

Forum for International Criminal Justice Newsletter: November 2016

Welcome to the IAP's Forum for International Criminal Justice (FICJ) November 2016 Newsletter which focuses on the prosecution of war crimes, crimes against humanity and genocide, including a roundup of video highlights, announcements, events, new publications and major news developments from the past month.

This Newsletter also includes special coverage of the sessions and discussions at the IAP's recent 21st Annual Conference and General Meeting held in Dublin that focussed on international criminal justice, as well as the announcements in October by South Africa, Burundi and The Gambia that they intend to withdraw as members of the International Criminal Court.

***Please have a look at the [FICJ forum](#) page on the IAP website and feel free to contribute:** the Forum provides individual prosecutors with a password protected space to post news, announcements, etc. and to pose questions to fellow prosecutors from around the world. Your contributions will also be posted in this monthly newsletter. Passwords are provided to IAP members – if you do not have a password, check your membership status by contacting the IAP Office Manager, Evie Sardeman: om@iap-association.org.



Danya Chaikel – FICJ Coordinator | email: ficj@iap-association.org

Video Highlights



[Click here](#) to watch a Human Rights Watch video on the groundbreaking investigations and prosecutions in European countries of people accused of kidnappings, ill-treatment, and torture in Syria and Iraq.



[Click here](#) to watch ICC judges deliver the guilty verdict of Jean-Pierre Bemba Gombo and four others (including his former lawyer) for witness interference involving a bribery scheme, in the first case of its kind at the Court.

IAP's 21st Annual Conference & General Meeting

The IAP held its 21st Annual Conference and General Meeting in Dublin, Ireland from 11 – 15 September. Prosecutors, prosecution services and prosecution associations were brought together in a global examination of the relationships between prosecutors and investigators,



which was the theme of this year's conference. There were several well-attended and stimulating sessions and discussions which focussed on international criminal justice, as follows:

FICJ and the PSV workshop

During a Special Interest Group Meeting on International Criminal Justice and Conflict-related Sexual Violence, Serge Brammertz, Chief Prosecutor of the ICTY and the Mechanism for International Criminal Tribunals, facilitated a dynamic session. James Stewart, ICC Deputy Prosecutor, spoke about the three phases of the work of the Office of the Prosecutor (OTP), namely: preliminary examinations, investigations and prosecutions. With respect to investigations, he explained that the OTP encounters many challenges, from issues of State cooperation to matters of security on the ground particularly in relation to witness interference. James Kingston and Gérard Dive spoke about the International Criminal Justice MLA Treaty Project, covered more below. The final speaker was Michelle Jarvis, Deputy to the ICTY Prosecutor, and the IAP's PSV (Prosecuting Conflict-related Sexual Violence) Network Coordinator. The aim of PSV is to provide a forum for sharing experience and expertise on prosecuting conflict-related sexual violence crimes, and to facilitate the development of progressive approaches to sexual violence prosecutions as a contribution towards improving accountability for these crimes. See both the IAP's specialised [FICJ](#) and [PSV](#) websites more further information.

International Criminal Justice MLA Treaty Project

James Kingston and Gérard Dive delivered a plenary presentation on their efforts towards establishing an International Criminal Justice MLA Treaty, inviting delegates to join the efforts in their domestic jurisdictions. They explained that a legal gap exists since current bilateral treaties are insufficient in terms of numbers, content and because they are not universal. This is the impetus behind the project to open negotiations for a new global treaty on mutual legal assistance and extradition for domestic prosecutions of war crimes, crimes against humanity and genocide. If you have further questions on this project, you can contact Gérard Dive: Gerard.Dive@just.fgov.be.



FICJ

Forum for International Criminal Justice

The Role of the Prosecutor

Serge Brammertz delivered a plenary speech on the 'Role of the Prosecutor' through the lens of the ICTY Prosecutor's work on the cases from Srebrenica. He discussed how international crimes are among the most complex crimes to investigate and prosecute, and in order to successfully try these crimes it is critical that investigators and prosecutors work hand in hand. Brammertz discussed four



Plenary session on The Role of the Prosecutor: pictured here is CHAIR: Raija Toivainen, Deputy Prosecutor General, Finland, IAP Vice-President for Europe and SPEAKERS: Serge Brammertz, ICTY Chief Prosecutor, Member of the IAP Executive Committee; Cyrus Vance, Manhattan District Attorney, New York, USA; Cédric Visart de Bocarmé, President of Consultative Council of European Prosecutors; and John Champion, Director of Public Prosecutions, Victoria, Australia.

