

MAY 2010

## The ICC on the Ground: Complementarity at work in Colombia and the DRC

Interview with Michael Reed, head of ICTJ's Bogotá office, and Mirna Adjami, head of ICTJ's Kinshasha office

**Q. One of the basic tenets of the Rome Statute is complementarity, the principle that the International Criminal Court (ICC) can act only when a state party is unable or unwilling to prosecute. Do the national court systems in the countries in which you work have the capacity to play the role assigned them by the statute?**

**Mirna Adjami:** The Democratic Republic of Congo (DRC) has a legal framework to allow the country to fulfill its role, but the framework is incomplete. In 2002, right after the country ratified the Rome Statute, the DRC granted military courts jurisdiction over international crimes. The codes, however, failed to include adequate definitions of these crimes. And there remain strong concerns over the procedures the military courts have used and the independence of those courts.

Nevertheless, about a dozen of these trials have taken place. In some there were real concerns about the respect of due process, but victims we interviewed were pleased to participate in some proceedings and see the justice system work in their communities. Unfortunately, in all but one of these trials, the people convicted of international crimes have escaped from prison, and the judicial damage awards have not been paid.

These trials took place thanks to the efforts of many actors, not just because of the Rome Statute. Many international actors helped train



magistrates, for example, and provide resources and other assistance. One of these trials brought the first Congolese convictions of army officers for mass rape and sexual violence as a crime against humanity. Although troubled, these trials ultimately show that even in

the context of dysfunctional systems, individual judges and lawyers have the potential to make a difference.

**Michael Reed:** In Colombia, capacity is not as large an issue as willingness. There are, for sure, some issues related to capacity to prosecute system crimes. There is definitely a need to strengthen the use of nontraditional approaches in evidence gathering and analysis. This approach emphasizes the need to use technical skills and adequate legal tools to establish the criminal responsibility of perpetrators of international crimes behind the scenes. But a willingness to look there, to look for senior perpetrators, is the most important obstacle.



**Adjami:** The differences between these two countries raise questions about what it means to “have capacity.” There are different levels of training, resources, infrastructure and technical capacities of the court

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systems. The Congolese system has been much more ravaged by conflict than Colombia's. While we have these cases in military courts as a sample of the potential at the national level, the Congolese government itself has argued it does not have sufficient capacity to go forward to prosecute some of the cases.

I hope the debate at the Review Conference will be broadened to examine what justice reform in post-conflict societies should look like. There are some concerns that national courts may decide for political reasons whether they can or will pursue certain cases. Congo has made the argument that former rebel leader Laurent Nkunda, who's now under house arrest in Rwanda, is a Congolese general who should be tried by Congolese military courts. The standards for complementarity need to become clearer, to narrow the space for countries that might want to pick and choose in which cases they want to cooperate with the ICC.

**Reed:** The ICC is a reality and is putting pressure on some judicial systems to perform, but it is operating not in isolation but as part of much broader efforts by human rights regional courts and other international protection mechanisms. The ICC is, for example, aligning with positions that the Inter-American Court of Human Rights has sustained for many, many years. There are other pressures, not just from the ICC, on states such as Colombia to have its criminal justice system focus on responsibility at the highest level for international crimes.

The greatest obstacle to evaluating how well a country is complying with complementarity is the challenge of judging a country's *willingness* to investigate and prosecute. There is very little by which to evaluate it beyond what the Rome Statute says and what was said at the conferences that led up to the statute. We have little sense of how the ICC measures willingness. Is willingness determined according to what a country's executive branch says? By the judicial system's choice of cases?

#### **What impact has the ICC had in the DRC and Colombia on the fight against impunity?**

**Reed:** There is a sort of myth about the ICC that says it is all powerful and can take away the most important criminals. That myth leads to some positive results, by encouraging the idea that it is important to conduct investigations and to establish individual responsibility. Though the objective impact of the ICC in Colombia is relatively weak, the threat that the ICC will act has made Colombian authorities move forward.

It is also with the coming into the force of the Rome Statute that politicians came to believe there is a very clear prohibition of amnesties and pardons and that national legislation cannot include *de jure* or *de facto* impunity. And that is a very positive development. The statute has also pushed some national prosecutors to investigate how homicides and disappearances link up and to try to trace a more complex criminal apparatus and look for those with the highest responsibility.

Whether that will lead them to pursue those with greatest responsibility for international crimes is something we will see over time. When there is sophisticated judicial capacity, imperfect attempts to pursue impunity can be crafted to shield the perpetrators that are most responsible.

**Adjami:** The statute has had an impact on the legal framework of the Congolese criminal justice system, which is undergoing tremendous reforms, and which we hope will progress further with adoption of the Rome Statute Implementation Bill. But Congo also remains the scene of ongoing conflict with the ongoing commission of mass atrocities that rise to the level of international crimes. Congo is also using its cooperation with the ICC in some cases to say it is making strides in the fight against impunity when in fact the cases pursued fit into the political agenda of President Kabila. By contrast, we have a wanted ICC war criminal, Bosco Ntaganda, who is serving as a top general in the field in the Congolese army. This shows how the countries can manipulate what they say is the fight against impunity.

