

# Forum for International Criminal Justice Newsletter: December 2016

Welcome to the IAP's Forum for International Criminal Justice (FICJ) December 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.

Domestic legal developments covered in this Newsletter include: **German** lawyers file suit against **Syria** president for war crimes in Aleppo; a **Syrian** rebel is charged with 20 murders in **Austria**; two **Rwandan** genocide suspects were extradited by the **Netherlands**; and **French** officials face investigations for their role in the Rwandan genocide.

**\*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](mailto:om@iap-association.org).



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## Video Highlights



[Click here](#) to watch an ICC video on the trial of Dominic Ongwen which opened on 6 December 2016 in The Hague - he faces an unprecedented 70 counts of war crimes and crimes against humanity



[Click here](#) to listen to a University of Cambridge lecture entitled 'After the ICC? The Politics and Possibilities of an African Criminal Court', Dr Adam Branch, University Lecturer in the Department of Politics & Intl Studies

# 15<sup>th</sup> Annual Meeting of the Assembly of States Parties of the International Criminal Court

*The IAP's FICJ Coordinator Danya Chaikel recently attended the ICC's annual Assembly of States Parties in The Hague – here are some highlights*



ICC Chief Prosecutor Fatou Bensouda addresses the 15<sup>th</sup> annual Assembly of States Parties

From 16-24 November December 2016, States Parties to the Rome Statute of the International Criminal Court (ICC) attended the 15th annual session of the Assembly of States Parties (ASP 15) at the World Forum in The Hague, the Netherlands. The annual meeting of the Court's governing body focusses on important legal, institutional and financial issues facing the ICC. Plenary session debates focussed on a range of issues including the Court's annual programme budget, state cooperation and the recent announcement of three countries' intention to withdraw from the Rome Statute.

A majority of states' representatives expressed deep regret over the intended ICC withdrawal of The Gambia, South Africa and Burundi, and invited them to reconsider their decision and engage with other states in a constructive dialogue during the ASP. Several states also called upon the Security Council to take action with respect to the situation in Syria. The possibility of the activation of the crime of aggression at the Court in the coming year was another important issue discussed by various ICC members.

During a special session on state cooperation, Chief Prosecutor Fatou Bensouda, stressed that the ICC is not designed or able to be omnipresent, and it can only try a handful of cases, so most atrocity

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crime cases must be tried domestically. Libyan General Prosecutor Al-Sidieg Ahmed Al-Sour then spoke about joint efforts undertaken with the ICC's OTP to support the Libyan efforts towards accountability, which has been essential in strengthening domestic prosecutions of serious crimes. He also gave the example of several European countries supporting his investigations in Libya, involving peer reviews with local prosecutors, which have been crucial in the fight against impunity.

*"...ours is in fact the age of rights consciousness where humanity no longer accepts that victims of gross human rights violations suffer in silence or that their perpetrators escape justice. The attainment of justice for atrocity crimes and the international rule of law is the cherished hope of all of humanity. We must not and will not allow that the law falls silent during war and conflict; not under our watch, not in our times." – ICC Chief Prosecutor Fatou Bensouda at ASP 15*

Eurojust President Michèle Coninx also spoke about challenges and opportunities of judicial and prosecutorial networks. She emphasised that atrocity crimes concern all EU Member States and that the investigation and prosecution of these crimes requires close cooperation between states – since a single state alone cannot efficiently and successfully prosecute perpetrators of these heinous crimes. Moreover, there is need to react rapidly in fighting mass crimes, and

support for joint investigative teams and fast lane mutual assistance. In order to decipher the connections between crimes, criminal groups and networks, she stressed the necessity to step up cooperation with third states and partners when fighting impunity and gave as an example the 'European Network for investigation and prosecution of genocide, crimes against humanity and war crimes'.

### **Keynote speech by Zeid Ra'ad Al Hussein, United Nations High Commissioner for Human Rights, delivered to the ASP on 16 November 2016**

***Below is the powerful keynote address delivered by High Commissioner Zeid Ra'ad Al Hussein that was broadly praised by states parties and civil society organisations attending ASP 15***

[...]We meet today in a long shadow cast, yet again, by some States Parties seeking to desert the Court, to desert victims of the most abominable international crimes, to desert all of us who worked so hard and for years on its behalf. If the State Parties, who apparently have been masquerading in recent years as countries devoted to criminal accountability, want to leave, then they should leave.



