being an architect of the violence. The ICTR Appeals Chamber ordered the immediate release of Zigiranyirazo after finding “serious errors” in his 2008 conviction and his sentence of 20 years imprisonment.

On Dec. 14, the ICTR sentenced journalist Valerie Bemeriki to life imprisonment for planning genocide and inciting and participating in murder. Bemeriki was one of the most prominent radio announcers for Radio Millie Collines, a station used for the organization and encouragement of the genocide.

- “Germany Arrests Hutu Militia Leaders,” *New York Times* (<http://www.nytimes.com/2009/11/18/world/africa/18briefs-Hutubrief.html>)
- “Rwanda genocide tribunal ICTR extended until 2012,” *BBC News* (<http://news.bbc.co.uk/2/hi/africa/8421625.stm>)
- “Rwanda: Government Disappointed as ICTR Acquits Key ‘Akazu’ Member,” *All Africa* (<http://allafrica.com/stories/200911170004.html>)
- “Rwanda jails journalist Valerie Bemeriki for genocide,” *BBC News* (<http://news.bbc.co.uk/2/hi/africa/8412014.stm>)

South Africa

The South African Constitutional Court heard an appeal Nov. 10 to reinstate a political pardons process that does not require victim consultation and could release over 100 alleged political perpetrators from prison. Civil society organizations, including ICTJ, argued against the appeal and for the continued participation of victims in the appeals process. The court ruling is expected in early 2010.

On Nov. 25, ICTJ filed an amicus brief in an apartheid reparations case before the U.S. District Court in New York. The brief supports a decision by the South African government not to oppose legal action against five international companies accused of aiding and abetting crimes committed by the apartheid government.

- “Constitutional Court Battle Looms for Rights of Apartheid Era Survivors,” ICTJ (<http://ictj.org/en/news/press/release/3272.html>)
- “ICTJ Amicus Brief for South Africa Reparations Case,” ICTJ (<http://www.ictj.org/en/news/features/3330.html>)

AMERICAS

Argentina

As part of an agreement between the Argentine government and the Inter-American Commission on Human Rights, Argentina’s Congress passed legislation Nov. 19 to promote DNA identification of individuals abducted as children during the 1976-1983 dictatorship and those responsible for the abductions. ICTJ presented a memo to Congress expressing support for these truth-seeking measures.

The trial of 15 former police officials, charged with kidnapping, torture and murder of 181 persons in relation to the Atlético, El Banco and Olimpo secret prisons in 1976-1979, began Nov. 24. Since the 2005 appeal of an amnesty protecting former officials, 53 officials have been convicted, 43 others are currently on trial, and an additional 54 have been indicted for human rights violations that occurred during the dictatorship.

On Dec. 11, a trial opened against 19 military officials charged with gross violations of human rights including torture, disappearances and murder of thousands of victims at the ESMA Navy Mechanics School, the largest and most notorious detention center during the 1976-1983 dictatorship.

- “Argentina: decisiones legislativas a favor de la identificación de las víctimas de la dictadura,” ICTJ (<http://www.ictj.org/es/news/press/release/3302.html>)
- “Argentine Dirty War Victims Cautiously Embrace Trials, Hope for More,” *Truthout* (<http://www.truthout.org/11280901>)
- “Survivors of torture in Argentina await historic human rights trial,” *Free Speech Radio News* (<http://www.fsrn.org/audio/survivors-torture-argentina-await-historic-human-rights-trial/5787>)

Colombia

On Dec. 17, the Palace of Justice Truth Commission, appointed by the Colombian Supreme Court, released its final report on the 1985 siege of the Court by M-19 guerrilla members and the excessive reaction by security forces. The report describes the widespread abuses that occurred during the siege as well as many roadblocks in the victims’ attempts to achieve justice, and highlights the accountability of M-19, the government and the military for the abuses under international law. ICTJ’s media initiative, Pivot Pictures, is producing a documentary that follows the trial of Colonel Plazas Vega, charged with crimes relating to his role as military commander during the siege. The trial is expected to conclude in Jan. 2010.

The Supreme Court sentenced Salvador Arana Sus, a former governor and ambassador, to 40 years imprisonment for the murder of Eudaldo León Díaz Salgado, mayor of El Roble, as part of an alliance with the paramilitary chief Rodrigo Mercado ('Cadena'). This is the first sentence passed by the Court after reassuming the trials against politicians linked with paramilitary groups. It sets a precedent by considering Arana a top member of the group—not just a supporter—and a perpetrator of crimes against humanity.