#### **How have victim communities reacted to the court? Do they have realistic expectations?**

**Reed:** One of the problems in Colombia, where people believe in the promise of a sort of celestial body in The Hague, is that the expectations are unrealistically high. I am sorry to say that their expectations have been fed by statements of the ICC prosecutor during his visits to Colombia.

**Adjami:** One of the problems in DRC is that there are so many victim communities. So far, we have seen the prosecutor focus on the conflict in the Ituri region in 2002–2003 for his first investigations. The regional militia leaders there were just that—regional militia leaders—but they were backed by Uganda and Rwanda. Is the ICC thus pursuing those most responsible for the worst crimes? From a national perspective, the defendants charged in relation to the Ituri conflict don't necessarily fit that definition. And direct victim communities are disappointed with the limited charges brought in those cases. So we

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can see some of the challenges the ICC faces in responding to victim expectations.

### **Are there ways for complementarity to work better?**

**Adjami:** Given that the wars in the African Great Lakes region have regional dimensions, the court should look at responsibility by regional actors, including those responsible for crimes committed by proxy groups on the ground. Charging political actors who have been heads of armed groups and who continue to be active in politics today would make a better demonstration of the ICC's reach. The likelihood of Rwanda handing over Nkunda to the court is slim if not zero, but he's the kind of leader whose movement had national political consequences.

Complementarity also means that Congolese courts have to act more and engage in prosecuting serious crimes being committed to this day. But significant efforts have to be made to support the whole judicial system, including the penitentiary system, to make justice real.

From anecdotes we've heard among government military officers, there's an increasing awareness at some levels that there is a system of international justice that is working. But we're also aware of concerns that the crimes appear to be prosecuted in a one-sided manner; Congolese say the court is focusing either on sideshow crimes or crimes that President Kabila finds politically convenient to pursue. We shouldn't minimize the efforts that have been made to date, given the judicial system's lack of authority over much of the country. When the prosecutor went to Ituri to discuss the cases from that region, victim communities reacted positively to some degree to see that their cases are being heard, even if at the international level. Has there been preventive impact of the court regarding ongoing violations? That impact hasn't yet been felt.

It's interesting: in places like Colombia where the court hasn't acted yet, it is viewed as a potential savior. But where the court is acting, like the DRC, it's clear it can't meet every need, and it wasn't intended to. For Congo the need is to promote a sense of the rule of the law, in a place where there has been limited state authority when it comes to justice issues. Victims' views are clear from the surveys we have done: They want to participate in justice, and they want it to be real to them at the village level. The Hague is far away. It will help if the debates on complementarity start to shift more to how we support rule-of-law efforts and comprehensive justice reform in post-conflict societies.

**Reed:** It's not black or white; it's not complementarity works or doesn't work. We believe complementarity would work better if the ICC assumes jurisdiction over one, two, or three prosecutions, to finally push the Colombian justice system to pursue those with greatest responsibility. For now everyone is focused on the Justice and Peace law, which involves the prosecution of confessed criminals who have deposited in exchange for reduced sentences. The ICC's attention should be not on that confessional scheme but on the ordinary authorities that have to gather evidence on people who have not confessed, people who are part of a criminal apparatus, people who are hiding, people who continue to have impunity. ♦

### AFRICA

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#### DRC/CAR

Defense lawyers for the former Congolese warlord Jean-Pierre Bemba challenged the admissibility of the case against him Apr. 27. They reportedly argued the case was the product of political interference and that Bemba had been denied his rights by being brought before the International Criminal Court (ICC) rather than being returned to Africa. Bemba is on trial for alleged war crimes including rape, pillage and murder committed by his troops in the Central African Republic in 2002–2003. Originally scheduled to begin on Apr. 27, this is the second time the trial has been delayed; pending the ruling on admissibility, the trial will now commence on Jul. 5.

Over 120 parliamentarians in the DRC submitted a petition to the Belgian Embassy requesting that they agree to host Bemba on conditional release for the duration of his proceedings at the ICC.

- “Lawyers challenge war crimes trial of Congo warlord,” *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2010/04/27/AR2010042701606.html>)
- “Des parlementaires congolais demandent à la Belgique de recevoir JP Bemba,” *Radio Okapi* (<http://www.congoplanete.com/article.jsp?id=45262718>)

#### Kenya

On Apr. 19, former Vice Chairperson and Commissioner Betty Murungi resigned from Kenya’s Truth, Justice and Reconciliation Commission (TJRC), citing as her reason the failure of Chairman Bethuel Kiplagat to step down. The remaining commissioners have joined the international call for Kiplagat to resign in the face of allegations of bias and misconduct that have effectively halted the progress of the commission. The Kenyan government has said it will not continue funding the TJRC until the controversy is resolved.

- “Kenya truth commission under fire,” *Radio Netherlands Worldwide* (<http://www.rnw.nl/international-justice/article/kenya-truth-commission-under-fire>)

#### Sierra Leone

On International Women’s Day Mar 27, Sierra Leone President Ernest Bai Koroma issued a public apology to women victims of the country’s 10-year armed conflict that ended in 2002, acknowledging that the

country was responsible for failing in its duty to protect its citizens. With this statement, Sierra Leone took an important symbolic step in fulfilling the right to reparations, ICTJ said.