of the most important lessons learned in his work at the ICTY (which can also be found in the [IAP Compendium of Best Practices on prosecuting mass atrocities](#)). These are:

- (1) a prosecutorial strategy is absolutely essential to guide case selection and justify the cases that are brought with prosecutions, which ideally focus on the highest-level perpetrators;
- (2) investigations have to be led by joint, multi-disciplinary teams comprised not only of investigators and prosecutors, but also of criminal, political and military analysts, forensic experts and other specialists, all working together;
- (3) each individual case needs a strategic approach driven by an appropriate legal theory which is supported by an investigative plan appropriate for that legal theory – meaning that at the start of an investigation, the office needs to first know what evidence to look for, before going out and gathering evidence; and
- (4) investigations have to be 'analysis-driven' with gathered evidence continuously analysed in terms of what is necessary to prove the elements of the legal theory, so that further evidence gathering is focused on obtaining additional evidence to fill gaps or weaknesses in the case.

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)

For further information, click here to access the [speeches and presentations](#) from the IAP's 21st Annual Conference and General Meeting.

Historic Withdrawals of States Parties from the ICC

In October, three African countries – [South Africa](#), [Burundi](#) and [The Gambia](#) – announced that they intend to withdraw from the International Criminal Court (ICC). This is the first time this has happened in the Court's 14 years of operation. Even with longstanding criticisms of the Court being biased against Africa and the African Union strategizing for a [collective withdrawal](#), these announcements still came as a blow to the Court and to many in the international criminal justice community.



Assembly of States Parties 2015 (source: CICC)

Burundi was the first to announce its intention to leave the ICC, [stating](#) that the Court is a 'Western tool to target African governments'. Several African countries and the African Union have complained for years that the ICC is biased against African States which are being 'targeted disproportionately' for prosecutions, and some have gone as far to argue that the Court is a 'neo-colonial' institution promoting Western interests. Burundi's announcement incidentally comes five months after the ICC Prosecutor announced that she was opening a [Preliminary Examination](#) into alleged crimes there, after receiving a number of communications and reports detailing acts of killing, imprisonment, torture, rape and other forms of sexual violence, as well as cases of enforced disappearances.

When [The Gambia later said](#) that it was planning to quit the ICC, it accused the Court of being an 'International Caucasian Court for the persecution and humiliation of people of colour, especially Africans'. Even if these arguments are proven faulty, it is true that all but one ICC investigation have been in Africa with Georgia being the only exception, and all suspects have been African.



FICJ

Forum for International Criminal Justice

Finally, South Africa has justified withdrawing because it argues the ICC's Rome statute is at odds with its own laws granting leaders diplomatic immunity. Last year Sudanese President, Omar al-Bashir, visited the country despite being the subject of an ICC arrest warrant over alleged war crimes, crimes against humanity and genocide. When South Africa failed to arrest Bashir it faced international criticism and the [Supreme Court of Appeal ruled](#) in March 2016 that failing to arrest Bashir was unlawful.

Arguments in favour of a mass African exodus have been countered by several African States Parties who have vocalised their support for the only permanent global criminal court set up to try mass atrocities when states fail to do so. While some States have admitted that the ICC has flaws, they argue that the solution is to remain a member and work from within to strengthen the Court through dialogue rather than abandoning ship. African civil society, human rights defenders and NGOs



ICC Permanent Premises in The Hague

have largely condemned the withdrawals making the claim that the leaders of these three countries are protecting their own political and economic interests over those of victims of atrocities – and they are turning their backs to the struggle to end impunity for these crimes. Numerous states (inside and outside of Africa), leading criminal justice organisations and practitioners have issued statements objecting to the withdrawals:

- At the ICC, The [President of the Assembly of States Parties](#) said he 'regretted' withdrawal of any State Party from the Rome Statute and reaffirmed the Court's fight against impunity; the [ICC President](#) said that it is essential that support for the Court remains strong and States' participation in the Rome Statute is maintained and enlarged; and [Prosecutor Fatou Bensouda](#) vowed to press on despite the withdrawals
- The [UN Secretary General](#) and many [UN Member States](#) have pledged support for the Court, inside and outside of Africa
- The [Africa Group for Justice and Accountability](#) noted with 'deep concern' South Africa's withdrawal
- [Hassan Bubacar Jallow](#), former ICTR and MICT Prosecutor appealed to the governments of The Gambia, South Africa and Burundi to reconsider and reverse their decisions to withdraw
- [Justice Richard Goldstone](#) said that South Africa's attempt to withdraw from the ICC is unconstitutional because there has been no Parliamentary consultation or approval
- The [European Union](#) 'deeply regrets' the withdrawals