Paramilitary leader and drug trafficker Daniel Rendón Herrera ("Don Mario") appeared at a judicial hearing Nov. 30 with \$100,000 in "reparations" for his victims, and expressed willingness to fully cooperate with authorities, including surrendering land holdings in the southern province of Guaviare, and providing a list of politicians allegedly linked to paramilitary groups. Herrera, arrested in April 2009, is thought to be responsible for the deaths of more than 3,000 people in violence related to the drug trade.

- "Comisión de la Verdad sobre los hechos de Palacio de Justicia invita a la presentación de su Informe Final el próximo 17 de diciembre," ICTJ (<http://www.verdadpalacio.org.co/>)
- "Colombian Politico Sentenced to 40 Years for Militia Ties," *Latin American Herald Tribune* (<http://www.laht.com/article.asp?ArticleId=348419&CategoryId=12393>)
- "Colombian Warlord Shows Up at Hearing with \$100K for Victims," *Latin American Herald Tribune* (<http://www.laht.com/article.asp?CategoryId=12393&ArticleId=348252>)

Guatemala

On Dec. 3, a Guatemalan court sentenced Marco Antonio Sánchez, a retired army officer, to 53 years imprisonment for his role in the disappearances of eight indigenous persons in 1981, during Guatemala's 36-year civil war. Although a United Nations-backed truth commission reported that more than 80 percent of the atrocities committed during the war were carried out by the military, Sánchez is the first former soldier to be convicted.

- "First soldier convicted in Guatemala disappearances," *Reuters* (<http://af.reuters.com/article/worldNews/idAFTRE5B30MT20091204>)

Honduras

The truth commission proposed as part of a political accord brokered by the United States to examine the events leading up to the military coup that ousted president Manuel Zelaya in June 2009 has found little political support within the country. The Honduran Congress voted Nov. 29 against restoring Zelaya to office following a presidential

election won by conservative candidate Porfirio Lobo, who has called for political amnesty for those involved in the coup.

- "Honduran Congress Votes Down Return by Zelaya," *New York Times* (http://www.nytimes.com/2009/12/03/world/americas/03honduras.html?_r=1)

United States

U.S. Attorney General Eric Holder announced Nov. 13 that Khalid Sheik Mohammad and four other alleged 9/11 planners will be tried in New York federal courts. The five defendants indicated that they will plead not guilty to the charges of terrorism, while not denying involvement in the planning of the 9/11 attacks.

The New York Times published a report in November revealing that while C.I.A. run black sites have been closed, prisons on military bases in Afghanistan and Iraq remain in operation. Some of the recently released detainees interviewed had been held for months without access to the International Committee of the Red Cross. In a report released Nov. 16, ICTJ called for the prosecution of criminal abuse of detainees in U.S. counterterrorism operations.

- "Accused 9/11 Mastermind to Face Civilian Trial in New York," *New York Times* (<http://www.nytimes.com/2009/11/14/us/14terror.html?fta=y>)
- "Afghans Detail Detention in 'Black Jail' at U.S. Base," *New York Times* (http://www.nytimes.com/2009/11/29/world/asia/29bagram.html?_r=3)
- "U.S. Accountability: Prosecution is Imperative for Abuses in 'War on Terror,'" ICTJ (<http://www.ictj.org/en/news/press/release/3285.html>)

ASIA

Bangladesh

Following a meeting with ICC President Sang-Hyun Song, the Minister of Law, Justice and Parliamentary Affairs Shafique Ahmed announced that Bangladesh would ratify the Rome Statute in advance of the ICC review conference scheduled for March 10. Bangladesh is also in the process of establishing a war crimes tribunal to investigate atrocities that occurred during the 1971 war for independence.

- "Bangladesh to initiate ratifying Rome Statute of ICC," *Bangladesh Info* (http://www.bangladeshinfo.com/news/other_news_head.php?othid=52348)

Burma

More than 400 lawmakers from 29 countries sent a joint letter to the UN Security Council Dec. 10, calling for the creation of a commission of inquiry to investigate allegations of crimes against humanity committed by the military junta. The letter recommends that the UN impose a global arms embargo on Burma, which has been under military rule since 1962.