- “Sierra Leone: Apology to Women Victims a Welcome Step,” ICTJ (<http://www.ictj.org/en/news/press/release/3578.html>)

#### Sudan

Sudan held its first multi-party presidential, parliamentary and regional elections in 25 years Apr. 11–15. On Apr. 26, the National Congress Party (NCP) of incumbent president Omar al-Bashir was announced the winner. The two lead opposition parties, the Umma party in the north and the Sudan People’s Liberation Movement (SPLM) in the south, withdrew from the elections in early April, citing fraud.

- “Sudan’s incumbent president wins re-election,” *Washington Post* (<http://www.washingtonpost.com/wp-dyn/content/article/2010/04/26/AR2010042601655.html>)

#### Uganda

Uganda will host the first Review Conference on the Rome Statute of the ICC from May 31–Jun. 11 in Kampala. The conference is a special meeting of states parties to the ICC to consider amendments to the Rome Statute and to evaluate its implementation and impact to date. ICTJ is among the non-governmental organizations invited to take part in the conference.

- ICC Review Conference: Uganda 2010 Website (<http://www.iccuganda2010.ug>)

#### Zimbabwe

An International Labor Organization (ILO) commission of inquiry exploring allegations of targeted attacks made by the ZANU-PF government against trade unions presented its findings to the ILO Mar. 26. The final report, titled “Truth, reconciliation and justice in Zimbabwe,” reviewed the history of trade unionization from the colonial period through the post-1980s independence period and concluded that a pattern of systematic violations was evident, including arbitrary arrest, detention, assault and torture by security forces of trade union leaders and members.

- “ILO Report: Truth, reconciliation and justice in Zimbabwe,” *ZimOnline* (<http://www.zimonline.co.za/Article.aspx?ArticleId=5846>)

### AMERICAS

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On Apr. 15, the Inter-American Commission on Human Rights presented its 2009 Annual Report outlining progress and challenges in human rights conditions in Colombia, Cuba, Haiti, Honduras and Venezuela. This is the first time that Honduras has appeared on the list of countries that “warranted special attention,” which the commission attributed to the human rights situation following the June 28, 2009 military coup.

On Apr. 21, a coalition of nine NGOs from Spain, Guatemala and Colombia opened discussions at an international meeting of experts from 27 countries. The meeting convened in Bogotá to adopt a consensus text on standards and processes for addressing and ending enforced disappearances and other human rights violations. The aim of the text is to ensure a consistent minimum standard in all search processes, exhumation and the identification of remains.

- “IACHR Presents its 2009 Annual Report,” *OAS* (<http://www.cidh.oas.org/Comunicados/English/2010/42-10eng.htm>)
- “Expertos de 27 países discuten normas para procesos de exhumación,” *El Espectador* (<http://www.elspectador.com/node/199370/print>)

#### Argentina

On Apr 20, a federal court sentenced Reynaldo Bignone, former general and dictator of Argentina in 1982–83, to 25 years imprisonment for torture and illegal detentions at the Campo de Mayo prison center during his rule. Six other officials from the dictatorship were also sentenced to 17–25 years imprisonment on similar charges, concluding a five-month trial. Though all those convicted are over 80, the court ruled that they would serve their terms in prison, not under house arrest as is the custom for convicts over 70.

The Grandmothers of the Plaza de Mayo, an Argentinean organization that has persistently fought for the return of their grandchildren who had been disappeared during Argentina’s last dictatorship, has been nominated for the 2010 Nobel Peace Prize.

- “Argentina’s last dictator sentenced to 25 years,” *Reuters* (<http://www.reuters.com/article/idUSTRE63J68B20100420>)
- “Las Abuelas de Plaza de Mayo son candidatas al premio Nobel de Paz 2010,” *El Espectador*

(<http://www.elspectador.com/noticias/paz/articulo199192-abuelas-de-plaza-de-mayo-son-candidatas-al-premio-nobel-de-paz-2010>)

#### Brazil

On Apr. 20, Minister of the Special Secretariat for Human Rights Paul Vannuchi assured critics and opponents of the proposed truth commission that the body would not be punitive, and would instead be mandated to investigate and establish the truth about past abuses and create policies to prevent the recurrence of human rights violations. The commission, proposed in December 2009 as part of a National Program of Human Rights to investigate abuses that occurred under the military dictatorship of 1964–1985, has generated significant opposition—especially within the military.

- “Vanucchi: Comissão da Verdade não terá caráter punitivo,” *Política* (<http://opovo.uol.com.br/politica/975173.html>)

#### Colombia

Apr. 21 marked the deadline for victims of the ongoing conflict in Colombia to register for reparations under the state’s Administrative Reparations Program. Local NGOs have estimated that while more than 300,000 individuals have applied for reparations, over 60 percent of the people affected by violence have not registered. The Colombian government should use this as an opportunity to re-strategize a more comprehensive approach to reparations that includes recognition of the victims, rather than solely monetary compensation, ICTJ said.