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)

- The [CICC](#) said that the Mandela legacy is on the line as South Africa moves to leave ICC
- [FIDH](#) called the South African withdrawal from the ICC a ‘deplorable departure from commitments to justice’ and issued a [declaration](#) with 100 Member and Partner Organisations asking states to ‘Reject impunity: Don’t withdraw from the ICC’

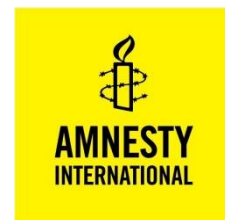
Despite this outpouring of support, there is certainly a need for the ICC and its stakeholders to stop and reflect on these withdrawals, which pose a challenge to its legitimacy. In order for the Court to ‘remain a force for justice’ one [commentator has put forth five practical steps](#) for the ICC to consider: (1) get some non-African cases, and quickly; (2) tackle the question of diplomatic immunity head on; (3) work with the African bloc to keep them on board; (4) communicate better; and (5) be more strategic when prosecuting sitting heads of state.

As we approach the 15th session of the [Assembly of States Parties](#) in The Hague from 16-24 November, all eyes will be on the ICC and its State Parties to see what their next moves will be. The FICJ Coordinator, Danya Chaikel, will be attending and monitoring developments.

South Sudan: Continued fighting must not derail hybrid court to try war crimes

Continued fighting in South Sudan must not derail justice for crimes committed during the deadly conflict that began in December 2013, said Amnesty International and FIDH in a [joint briefing](#) published on 13 October 2016.

The organizations are calling on the African Union (AU) Commission and the South Sudan government to urgently establish the proposed Hybrid Court for South Sudan (HCSS).



“Thousands have been killed, women raped, entire villages destroyed, and humanitarian personnel attacked. But as world attention has focused on ending the fighting, accountability for violations that could amount to war crimes and crimes against humanity has been put on the back burner,” said Netsanet Belay, Amnesty International’s Africa Director for Research and Advocacy.

“Justice must not be delayed any further. Fresh violations should give added impetus to efforts to form the Hybrid Court.”

The peace agreement signed by both parties in August 2015 provides for the formation of the court to investigate and prosecute those bearing criminal responsibility for the atrocities, but little progress has been made towards setting it up.

The Hybrid Court – which will combine elements of both domestic and international law and be composed of personnel from South Sudan and abroad – currently represents the most viable option

for ensuring accountability for crimes committed during the conflict, as well as for deterring further abuses.

In the briefing, the organizations make 17 recommendations to ensure the court effectively achieves accountability in accordance with international fair trial standards. The priorities include:

- Establishing an investigative branch to ensure evidence is collected and preserved in an appropriate manner;
- Establishing an independent victims and witness protection unit;
- Ensuring that victims' rights to participate in the proceedings are guaranteed, the inclusion of South Sudanese judges and staff on the court and exclusion of the death penalty as a possible sentence.

They also recommend that if security concerns prevent the court from being based in South Sudan, it should at least be located within the region.

"Atrocities endured by civilians in South Sudan, which the African Union has documented, must not go unpunished. The establishment of the Hybrid Court is necessary, not only to address human rights violations and abuses and crimes under international law, but also as a pillar to achieving sustainable peace," said Arnold Tsunga, FIDH Vice President.

Justice must not be delayed any further. Fresh violations should give added impetus to efforts to form the Hybrid Court

- Netsanet Belay, Amnesty International's Africa Director for Research and Advocacy

"The AU should build on its experience of the recent trial of former Chadian President Hissène Habré in Senegal to set up the Hybrid Court for South Sudan."

The report's key recommendations on the Hybrid Court's makeup reflect best practices of other hybrid and *ad hoc* tribunals, as well as international legal standards.

Background

South Sudan became an independent country on 9 July 2011 after decades of war, lengthy negotiations and a referendum to secede from Sudan. Two and a half years later, in December 2013 armed conflict broke out between forces loyal to President Salva Kiir and those allied to his deputy Riek Machar.