- “U.N. Security Council Criticized for Failure to Act Against Abuses in Burma,” *CNS News* (<http://www.cnsnews.com/news/article/58406>)

Cambodia

The Extraordinary Chambers in the Courts of Cambodia (ECCC) finished hearing its first case against a former Khmer Rouge leader Nov. 27. Defendant Kaing Guek Eav (also known as Duch) asked for acquittal, while prosecutors requested the court find him guilty and sentence him to 40-years imprisonment, for his involvement in the deaths of more than 15,000 people at the S21 interrogation center and the Cheong Ek killing fields. The court’s verdict is expected in late March.

ECCC judges ruled Dec. 8 that joint criminal enterprise (JCE), a controversial legal doctrine under which individuals can be held responsible for furthering a common criminal purpose, can apply in the cases of former Khmer Rouge leaders. This decision was in response to a motion against the application of JCE filed in July 2008 by the defense of Ieng Sary, former Khmer Rouge foreign minister.

- “ECCC judges agree to apply controversial legal doctrine,” *The Phnom Penh Post* (<http://www.phnompenhpost.com/index.php/2009121030117/National-news/eccc-judges-agree-to-apply-controversial-legal-doctrine.html>)
- “The Khmer Rouge Tribunal: Cambodia’s Healing Process,” *Time* (<http://www.time.com/time/world/article/0,8599,1943373,00.html?xid=rss-topstories>)

Indonesia

The National Commission on the Elimination of Violence against Women marked its 10th anniversary by releasing a report on what happened to women during the massacres and mass detentions of 1965 and during conflicts in Aceh, Poso, East Timor and Papua. Women victims’ representatives and rights defenders attended a three day event that culminated in the presentation of the report to Indonesia’s president. In the absence of a truth commission, the Women’s Commission has interpreted its mandate to include truth-seeking in regard to historical cases of massive gender-based violations.

- “Indonesian President Reaches Out to Women, Promises Fair Treatment,” *The Jakarta Globe* (<http://thejakartaglobe.com/home/indonesian-president-reaches-out-to-women-promises-fair-treatment/344765>)

Solomon Islands

The Truth and Reconciliation Commission, established to investigate the nature, causes, accountability and impact of the conflict in Solomon Islands that occurred between 1998 and 2003, will begin operating in early 2010, after finance-related delays.

- “Ethnic Conflict International Investigators Here,” *Solomon Star* (<http://solomonstarnews.com/news/national/1029-ethnic-conflict-international-investigators-here>)

Timor-Leste

A week of commemoration activities marked the 18th anniversary of the 1991 Santa Cruz Massacre when an estimated 100 peaceful demonstrators were shot by the Indonesian military. Four more of the 16 Santa Cruz massacre victims exhumed from a local cemetery earlier this year were identified using DNA testing, bringing the total number of positive identifications to seven. This prompted the President of Parliament and several other parliamentarians to call on Indonesia to provide Timor-Leste with information on the whereabouts of the remaining bodies of Santa Cruz massacre victims.

- “Candles and Prayers for Victims of Timor Massacre,” *AP* (<http://abcnews.go.com/International/wireStory?id=9064075>)

EUROPE

Former Yugoslavia

Former Bosnian Serb leader Radovan Karadzic filed a motion Dec. 1 challenging the legitimacy of the International Criminal Tribunal for the former Yugoslavia (ICTY), on the grounds that the UN Security Council acted outside of its powers when it created the court in 1993. The ICTY rejected the motion and has resumed the trial with Karadzic absent from the courtroom, due to his boycott of procedures. Karadzic faces 11 charges of genocide, war crimes and crimes against humanity committed in 1992-95.

- “Karadzic files motion challenging legitimacy of war crimes court,” *Jurist* (<http://jurist.law.pitt.edu/paperchase/2009/12/karadzic-files-motion-challenging.php>)

MENA

Iraq

Iraq's Presidency Council announced that parliamentary elections will take place March 7, seven weeks after the originally scheduled date. This decision was announced after members of parliament completed their revisions of the highly contested election law Dec. 6.

- "Iraq sets March 7 for poll after political wrangling," *Reuters* (<http://uk.reuters.com/article/idUKTRE5B74LN20091208>)

Israel/Occupied Palestinian Territory

The report of the UN Fact-Finding Mission on the Gaza Conflict, which documents alleged war crimes and crimes against humanity that occurred during the 22 day operation, was formally transmitted to the UN Security Council Nov. 10. This followed the UN General Assembly's passage of a resolution endorsing the report; requesting the Secretary-General to relay the report to the Council; and calling on Israeli and Palestinian authorities to conduct investigations that are "independent, credible and in conformity with international standards."