In an annual report on Colombia released Apr. 22, the International Committee of the Red Cross (ICRC) warned that the shift in Colombia’s armed conflict from densely populated areas to remote ones has rendered thousands of victims virtually invisible to national and international assistance. In the forward to the report, Christophe Beney, head of ICRC’s Colombia delegation, underscored the responsibility of the government to assist and protect its citizens and warned against the use of humanitarian mechanisms for political or military ends.

A Colombian media outlet claimed it has obtained documents which reveal that the surveillance of journalists, judges, and politicians conducted by DAS, Colombia’s intelligence agency, was ordered by officials in the Office of the President. The surveillance included the wiretapping and email interceptions of opposition figures and human rights defenders, and has been compared to the Watergate Scandal in the United States.



- “Programa administrativo de reparaciones individuales requiere ir más allá de la indemnización para que sea un esfuerzo genuino de reparación,” ICTJ (<http://www.ictj.org/es/news/press/release/3653.html>)
- “Increasing the visibility of all conflict victims in Colombia,” ICRC (<http://www.cicr.org/Web/eng/siteeng0.nsf/html/colombia-report-main-220410>)
- “Por ‘chuzadas’, DAS pierde ayuda técnica de Estados Unidos,” *Semana* (<http://www.semana.com/noticias-justicia/137547.aspx>)

### El Salvador

El Salvador’s Congress rejected an attempt by the Institute of Human Rights at the Central American University (IDHUCA) to repeal El Salvador’s Amnesty Law. The law allows impunity for those responsible for thousands of human rights violations committed during the country’s 12-year armed conflict. In a note sent to Congress Apr. 7, IDHUCA said that repealing the law was a necessary step in providing guarantees of non-repetition and granting victims their rights to truth, justice and reparation.

- “IDHUCA sin apoyo legislativo para derogar Ley de Amnistía,” *DiarioCoLatino* (<http://www.diariocolatino.com/es/20100408/nacionales/78698/?tpl=69>)

### Guatemala

The International Commission Against Impunity in Guatemala (CICIG) presented on its progress in combating impunity for human rights violations at a UN press conference Apr. 20. CICIG Commissioner Carlos Castresana highlighted the success of the commission in strengthening the justice sector and rule of law in Guatemala. The commission is also responsible for imprisoning 130 individuals accused of human rights abuse and organized crimes, including a former president, former defense minister and two acting directors of the national police.

- “UN-backed war on impunity in Guatemala should be strengthened – commission head,” *UN News Centre* (<http://www.un.org/apps/news/story.asp?NewsID=34430&Cr=guatemala&Cr1>)

### Honduras

President Porfirio Lobo announced Apr. 19 that the truth commission established to investigate the events surrounding the June 2009 military coup that ousted former president Manuel Zelaya will begin

its work May 4. The commission, established by President Lobo in accordance with the Oct. 2009 agreement signed by the military coup leaders and Zelaya, has been met with widespread skepticism by local and international rights groups. Critics claim the creation of the commission fails to respect “the international standards applicable to truth commissions” and lacks proper consultation and a clear mandate.

- “Truth Commission Under Fire from All Sides,” *IPS* (<http://www.ipsnews.net/news.asp?idnews=51101>)

### United States

On Apr. 16, U.S. federal prosecutors charged top executives of Blackwater Worldwide, the government contractor accused of using abusive interrogation and detention practices, for weapons violations and making false statements. This is the first prosecution effort to reach the top levels of management in the security company.

Colonel Lawrence B. Wilkerson, chief of staff to former secretary of state Colin Powell, provided a sworn affidavit dated Mar. 24, for use in federal court. In the affidavit, he asserts that the Bush administration knowingly detained innocent men in Guantanamo “for political reasons.” Wilkerson explained that most of the 742 detainees had been turned in by Afghani warlords and hadn’t even seen U.S. soldiers during the initial detention process.

On Apr. 10, a federal judge ordered the release of another detainee, Mohamedou Ould Slahi, arguing that the government cannot indefinitely hold individuals on suspicion of future terrorist activity.

- “U.S. Indicts 5 Blackwater Ex-Officials,” *The New York Times*, (<http://www.nytimes.com/2010/04/17/world/17XE.html>)
- “Declaration of Colonel Lawrence B. Wilkerson (Ret.),” *U.S. District Court for the District of Columbia* (<http://www.truthout.org/files/Wilkerson.pdf>)
- “Federal judge orders release of Guantanamo detainee,” *The Washington Post*, (<http://www.washingtonpost.com/wp-dyn/content/article/2010/04/09/AR201004090505050.html>)

### ASIA

The Association of South East Asian Nations (ASEAN) Intergovernmental Commission of Human Rights (AICHR), composed of 10 countries from the region, held its first meeting in Jakarta Mar. 29 – Apr. 1. Human rights and victims' groups lobbied to participate in the meeting and to contribute input for the drafting of its organizational procedures. The commission refused to meet with the groups or receive their petitions, citing the lack of a mechanism for engaging with external parties.