In August 2015, the two parties agreed a peace deal and later formed a transitional unity government with President Kiir at the helm and Machar as one of his two deputies.

Renewed fighting broke out in July 2016 with heavy clashes in the capital Juba and other parts of the country. Machar has since been replaced as first Vice President and fled the country.

About 2.6 million South Sudanese have fled their homes since the outbreak of fighting in 2013, with some 1.6 million internally displaced and another one million living as refugees in neighbouring countries.

South Sudan is not a party to the International Criminal Court (ICC) and the ICC does not have jurisdiction over crimes committed during the ongoing conflict.

Since the outbreak of the conflict, Amnesty International and FIDH, along with South Sudanese civil society, have been calling for the establishment of accountability mechanisms in South Sudan.

Statement of the ICC Prosecutor Fatou Bensouda concerning the situation in the Philippines

My Office is aware of worrying reported extra-judicial killings of alleged drug dealers and users in the Philippines, which may have led to over 3,000 deaths in the past three months. I am deeply concerned about these alleged killings and the fact that public statements of high officials of the Republic of the Philippines seem to condone such killings and further seem to encourage State forces and civilians alike to continue targeting these individuals with lethal force.



Extra-judicial killings may fall under the jurisdiction of the International Criminal Court (ICC) if they are committed as part of a widespread or systematic attack against a civilian population pursuant to a State policy to commit such an attack.

The Republic of the Philippines is a State Party to the ICC and as such, the Court has jurisdiction over genocide, crimes against humanity and war crimes committed on the territory or by nationals of the Philippines since 1 November 2011, the date when the Statute entered into force in the Philippines.

Let me be clear: any person in the Philippines who incites or engages in acts of mass violence including by ordering, requesting, encouraging or contributing, in any other manner, to the commission of crimes within the jurisdiction of the ICC is potentially liable to prosecution before the Court.

My Office, in accordance with its mandate under the Rome Statute, will be closely following developments in the Philippines in the weeks to come and record any instance of incitement or resort to violence with a view to assessing whether a preliminary examination into the situation of the Philippines needs to be opened.



FICJ

Forum for International Criminal Justice

Colombians rejected 'transitional justice' for guerrillas. They want criminal justice instead.

Washington Post opinion by [Jamie Rowen](#) assistant professor of legal studies and political science at the University of Massachusetts at Amherst and author of the forthcoming book "Searching for Truth in the Transitional Justice Movement" (Cambridge University Press).

The recent and startling vote against the Colombian peace deal has been described as a vote against peace. That's not true. Perhaps a few voters thought they were casting their ballots in favour of continuing to fight the FARC rebels. But in the larger sense, the plebiscite was a vote on the [meaning of transitional justice](#) and who deserves it.

What is "transitional justice"?

The use of the phrase in Colombian political discourse is a curiosity. Scholars [coined](#) the phrase in the early 1990s to describe how governments deal with the legacy of violence by previous regimes. Early on, the idea [was used](#) to describe a system that included tribunals, truth commissions, reparations programs and efforts to purge previous government leaders. The efforts were launched in new democracies that emerged from authoritarian reign, such as South Africa, Argentina, Chile, Germany after World War II, and the Eastern Bloc countries after the fall of communism.

[In Colombia](#), transitional justice is generally understood as including three parts: truth, justice and reparation. Truth refers to establishing an accurate historical record, usually through open testimony through which the perpetrators make a plea for forgiveness instead of prison. Justice refers to judicial processes in which individuals are investigated, judged and sanctioned by a competent tribunal. Reparation means financial compensation for victims.

Who's talking about transitional justice in Colombia, and why?

But there was no recent regime overthrow when Colombian policymakers began using the phrase to explain and legitimate the terms of the peace accords that had been negotiated by President Juan Manuel Santos. The deal's most notable opponent was Santos's predecessor as president, [Álvaro Uribe](#).

Uribe's father was killed by FARC guerrillas in 1983. As mayor of Medellin in the 1990s, Uribe was well known [for supporting](#) paramilitary groups. The military often worked in tandem with the paramilitaries, which wealthy landowners originally financed to fight guerrilla groups throughout the country. Colombia's lucrative drug trade exacerbated the violence, as these different armed actors [began to vie](#) for control over the drug routes.