- "UN backs Gaza war crimes report," *BBC* (<http://news.bbc.co.uk/2/hi/8342915.stm>)
- "UN: Secretary-General Should Evaluate Gaza Inquiries," *Human Rights Watch* (<http://www.hrw.org/en/news/2009/11/24/un-secretary-general-should-evaluate-gaza-inquiries>)

PUBLICATIONS

Criminal Justice for Criminal Policy: Prosecuting Abuses of Detainees in U.S. Counterterrorism Operations

After September 11, 2001, U.S. counterterrorism policies authorized and fostered widespread violations of human rights and humanitarian law, and those most responsible were not held accountable. Abundant documentation indicates that U.S. military and CIA officials, interrogators and civilian contractors tortured and abused detainees across all U.S. detention facilities in a highly systematic fashion designed and approved by the White House. This 60 page report by ICTJ's U.S. Accountability Project argues that U.S. law, international legal obligations and the credibility of new policy directives makes the prosecution of these "system crimes" both vitally necessary and eminently feasible.

- *Criminal Justice for Criminal Policy: Prosecuting Abuses of Detainees in U.S. Counterterrorism Operations* (http://www.ictj.org/static/Publications/ICTJ_USA_CriminalJustCriminalPolicy_pb2009.pdf)
- *U.S. Accountability: Prosecution is Imperative for Abuses in "War on Terror"* (<http://www.ictj.org/en/news/press/release/3285.html>)

Report and Proposals for the Implementation of Reparations in Sierra Leone

Reparations to victims are a critical part of Sierra Leone's transitional justice process, serving to rebuild national trust, encourage reconciliation and contribute to long-term peace and stability. In this progress report, ICTJ evaluates the reparations process in Sierra Leone, documenting the success of the measures taken to date, and providing recommendations on ways to strengthen the program. The report draws on lessons learned through first-hand observation of reparations initiatives, through findings presented at an ICTJ workshop with civil society organizations and on comparative experience from other countries implementing reparations.

- *Report and Proposals for the Implementation of Reparations in Sierra Leone* (http://www.ictj.org/static/Africa/SierraLeone/ICTJ_SL_ReparationsRpt_Dec2009.pdf)

Identities in Transition: Developing Better Transitional Justice Initiatives in Divided Societies

In post-conflict societies, histories of exclusion, racism and nationalist violence often create divisions so deep that finding a way to agree on the atrocities of the past seems near-impossible. This report is part of an ICTJ project to examine the challenges faced by transitional justice mechanisms when addressing identity-based violence. The report concludes that transitional justice programs will be able to positively

affect conflicts with an identity dimension if they act as a means of political learning across communities, foster trust and recognition, and act to break down harmful myths and stereotypes.

- *Identities in Transition: Developing Better Transitional Justice Initiatives in Divided Societies* (http://www.ictj.org/static/Publications/Identity_Arthur_DividedSocieties_Nov09.pdf)

ICTJ Briefing: Criminal Prosecutions for Human Rights Violations in Argentina

This briefing paper discusses the transitional justice process in Argentina after the political violence of the 1970's, which resulted in massive violations of human rights that included thousands of deaths, prolonged and arbitrary arrests, disappearances, unfair trials and pervasive torture. Despite facing numerous obstacles, the transitional justice process in Argentina has been very successful at achieving accountability and justice for past crimes against humanity. Argentina offers an important example of the positive results of both domestic efforts and international advocacy, and provides critical insights for other communities seeking to achieve justice for past human rights violations.

- *Criminal Prosecutions for Human Rights Violations in Argentina* (http://www.ictj.org/static/Publications/briefing_Argentina_prosecutions.pdf)

Fact Sheet: Effective Remedies to Human Rights Violations

Major international and regional human rights treaties demand an effective remedy be available for individual victims of human rights violations. A remedy involves two elements: a victim's access to the appropriate authorities to have his claim fairly heard and decided; and the redress or relief that he can receive. This fact sheet provides an overview of ICTJ's efforts to improve the strength and accessibility of effective remedies, focusing on case studies from Cambodia, Colombia, Morocco and South Africa.