- “Asean Human Rights Body Rebuffs Victims, Activists,” *Jakarta Globe* (<http://www.thejakartaglobe.com/news/asean-human-rights-body-rebuffs-victims-activists/366568>)

### Burma

On Apr 9, ASEAN called on Burma to ensure free and fair elections, scheduled to take place later this year. Sixteen new political parties have joined the three pre-existing parties registered to take part in the elections, according to Burma's ruling junta. Registration closes May 6. The National League of Democracy (NLD), the leading opposition party in Burma, has decided to boycott the elections after the junta passed laws which prohibit NLD leader Aung San Suu Kyi from participating in the elections.

On Mar. 25, Great Britain's ambassador to the UN expressed support for the establishment of a commission of inquiry into alleged war crimes and crimes against humanity committed by the ruling military junta, and said the UK would support a UN Security Council referral of the situation in Burma to the ICC. Australia and the Czech Republic have also issued statements in support of a commission of inquiry, which was first proposed by UN special rapporteur Tomas Ojea Quintana to the UN Human Rights Council Mar. 11.

- “New Political Parties Register for Burma's Elections,” *Voice of America* (<http://www1.voanews.com/english/news/asia/90491774.html>)
- “UK backs move to refer Burma's leaders to war crimes tribunal,” *Guardian* (<http://www.guardian.co.uk/world/2010/mar/25/uk-backs-case-against-burma>)
- Australia Supports Considering UN Commission of Inquiry,” *Irrawaddy* ([http://www.irrawaddy.org/article.php?art\\_id=18061](http://www.irrawaddy.org/article.php?art_id=18061))

- “Czech Supports UN War Crimes Inquiry on Burma,” *Irrawaddy* ([http://www.irrawaddy.org/article.php?art\\_id=18242](http://www.irrawaddy.org/article.php?art_id=18242))

### Indonesia

In response to increasing civil society pressure, Minister of Justice and Human Rights Patrialis Akbar announced Mar. 24 that the Indonesian government was willing to provide compensation to victims and families of the victims of state-sponsored human rights violations and disappearances. Patrialis said that the government will work with the Commission for the Disappeared and Victims of Violence (Kontras), a local NGO, on developing a national mechanism for addressing past abuses and providing reparation.

- “Kontras Harapkan Korban Kekerasan dapat Kompensasi,” *tvOne* (<http://sosialbudaya.tvone.co.id/berita/view/35089>)

### Nepal

Members of Prime Minister Madhav Kuma Nepal's ruling party joined a call by the Maoist opposition party for the prime minister to resign and so facilitate formation of a national unity government. The opposition blames the Prime Minister for stalling the drafting of a new constitution, which is scheduled to be complete by May 28, and hampering the ongoing peace process.

ICTJ has scheduled the second of a two-part Training of Trainers program for Apr. 28 – May 5, designed to develop and support the local transitional justice processes.

- “Step down: UML to PM,” *The Kathmandu Post* (<http://www.ekantipur.com/the-kathmandu-post/2010/03/30/top-stories/Step-downUML-to-PM/206684/>)

### Solomon Islands

The government of Solomon Islands organized a series of consultative talks in late March between the leaders of Malaita and Guadalcanal to promote dialogue and reconciliation between the two provinces most involved in the tensions of 1998–2003. The Solomon Islands Truth and Reconciliation Commission (TRC), established to address abuses that occurred during the tensions, held its first public hearings in early March and has scheduled more hearings to take place in May.

- “Panga Satisf[ied] with reconciliation talk,” *Solomon Star* (<http://www.solomonstarnews.com/news/national/4336>)

### Timor-Leste

On Mar. 26, a Dili district court sentenced former Timorese Mahidi militia members Domingos Mau Buti and Adriano Nascimento to 16 years imprisonment for murder and crimes against humanity committed during a systematic attack against civilians in the Mape village in 1999. The attacks were directed against individuals who were perceived to be supporters of or sympathetic to Timor-Leste liberation initiatives.

In late March, ICTJ facilitated meetings of victims' representatives in three districts to review the result of the 2009 National Victims' Congress and to determine the structure and activities of the Victims' Association at the district level. The meetings will be followed by trainings in community organization, documentation and advocacy work.

- “Ringkasan Persidangan Kasus Tindak Pidana di Pengadilan Distrik Dili” *East Timor Law and Justice Bulletin* (<http://easttimorlegal.blogspot.com/2010/04/ringkasan-persidangan-kasus-tindak.html>)

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## EUROPE

### Cyprus

Turkish nationalist Dervis Eroglu won the North Cypriot presidential elections on Apr. 18. Critics fear Eroglu's election will halt ongoing peace talks between the Turkish and Greek Cypriot communities focused on the reunification of the island. Though Eroglu has expressed commitment to continuing talks with the Greek Cypriot government, the latter opposes Eroglu's political solution of a confederation of independent states.