In 2002, Uribe came to power promising to negotiate peace not with the FARC but with the United Self Defense Forces of Colombia (AUC), an umbrella group for the country's paramilitaries. The

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)

paramilitaries, like other armed actors, would not demobilize without guarantees that they would not be punished for their illegal activities.

Uribe tried to offer amnesties to the paramilitaries in 2003 — but the legislature rejected his proposal. In response, Uribe created a bill called [the Justice and Peace Law](#). The law mandated prison sentences of five to eight years for paramilitaries' crimes and provided reparations to victims of the guerrillas and paramilitaries. Uribe explained the need for alternative sanctions with the phrase [transitional justice](#), and the term stuck.

Uribe's critics argued that the Justice and Peace Law — and, by association, transitional justice — was a euphemism for [impunity](#) for the paramilitaries. They were also concerned that the law did not include reparations to victims of state violence, [many of whom](#) were FARC rebels who had demobilized in the 1980s. Unlike Santos, however, Uribe did not offer Colombians a chance to vote on this transitional justice policy; he simply pushed it through the legislature.

In 2011, Santos signed what the government called the "Victims Law," referred to as a "transitional justice" policy. [The law](#) offered the possibility for land restitution and government-funded financial reparations to a circumscribed set of victims — those who were victimized by paramilitaries, guerrilla or, which is important, the state since 1985. That's notable in part because the FARC [took up](#) arms in 1964, making many victims ineligible.

The Victims Law's proponents were liberal senators who wanted the government to recognize Colombia as being in an armed conflict with millions of victims. These senators swayed its opponents (conservative senators who, like Uribe, [were worried](#) about equalizing violence by the state and by illegal armed actors) by claiming that the bill was part of the country's transitional justice plan — meaning that the payments were temporary and exceptional.

The Santos administration drew on transitional justice again when arguing in favor of its bill establishing "[the Legal Framework for Peace](#)," the constitutional amendment that allowed the Santos administration to negotiate with the FARC and to offer limited amnesties and alternative punishments. The Santos administration proposed "transitional justice instruments" that would balance the government's legal (and [political](#)) need to punish perpetrators of violence with its obligation to ensure peace in the country.

As the Santos administration was negotiating the peace accord with the FARC, the two sides — Uribe's and Santos's supporters — battled over the meaning of transitional justice. In particular, they argued over whether it required members of the FARC to face jail time. Uribe insisted that the FARC be treated no better than the paramilitaries who, under the Justice and Peace Law, had received jail sentences of between five and eight years. But the FARC's leaders made clear that they [would not put down their arms](#) if they had to face jail time.

Wanting to secure a peace deal, the Santos government's negotiators acquiesced and agreed to an accord that would allow amnesties for all but the most heinous crimes — those criminalized under international criminal law and under the [jurisdiction of the International Criminal Court](#).

Provided that the guerrillas clarify the “truth” and take “responsibility” for their crimes, the [accord](#) on victims' rights left open the possibility of “an effective restriction of liberty” — “in no case” prison or jail — for five to eight years. It also mandated the creation of a truth commission and a reparations payment plan. Uribe continued to insist that the FARC did not deserve transitional justice, [calling the accord](#) a “framework of impunity.”


Colombians have again rejected “transitional justice” that carries no consequences

Much like Uribe a decade earlier, Santos has failed to sell his understanding of transitional justice and why it is necessary to guarantee peace in Colombia. This vote suggests that many Colombians believe that they have the right to an accord that makes a priority of punishing violence through the [regular criminal justice](#) system, even at the expense of ending the 52 years of armed conflict.

In addition to putting the [cease-fire](#) with the FARC into question, the vote also casts doubt on the government's [plans to negotiate with the ELN](#), another long-standing guerrilla group that has been flirting with demobilization for years.

For now, at least, transitional justice is far too politicized to be a useful phrase for Colombia's future peace accords. Even though Santos [just won](#) the Nobel Peace Prize for his efforts, his administration, and future administrations, may need a new way to explain and legitimate its goals and strategies in negotiating peace.

News October 2016

 Click on the hyperlinked headlines to see the full articles of international criminal justice news from the previous month.