- *Effective Remedies to Human Rights Violations* (http://www.ictj.org/static/Factsheets/ICTJ_Remedies_fs2009.pdf)

Fact Sheet: Progress of the Extraordinary Chambers in the Courts of Cambodia

The United Nations established the Extraordinary Chambers in the Courts of Cambodia (ECCC) in 2006 to try senior leaders of the Khmer Rouge and those "most responsible" for the crimes committed during the Democratic Kampuchea regime from 1975-79. This fact sheet provides an overview of the proceedings of the ECCC, which has

five suspects in custody and has almost completed its first trial which began in March 2009.

- *Progress of the Extraordinary Chambers in the Courts of Cambodia* (http://www.ictj.org/static/Factsheets/ICTJ_KHM_ECCC_fs2009.pdf)

ICTJ Briefings supporting AUPD recommendations for Darfur

ICTJ released a series of three briefs corresponding to the recommendations proposed by the African Union High Level Panel (AUPD) on Darfur in *Darfur: The Quest for Peace, Justice and Reconciliation* (October 2009). The AUPD report calls for the establishment of a hybrid court to address the most serious crimes committed in the ongoing conflict in Darfur, compensation to victims of the conflict and the creation of a truth and reconciliation commission.

The first ICTJ brief advises that the proposed hybrid court should be constituted as a new, independent organization established by an international treaty between the African Union and the Sudanese government.

- *Benchmarks for Independent and Legitimate Hybrid Criminal Courts* (http://www.ictj.org/static/Publications/ICTJ_SDN_briefing_AUPDHybridCourts_pb2009.pdf)

The second provides an overview of the essential best practices that a truth commission should employ based on comparative experiences from around the world.

- *Essential Best Practices for Truth Commissions* (http://www.ictj.org/static/Publications/ICTJ_SDN_briefing_AUPD-TJRC_pb2009.pdf)

The third brief provides recommendations for the organization of a comprehensive and effective reparations strategy.

- *Providing Meaningful Reparations to Victims* (http://www.ictj.org/static/Publications/ICTJ_SDN_briefing_AUPD-Reparatns_pb2009.pdf)

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.

The period from Morocco's independence in 1956 to the 1990s, known as the "Years of Lead," was marked by grave human rights violations. Hundreds, perhaps thousands of political opponents, intellectuals, trade unionists and military officers suspected of disloyalty were subject to arbitrary detention, torture and forced disappearance.

Many ended up in prisons such as Derb Moulay Cherif or Tazmamart, secret facilities where prisoners endured terrible deprivation and torture. Saddik Lahrach, a former prisoner in Derb Moulay Cherif, recalls being beaten if he laughed or even whispered. In Tazmamart, prisoners were held in solitary confinement in tiny, unlit cells. Malnourished prisoners endured extremes of seasonal heat and cold; torture was common, medical treatment nearly nonexistent. Half of the captives held in Tazmamart died in detention before the prison was closed in 1991.

In recent years, the Moroccan government has initiated efforts to address the abuses committed during the Years of Lead. Its truth commission, the Equity and Reconciliation Commission recommended, among other things, converting former political prisons into socio-cultural centers and sites of memory.

ICTJ has provided advice and expertise to the different actors involved in the prison conversion process. Together with the Moroccan Advisory Council on Human Rights (CCDH) and local human rights and victims organizations, ICTJ has organized workshops to help make the conversion of prisons a reality. These workshops have brought victims and other stakeholders into the conversation and have included expert findings from similar efforts around the world.

A workshop on the Tazmamart prison included case studies on memorialization efforts in South Africa, Liberia, Chile and Rwanda. Participants representing victims groups, local residents and the CCDH



Former detainees and families visiting the Agdz prison on the day of the ICTJ-CCDH workshop that took place in January 2009.

Photo courtesy of Lauren Segal

presented their visions and concerns, and debated the shape this project should take. A second workshop was held in the town of Agdz, home to the notorious Agdz Detention Center. ICTJ invited representatives of South Africa's Constitution Hill, a former apartheid prison converted into the Constitutional Court seat, and Chile's Villa Grimaldi, a torture and detention center transformed into a site of memory. A follow-up workshop was held in Oct. 2009 to consider a design proposed by the Bnouhachem Group of former Agdz detainees. ICTJ invited a speaker from the International Coalition of Sites of Conscience to offer a comparative examination of similar projects around the world.

ICTJ is unique in its ability to draw on both thematic and regional expertise to address the local political context, provide lessons drawn from other countries and regions, and draw on deep expertise in the mechanics of truth commissions, prosecution, reparations, memorialization and other transitional justice measures.

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 Lesley Bourns of our Development Department at (917) 637-3824 or lbourns@ictj.org.

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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