- “One Step Backwards: The election of a Turkish-nationalist hardliner in Cyprus dims hopes for reunification,” *The Economist* ([http://www.economist.com/world/europe/displaystory.cfm?story\\_id=15939285](http://www.economist.com/world/europe/displaystory.cfm?story_id=15939285))

### Former Yugoslavia

Bosnia's war crimes court, established to support the work of the International Criminal Tribunal for the former Yugoslavia (ICTY), sentenced two former Serb policemen to 31 years imprisonment on charges of genocide and mass killings on Apr. 22. Radomir Vukovic and Zoran Tomic, members of a special police force established to forcibly remove Muslim civilians from the area surrounding Srebrenica, were

found guilty of participating in the execution of at least 1,000 Muslim men in the village of Kravice in 1995.

The trial of Radovan Karadzic resumed Apr. 13 at the ICTY in The Hague, with the presentation of witnesses for the prosecution. The former Bosnian Serb leader, who is acting as his own defense lawyer, faces 11 charges including war crimes and genocide allegedly committed during the 1992–1995 war in Bosnia. Karadzic has said he will not testify in his own defense, eliminating the chance for the prosecution to cross-examine him.

- “Two Bosnian Serbs jailed for 31 years over Srebrenica,” *Reuters* (<http://uk.reuters.com/article/idUKTRE63L23Z20100422>)
- “Radovan Karadzic faces first trial witness,” *BBC News* (<http://news.bbc.co.uk/2/hi/europe/8617152.stm>)

### Spain

Baltasar Garzón, a judge in Spain's Central Criminal Court, was indicted Apr. 7 on charges of overreaching his authority and knowingly violating a 1977 general amnesty law when he launched an investigation in 2008 into the disappearances and deaths that occurred during the Spanish Civil War. Garzón is best known for his indictment against Chile's former dictator Augusto Pinochet and the use of universal jurisdiction provisions in a number of cases of mass atrocities prompted by complaints from victims in Argentina and elsewhere. Garzón's prosecution will have a negative impact on the promotion of accountability for international crimes, ICTJ said.

- “Prosecution of Spanish Judge Will Hinder Fight Against Impunity,” ICTJ (<http://www.ictj.org/en/news/press/release/3638.html>)

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## MENA

### Israel/OPT

Fifteen months after the end of the war in Gaza and southern Israel, Israeli and Palestinian authorities have yet to conduct investigations that adhered to the principles of independence, effectiveness, promptness and impartiality, Human Rights Watch said in a report released Apr. 11. In February, the General Assembly reiterated its call for both authorities to conduct credible investigations in conformity with international standards, cautioning that further action would be taken if a July deadline was not met.



A report released Apr. 19 by the Israeli group Im Tirtzu launched an attack on civil society organizations in Israel that worked to pursue accountability for serious violations of international law by the Israeli military. The report criticized human rights NGOs as well as donor agencies, following up on an earlier report which had “exposed” the institutions that provided information to the UN Fact Finding Mission on the Gaza Conflict.

- “Israel/Gaza: Gaza War Victims Shortchanged on Justice,” *Human Rights Watch* (<http://www.hrw.org/en/news/2010/04/09/israelgaza-gaza-war-victims-shortchanged-justice>)
- “Renewed attacks on human rights groups in Israel,” *JNews* (<http://www.jnews.org.uk/news/renewed-attacks-on-human-rights-groups-in-israel>)

### Lebanon

A number of events were organized Apr. 13 to commemorate the beginning of the 1975–1990 war. Families of the disappeared held a meeting at the permanent sit-in in downtown Beirut. Several key civil society figures spoke about the need to address the legacies of the war and the need for state measures to address the demands of the families of the disappeared. Government and parliament members also marked the day for the first time by playing a symbolic soccer game pitting the two main political rival camps against each other.

Beit Beirut, the museum and cultural space being developed by the Municipality of Beirut with the help of the Mairie de Paris, was launched on Apr. 7. The Mayor of Paris, the Lebanese Prime Minister and a number of key officials and civil society representatives were in attendance. The museum will address the history of the capital city, as well as commemorate the 1975–1990 war period and its impact on the city and its residents.

- “Youth unite in activities commemorating Civil War,” *Daily Star* ([http://www.dailystar.com.lb/article.asp?edition\\_id=1&categ\\_id=1&article\\_id=113755](http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=1&article_id=113755))
- “Lebanese leaders embody unity, kick off April 13 commemorations on soccer pitch,” *Daily Star* ([http://www.dailystar.com.lb/article.asp?edition\\_id=1&categ\\_id=2&article\\_id=113762](http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=2&article_id=113762))
- Beit Beirut Website (<http://www.beitbeirut.org/>)

### Morocco

In April 2010, the Fondation Caisse de Dépôt et de Gestion, the project management agency of the Community Reparations Program, launched a new call for proposals for community reparations projects to be implemented by local NGOs in three areas targeted by the program. The total available funding for this new call for proposals is 4 million dirham (approximately US \$800,000). The call for proposals included issues of building the capacity of local stakeholders, promotion of human rights and citizenship, memorialization through the development of sites of memory, data collection on the Years of Lead, gender mainstreaming and environment protection.