31 October

[**International Criminal Court Poised to Open Investigation into War Crimes in Afghanistan**](#)

The prosecutor's office of the ICC is ready to initiate a full investigation of a range of possible war crimes and crimes against humanity in Afghanistan, including some by U.S. personnel, according to several knowledgeable sources. The ICC move would mark the first time that a formal ICC investigation has scrutinized U.S. actions and sets up a possible collision with Washington...

28 October

[**Rohingya women say Myanmar soldiers raped them amid crackdown on militants**](#)

(Reuters)

Rohingya Muslims say Myanmar soldiers raped or sexually assaulted dozens of women in a remote village in the northwest of the country during the biggest upsurge in violence against the persecuted minority in four years...

27 October

[**ICC Makes Progress on Reparations for Victims in Lubanga Case**](#)

(OSJI)

On October 21, 2016, Trial Chamber II of the International Criminal Court (ICC) approved and gave the Trust Fund for Victims (Trust Fund) the go-ahead to implement its plan on symbolic collective reparations in relation to the Thomas

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)



FICJ

Forum for International Criminal Justice

Lubanga case. The significance of this decision will not be lost on victims who have followed and participated in this process...

26 October

[Kagame government blocked criminal probe, former chief prosecutor says](#)

(The Globe and Mail)

A United Nations criminal tribunal was so hobbled by the hostility of the Rwandan government that it was unable to investigate “very credible allegations” of crimes by the forces of President Paul Kagame, says Louise Arbour, the tribunal’s former chief prosecutor. Ms. Arbour, a retired Supreme Court of Canada justice, revealed details in an interview with The Globe and Mail of how the Kagame government and its supporters made it difficult for the International Criminal Tribunal for Rwanda to investigate many serious crimes, including the assassination of two presidents – the event that ignited the genocide in which 800,000 Tutsis and moderate Hutus were killed...

24 October

[Philippines senator calls for Duterte to face crimes against humanity inquiry](#)

(Guardian)

A leading member of the Philippines’ senate has called for an international criminal investigation into the country’s president in an effort to stop a vicious war on drugs that has killed more than 3,800 people since June. Senator Leila de Lima, a human rights advocate and former justice secretary, has told the Guardian that foreign intervention was the only hope of putting an end to “state-inspired” extrajudicial murders that have terrorised parts of the population since president Rodrigo Duterte came to power four months ago...

[Steps Towards Justice For Syria](#)

(Human Rights Watch)

...Several countries, including Sweden, Germany, and France are in the process of investigating some individuals alleged to have committed grave crimes such as torture, war crimes and crimes against humanity in Syria. Under the international law principle of universal jurisdiction, national courts can pursue these crimes regardless of where they were committed, the nationality of the victim or perpetrator...

19 October

[Bemba and Four Associates Convicted for Witness Tampering](#)

(OSJI)

Congolese opposition leader Jean-Pierre Bemba alongside four associates, who include two of his former defence lawyers, have been convicted in the witness bribery trial at the ICC. Their sentences will be announced at a later date...Judges determined that they agreed to illicitly interfere with defence witnesses to ensure they would provide evidence in favour of Bemba. They “adopted a series of measures with a view to concealing their illicit activities, such as the abuse of the Registry’s privileged line in the ICC Detention Center, or money transfers to defense witnesses through third persons or to persons close to the defense.”...

[Is There a Linkage Between Gender-Based Atrocity Crimes and Sexual Assault?](#)

(IntLawGrrls opinion)

Over the last two decades, there has been exponential growth in the capacity at the international level to prosecute atrocity crimes, particularly through international and hybrid tribunals, including, prosecutions of rape and other forms of sexual and gender-based violence. In light of these strides which advance the rule of law, particularly, international criminal law, and bring at least a measure of accountability for some of the worst atrocities of the last two decades, is it permissible for a public figure who aspires to leadership to brag about (and allegedly commit) sexual assault? Are atrocity crimes and sexual assault delinked concepts, or part and parcel of the same phenomenon?...

[Amnesty: Iraq government, paramilitary forces committing rights abuses, war crimes](#)

(Jurist)

Iraqi government and paramilitary forces are committing serious human rights abuses and war crimes, according to an Amnesty International ...

18 October

[Croatia charges 8 ex-Yugoslav officers with war crimes](#)

(Washington Post)

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)



FICJ

Forum for International Criminal Justice

A Croatian prosecutor has charged eight former Serb troop commanders with torture, rape, expulsion and killing of more than 100 civilians during fighting in Croatia in 1991-95. The County Prosecutor's office in Split said Tuesday the suspects include former Yugoslav army officers and rebel Serb commanders. It says the suspects ordered attacks on civilian areas and failed to prevent crimes by the troops...