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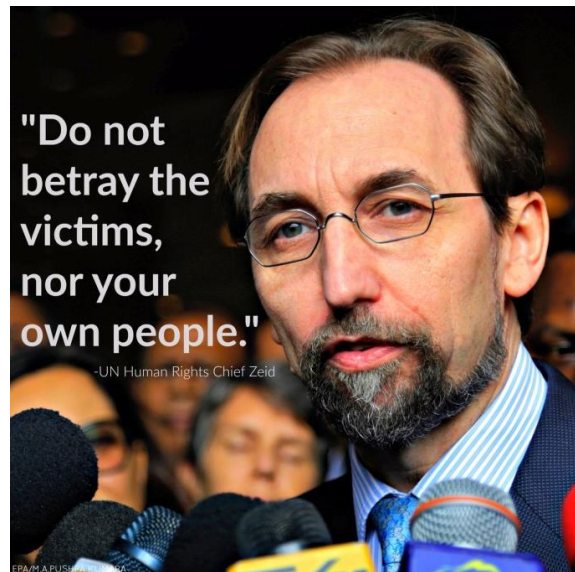
But we are not convinced their position is based entirely on principle. Quite the opposite: it appears to aim more at protecting their leaders from prosecution. Yet although the powerful may fear the Court, victims, everywhere, plead for its involvement. Victims of core crimes will struggle to understand why they are abandoned by these States – together with those which never acceded – and why they are made victim again, as the withdrawals deny their right to remedy and redress.

In the long view these States will boomerang back, as the Court is accepted by more and more States.

Universal accession to the Court is a certainty; there is no substitute for the ICC. The African Court of Justice and Human Rights is deeply valuable. But even if it were to be given criminal jurisdiction over international crimes, the draft protocol specifically prohibits it from investigating “any serving AU Head of State or Government...or other senior state officials, based on their functions, during their tenure of office.” By withdrawing from the Rome Statute, leaders may shield themselves with immunities – but it will be at the cost of depriving their people of the protection of a unique and essential institution.

I urge this Assembly to stand firm on Article 27. While the Rome Statute provides for revisions, no change should be undertaken under threat of withdrawal, nor should any future amendment touch on the critical articles of the Statute. Specifically, the principle of the irrelevance of official capacity is prime, is existential for the Court.

Mr. President, I am saddened by this state of affairs. The African countries have been the backbone of this Court, and their leadership, especially in the early days, was exemplary. In fact, it was often majestic. We knew only an Africa of courage and adherence to principle. When, at the Rome conference, the US delegation, under pressure from Congress, launched a blistering attack against the independence of the Prosecutor, it produced a stunned silence among us. Not a sound was heard in the red room at the FAO headquarters, and it lasted a long time. Who was going to respond, and how? We looked at Norway, and they were staring down at their papers, scarcely moving. We turned anxiously to The Netherlands, and they were just staring at Norway! Finally, a flag went up, and we all swivelled in the direction of the delegate from Malawi, who calmly, elegantly and deftly sketched out lines of legal reasoning powerful enough to save the moment, to our delight and relief. That is the Africa we needed then, it is the Africa we need and want today, and I am pleased many African





countries, including Botswana, Cote d'Ivoire, Nigeria, Malawi, Senegal, Tanzania, Zambia and Sierra Leone have signalled they will not leave.

Today's challenges are not the first stern test faced by the Court, and they will not be the last. A new trend of isolationist and unprincipled leadership is building up across the world. Renewed attacks on the Court may well be in the offing. It will take all the nerve and resources of the truly committed States Parties to resist such challenges. Now is not the time to abandon the post. This is the time for resolve and strength.

To hold our international institutions together in defence of all victims of barbarity is on its own merits necessary enough. To keep this international system intact becomes even more pressing in the face of enormous pressures being heaped on it today – not least for small States who, for their security, need the companionship and protections provided by international law and by this Court.

Do not betray the victims, nor your own people. Stand by the Rome Statute and the Court. It may not be perfect, in design nor operation – like any other institution, or State for that matter. But altogether it is the best we have. The anarchist Elbert Hubbard, who died in 1915 in what, incidentally and ironically, today we would classify a war crime, noted, “progress comes from the intelligent use of experience.” To put an end to the calculated and unlawful destruction of human life through deterrence, by ridding the world of the impunity which feeds those crimes, remains the clearest fulfilment of Hubbard's observation.

In a world that seems increasingly adrift, the turmoil yet to face humanity may be far greater than any challenge we have yet experienced. We face a choice. We can safeguard our societies by standing firm on the principles of justice which anchor this institution. Or we can cast away the moorings of law laid down to save the world from horror – and turn away from the screams, as impunity overwhelms men, women and children in wave upon wave of violence.

On behalf of my Office and so many around the world, I urge you to summon your determination, place our collective shoulder behind this institution, and when the tensions become extreme, you will find all of us in the human rights community alongside you and this Court, our Court.

## Rwandan Genocide suspects extradited to Rwanda from the Netherlands

***(Public Prosecution Service of the Netherlands [Press Release](#))***

On 12 November 2016, two Rwandan residents of the Netherlands, a 40 year-old from Voorburg and a 57 year-old from Leusden, were extradited to Rwanda. The extradition of Jean-Claude I. and Jean-Baptiste M. was requested by the Rwandan authorities for involvement in the 1994 Genocide.