- “Appel à Propositions Restreint N°2/2010,” *CCDH* (<http://www.ccdh.org.ma/spip.php?article2690>)

### Yemen

Amnesty International and Human Rights Watch urged the Yemeni government and Houthi rebels to investigate alleged breaches of international human rights and humanitarian law during internal fighting that occurred last year. Testimonies collected by the two organizations accuse the government forces of indiscriminate bombing and the rebels of deploying forces in densely populated areas, summary executions and looting of private property. Neither side has responded to these allegations although in the past the Yemeni government has said it intended to investigate some reported bombings.

- “Yemenis urged to probe alleged breaches of laws of war,” *BBC* ([http://news.bbc.co.uk/2/hi/middle\\_east/8606846.stm](http://news.bbc.co.uk/2/hi/middle_east/8606846.stm))

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## PUBLICATIONS

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### **United State: Submission to the Universal Periodic Review of the United Nations Human Rights Council Ninth Session Nov 22 - Dec 3, 2010**

In dealing with counterterrorism detainees after 2001, the United States breached its obligations under the UN Convention Against Torture (CAT) and other sources of international human rights and humanitarian law. In this submission to the Universal Periodic Review, ICTJ provides recommendations for accountability measures including: full disclosure of the facts pertaining to the nature and extent of detainee abuses, complete investigations of instances of torture and other human rights violations, meaningful access to redress for victims and institutional reforms ensuring restoration of due process.

- “United States: Submission to the Universal Periodic Review of the United Nations Human Rights Council Ninth Session Nov 22 - Dec 3, 2010,” ICTJ ([http://www.ictj.org/static/Publications/ICTJ\\_US\\_UniversalPeriodicReview\\_2010.pdf](http://www.ictj.org/static/Publications/ICTJ_US_UniversalPeriodicReview_2010.pdf))

### **Fact Sheet: The Democratic Republic of Congo Must Adopt the Rome Statute Implementation Law**

In this situation brief, ICTJ urges the Congolese parliament to pass the pending Rome Statute Implementation Bill. The Democratic Republic of Congo (DRC) ratified the Rome Statute in March 2002, but the DRC government has yet to meet its legal obligation to incorporate the statute into national law. Adopting this legislation is essential to ensure complementarity between domestic Congolese courts and the ICC, and would strengthen the country’s legal system so it can end the ongoing cycle of impunity for the most egregious international crimes.

- “The Democratic Republic of Congo Must Adopt the Rome Statute Implementation Law,” ICTJ ([http://www.ictj.org/static/Factsheets/ICTJ\\_DRC\\_RomeStatuteBill\\_fs2010.pdf](http://www.ictj.org/static/Factsheets/ICTJ_DRC_RomeStatuteBill_fs2010.pdf))

### **Fact Sheet: Jean-Pierre Bemba at the International Criminal Court**

ICTJ presents a situation brief on developments in the ICC case of Jean-Pierre Bemba, on trial for crimes his troops allegedly committed in the Central African Republic (CAR) in 2002–2003. The ICC prosecutor opened an investigation in May 2007 into crimes committed in the CAR, based on a December 2004 referral from Central African president. An arrest warrant was issued on May 24, 2008; Bemba was arrested the same day. He is now in custody in The Hague.

- “Jean-Pierre Bemba at the International Criminal Court,” ICTJ ([http://www.ictj.org/static/Factsheets/ICTJ\\_DRC\\_Bemba\\_fs2010\\_EN.pdf](http://www.ictj.org/static/Factsheets/ICTJ_DRC_Bemba_fs2010_EN.pdf))
- “Jean-Pierre Bemba devant la Cour pénale internationale,” ICTJ ([http://www.ictj.org/static/Factsheets/ICTJ\\_DRC\\_Bemba\\_fs2010\\_FR.pdf](http://www.ictj.org/static/Factsheets/ICTJ_DRC_Bemba_fs2010_FR.pdf))

### **Fact Sheet: Thomas Lubanga and the ICC**

ICTJ presents a situation brief on the ICC trial of Thomas Lubanga, the former leader of the Union des Patriotes Congolais (UPC), on war crimes charges of conscripting, enlisting and using child soldiers. After delays due to procedural challenges, the ICC’s trial of Lubanga began in January 2009. The prosecution presented its case against Lubanga over seven months in 2009. In January 2010, the court heard testimonies of two expert witnesses, and the defense began presenting its case. This is the first case to be tried by the court.

- “Thomas Lubanga and the ICC,” ICTJ ([http://www.ictj.org/static/Factsheets/ICTJ\\_DRC\\_Lubanga\\_fs2010\\_EN.pdf](http://www.ictj.org/static/Factsheets/ICTJ_DRC_Lubanga_fs2010_EN.pdf))
- “Thomas Lubanga devant la CPI,” ICTJ ([http://www.ictj.org/static/Factsheets/ICTJ\\_DRC\\_Lubanga\\_fs2010\\_FR.pdf](http://www.ictj.org/static/Factsheets/ICTJ_DRC_Lubanga_fs2010_FR.pdf))

## CALENDAR

may

**April 26 – May 5**

### **Training of Trainers Workshop**

Nepal

For more information, contact Ruth Thapa at [rthapa@ictj.org](mailto:rthapa@ictj.org)