16 October

[British troops face investigation over ill-treatment of Iraqis](#)

(Guardian)

British troops are under criminal investigation over the detention of Iraqis in Basra 13 years ago. The inquiry is focused on allegations of ill-treatment of two Iraqis who were accused of involvement in the deaths of two British soldiers during the conflict...

14 October

[New UN report urges Liberia to act on rape – 'legacy' of impunity from 14-year civil conflict](#)

(UN News Centre)

A United Nations report released today documents the high incidence of rape in Liberia and the widespread impunity enjoyed by perpetrators, and provides a number of recommendations to the Government, other national and international stakeholders, including the UN, to urgently combat the scourge...

10 October

[Kosovo President Demands Prosecutors Probe War Crimes](#)

(Balkan Transitional Justice)

President Hashim Thaci explained at a press conference that he had sent four letters about unresolved crimes against Kosovo Albanians and Serbs to the head of the state prosecution and the Kosovo Prosecutorial Council, and said that he expects them to take action...

[Yemen conflict: US 'could be implicated in war crimes'](#)

(BBC)

The US government is concerned it could be implicated in potential war crimes in Yemen because of its support for a Saudi-led coalition air campaign. Official documents obtained by Reuters

news agency show government lawyers advised the US it might be considered a co-belligerent under international law...

[France to request international war crimes investigation in Syria](#)

(France24)

French Foreign Minister Jean-Marc Ayrault announced on Monday that he will ask the International Criminal Court to investigate possible war crimes in Syria...

9 October

[Putin and Assad could face justice for war crimes in Syria](#)

(Washington Post opinion)

There seems to be no way for the international community to stop the ongoing war crimes being committed by the Syrian regime and its Russian allies, especially in Aleppo. But by brazenly flouting international law, leaders and rank-and-file officials in both countries are opening themselves up to future justice in multiple ways...

7 October

[Syria conflict: US calls for Russia and Syria war crimes probe](#)

(BBC)

Russia and the Syrian government should be investigated for war crimes, US Secretary of State John Kerry said. "Russia, and the regime, owe the world more than an explanation about why they keep hitting hospitals and medical facilities and children," he said. "These are acts that beg for an appropriate investigation of war crimes."...

[Cultural Destruction as a War Crime](#)

(New York Times)

The use of cultural destruction as a weapon of war gained new recognition last week when the International Criminal Court handed down a nine-year sentence to a radical Islamist for his role in destroying shrines in Timbuktu, Mali, in 2012. It was the first time the court prosecuted cultural destruction as a war crime...

[Why the ICC Should Reconsider its Decision on In Situ Proceedings in Uganda](#)

(OSJI)

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)



FICJ

Forum for International Criminal Justice

...This is the second time that the court has rejected a request for *in situ* hearings in Ongwen's case. In September 2015, Pre-Trial Chamber II recommended that Ongwen's confirmation of charges hearing be held in Uganda, but this request was denied because the Ugandan Government expressed security concerns in the run up to presidential and parliamentary elections, which were about to begin. Based on discussions with community members and representatives of civil society organizations working in Gulu, this article reflects on why the ICC should reconsider its decision to not hold hearings in Uganda...

6 October

[UN peacekeepers refused to help as aid workers were raped in South Sudan – report](#)

(Guardian)

United Nations peacekeepers stayed in their bases rather than protect civilians during an outbreak of fighting in South Sudan in July, a rights group has said. Chinese UN peacekeepers in the capital Juba "abandoned their posts entirely" at one civilian protection site where tens of thousands had sought safety from successive bouts of fighting, a report by the US-based Centre for Civilians in Conflict (Civic) said...

[Referring Kenya to the ICC Assembly of States Parties, Part 3: Implications for the Ongoing Kenya Cases at the ICC](#)

(OSJI)

This is the third post in a three-part series in which Thomas Obel Hansen explores the recent referral of Kenya to the International Criminal Court's Assembly of States Parties. The referral followed a finding by ICC Judges that the government of Kenya failed to cooperate in the case against President Uhuru Kenyatta. The previous two installations in this series can be found [here](#) and [here](#).

5 October

[Statement of the ICC Prosecutor ahead of the Office's visit to Israel and Palestine from 5 to 10 October 2016](#)

(ICC press statement)

...The purpose of this visit will be to undertake outreach and education activities with a view to raising awareness about the ICC and in particular,

about the work of the Office; to address any misperceptions about the ICC and to explain the preliminary examination process...The preliminary examination of the situation in Palestine is on-going and is following its normal course as with any other preliminary examination...

[Death of a Middleman Thwarts Blood Diamonds Case](#)

(OSJI)

The illegal trade in "blood diamonds" smuggled from Sierra Leone helped fuel a brutal civil war that lasted from 1991 to 2002 and caused an estimated 50,000 deaths. But so far, no one has been held to account for creating the system that moved stones from hellish mines in eastern Sierra Leone to the world's diamond markets.

Regrettably, that prospect is now even less likely, following the sudden death in a Belgian jail on September 28 of Michel Desaeleer.

Desaeleer, an international businessman who held dual U.S. and Belgian nationality, was arrested in August last year on suspicion of involvement in the war crimes of pillage and inhumane treatment and complicity in enslavement as a crime against humanity, among other charges...

4 October

[Dutch State Targeted in Appeal Over Srebrenica Massacre](#)

(iLawyer)

The Mothers of Srebrenica and Zepa Enclaves victims' group have launched an appeal in The Hague against a 2014 verdict which held the Netherlands responsible for the deaths of about 300 Bosniaks after the fall of Srebrenica...

[Landmark Ruling on Victim Participation in the Case of Thomas Kwoyelo \[Uganda\]](#)

(OSJI)

Colonel Thomas Kwoyelo is a former LRA commander who is currently facing charges of war crimes and crimes against humanity before the International Crimes Division (ICD) of the High Court in Uganda...One of the key decisions that emerged out of this hearing was a landmark ruling on victim participation, where the court decided that victims would be allowed to participate in proceedings through their legal representatives...



FICJ

Forum for International Criminal Justice

[Air strikes targeting Syrian civilians amount to crimes against humanity, UN chief warns Russia](#)

(ABC)

The UN Commissioner for Human Rights has told Russia that air strikes on civilian targets in the Syrian city of Aleppo may amount to crimes against humanity which could be brought before the International Criminal Court (ICC)...

3 October

[It is Time for the ICC to open a Preliminary Examination in the Philippines](#)

(Just Security)

The [appalling announcement](#) of President Rodrigo Duterte of the Philippines that he would like “to slaughter” three million drug addicts in his country, much as “Hitler massacred three million Jews,” (never mind that it was in fact six million), requires an immediate response from the International Criminal Court (ICC). The time has come for the ICC to open a preliminary examination—the first step toward a full investigation—into allegations of the extrajudicial killings of as many as 3,000 suspected drug-dealers and users since Duterte became President last June...

[New Kosovo Court confronts witness protection fears](#)

(Justice Hub)

The protection of witnesses testifying about the Kosovo war has long been a major challenge, but the new Hague-based Kosovo Specialist Chambers believes it can succeed where others failed...

2 October

[El Salvador judge reopens El Mozote massacre investigation](#)

(BBC)

A judge in El Salvador has reopened an investigation into the 1981 El Mozote massacre - considered one of the worst atrocities in the civil war. The judge accepted a request put forward by three human rights groups to re-open the case based on a Supreme Court ruling in July. The ruling overturned an amnesty for those who committed war crimes during the 1980 to 1992 conflict. Some 75,000 people died in the civil war, with many of the victims children...

Quick links

The following are some useful research links:

- FICJ [Resource Library](#): research tools, best practice reports, commentaries and more
- FICJ [Global Legal Developments](#): specialised units, legislation, international & national cases
- International Criminal Court Legal Tools Database: an electronic library on international criminal law and justice with over 41,000 documents: [browse](#) | [search](#) | [annotated Rome Statute](#) | [annotated Rules of Procedure and Evidence](#) | [National Implementing Legislation Database](#)
- International Criminal Tribunal for the Former Yugoslavia [Legal Library](#)
- International Criminal Tribunal for Rwanda [Documents](#)

This newsletter is published by the Forum for International Criminal Justice (FICJ) part of the International Association of Prosecutors - Hartogstraat 13, The Hague, The Netherlands

Join the FICJ community: WWW.IAP-ASSOCIATION.ORG/FICJ/HOME

Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)