**May 6–7**

### **Beyond the TRC Report: A Policymakers Forum**

Monrovia, Liberia

For more information, contact Paul James-Allen at [pjamesallen@ictj.org](mailto:pjamesallen@ictj.org)

**May 7**

### **Transitional Justice and Development**

Oxford, UK

For more information, visit <http://www.law.ox.ac.uk/event=10416>

**May 12–22**

### **Prosecutions and Truth-seeking Trainings**

Bangladesh

For more information, contact Ari Bassin at [abassin@ictj.org](mailto:abassin@ictj.org)

**May 13–14**

### **Confronting Impunity in the Great Lakes: Gendered Challenges for Transitional Justice**

Nairobi, Kenya

For more information, contact Helen Scanlon at [helenscanlon@ictj.org](mailto:helenscanlon@ictj.org)

**May 14–15**

### **Community Memorialization**

Bong Country, Liberia

For more information, contact Aaron Weah at [aweah@ictj.org](mailto:aweah@ictj.org)

**May 27**

### **Facing the Past: International Conference on the Effectiveness of Remedies for Grave Historical Injustices**

Utrecht, Netherlands

For more information, visit <http://www.ictj.org/en/news/event/3564.html>

**May 31 – June 4**

### **Truth-seeking and the Missing: A Take on Bosnia's Experience**

(Postponed from March)

Sarajevo, Bosnia and Herzegovina

For more information, contact Lynn Maalouf at [lmaalouf@ictj.org](mailto:lmaalouf@ictj.org)

**May 31 – June 11**

### **Review Conference of the Rome Statute of the ICC**

Kampala, Uganda

For more information, contact Marieke Wierda at [mwierda@ictj.org](mailto:mwierda@ictj.org)

**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 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](mailto:sanderson@ictj.org)

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## Making a Difference

ICTJ needs your support to help societies address the past as they confront legacies of human rights abuse. Since 2001, ICTJ has worked in more than 35 countries, partnering with justice and truth-seeking institutions, local civic groups, governments, and international organizations.

Two critical components of ICTJ's work are facilitating the sharing of comparative experiences in addressing legacies of past abuse and continuously extending and strengthening the bonds between the field of transitional justice and other areas of rights protection and promotion. Both are exemplified in the work of ICTJ's Truth-seeking Program in monitoring and supporting Canada's Indian Residential Schools Truth and Reconciliation Commission (TRC).

On June 11, 2008, Prime Minister Stephen Harper appeared in Parliament to offer the indigenous community of Canada a formal apology on behalf of the state for the former practice of forced assimilation of indigenous children through the Indian Residential School (IRS) system. Within this system, native languages and cultural practices were prohibited and many children were subject to physical and psychological abuse or neglect.

For 80,000 surviving individuals, the most significant moment of the apology was a promise included in the Prime Minister's speech, indicating that his words marked the beginning—not the end—of the federal government's efforts to repair the damage done by the IRS system. The TRC was established to reinitiate Canada's effort in retracing the history of the schools through the testimonies of former students, staff, their families, and their communities.

In 2010, ICTJ has facilitated two events on the experiences and opportunities of indigenous peoples engaged in the truth-seeking process. In March, ICTJ's Truth-seeking team brought together leading voices on indigenous rights from North and South America to provide comparative experience and to share the lessons of the truth commissions in Guatemala, Chile, Peru, and Canada. Transitional justice measures have primarily focused on post-conflict or post-authoritarian situations. The conference considered the key question of addressing systemic marginalization that can occur even in times of peace or under otherwise democratic regimes. Participants suggested specific ways in which commissions could be responsive to indigenous peoples' needs and be used for the advancement of their rights.



*Left to right: Commissioner Chief Wilton Littlechild, Commission Chair Justice Murray Sinclair, ICTJ Program Assistant Joanna Rice, Commissioner Marie Wilson, ICTJ Director of Truth-seeking Eduardo Gonzalez.*

In April, ICTJ hosted a talk with Canadian TRC commissioners Justice Murray Sinclair, Marie Wilson, and Wilton Littlechild to discuss best practices and to further explore the connection between indigenous rights and transitional justice mechanisms. Participants discussed the opportunities and challenges faced by the TRC in addressing the legacy of economic, social and cultural trauma that extends beyond the time period during which the IRS system was implemented. The commissioners shared the initiatives of the commission, including the creation of a body to address the specific needs of the Inuit people who were particularly affected by the school system, the incorporation into proceedings of the indigenous communities' unique principles of witnessing, and the inclusion of outreach to non-indigenous communities to prevent the creation of a culture of blame for the former practices.

ICTJ has been invited by the commissioners to attend the first national event of the truth commission, scheduled to take place in June of this year. ICTJ welcomes the invitation and is honored to continue working to support the efforts and initiatives of the TRC.

As ICTJ continues to expand the definition and applicability of transitional justice mechanisms in order to protect and promote human rights in every community, your support remains a vital component of our work. Learn more at [www.ictj.org](http://www.ictj.org) or contact Lesley Bourns, Director of Development, at (917) 637-3824 or [lbourns@ictj.org](mailto:lbourns@ictj.org).

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### 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

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