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**Jean-Claude I.:** The now 40 year-old Jean Claude I. is suspected by the Rwandan authorities of having participated in attacks on Tutsis during the 1994 Rwandan Genocide as a leader of the so-called 'Interahamwe' militia. The victims were hunted down, chased from their homes and taken away to places where they were killed on a massive scale. Several people were buried alive. The houses of the victims were set on fire. One of the attacks took place on the grounds of the Technical School in the capital Kigali, the École Technique Officielle (ETO). Armed groups stormed the ETO grounds on 11 April 1994 and killed thousands of people. On 25 September 2013, the Rwandan authorities requested the extradition of Jean-Claude I. from The Netherlands.

**Jean-Baptiste M.:** The Rwandan authorities requested the extradition of Jean-Baptiste M. on 22 November 2012. M. is suspected of Genocide and other crimes. As political leader of an extremist Hutu party, he was allegedly involved in compiling death-lists supplying weapons and attacking Tutsis in 1994 in and around Kigali. M. was arrested in The Netherlands in January 2014. He came to the Netherlands in 1999, where he was reunited with his family, that was already residing in The Netherlands. M. received a regular residence permit in 2007, which was revoked in June 2013 on the basis of Article 1F of the Refugee Convention because the Immigration Service concluded that there were serious reasons for considering that M. had been involved in the Rwandan Genocide.

**Fair Trial:** Both Rwandans have challenged their extradition in Court. They submitted, amongst other things, that extradition to Rwanda would violate their right to a fair trial and that there is a real risk of inhuman treatment. The requests for extradition have been approved by the District Court of The Hague and the Supreme Court before the Minister of Security and Justice decided to allow extradition. In the proceedings following this decision, the Court of First Instance ruled that extradition to Rwanda would amount to a violation of Article 6 of the European Convention on Human Rights (ECHR) because of a lack of capable Defence counsel in the Rwandan proceedings. The State filed an appeal against this decision. The Court of Appeals decided that there was no for foreseeable violation of the right to a fair trial (Article 6 ECHR) and quashed the decision of the Court of First Instance, thereby allowing the decision of the Minister to stand. The ruling of the Court of Appeals is now final.

**Genocide:** In the 1994 extreme violence in Rwanda, approximately 500,000 to 1 million Tutsis and moderate Hutus were killed. Most of these killings were committed by two armed groups, the Interahamwe, the militia belonging to the governmental party MRND, and the Impuzamugambi of the extremist splinter-party CDR. These events have been qualified by the UN-Rwanda Tribunal as Genocide.

**No impunity:** The Netherlands fights impunity for International Crimes and does not want to be a safe haven for genocidaires. For this reason, the International Crimes Team of the Netherlands Police and The National Prosecutor's Office are committed to tracking down and prosecuting those who

have committed these crimes, even if this may take years. Point of departure for the Netherlands Prosecutor's Office is that, if possible, the investigation and prosecution of International Crimes should take place in the State where the crimes were committed. This is where the evidence is, where legal professionals are best acquainted with the language, culture and backgrounds of the events and where usually most victims and relatives reside. With these extraditions, The Netherlands fulfil human rights and treaty obligations that are central to the existence and maintenance of the international legal order. This is done to ensure that there is no impunity for the most serious crimes, including Genocide.

**Other States:** Other States, such as Norway and Sweden, as well as the International Criminal Tribunal for Rwanda (ICTR), have already allowed the extradition of Genocide suspects to Rwanda. In October 2011, the European Court for Human Rights (ECHR) has ruled that the extradition of a Genocide suspect to Rwanda by Sweden did not violate his human rights. The Court confirmed this ruling in 2013 by dismissing complaints against extradition to Rwanda by Norway and Denmark. Canada and the United States have expelled persons wanted for genocide to Rwanda.

## Schwendiman: New Kosovo War Court 'Not Anti-Albanian'

***In his first interview since being appointed Chief Prosecutor of the new Kosovo special court, David Schwendiman told BIRN that suspected criminals are his target, not the Kosovo Liberation Army itself. By Marija Ristic BIRN Belgrade***

"I am not after organisations, I am not after ethnicities, I am looking at individual responsibility for what was done," David Schwendiman told BIRN in an interview.

"If that message gets out clearly to the people that are affected by this, then maybe they will understand that the court is not pro-Albanian or anti-Albanian, pro-Serb or anti-Serb, but that we are just doing our job," he said.

Schwendiman is the chief prosecutor at [the new Kosovo Specialist Prosecutor's Office](#), set up in The Hague with the mandate to prosecute crimes by former Kosovo Liberation Army fighters from 1998 until 2000.



David Schwendiman, Chief Prosecutor at the new Kosovo Specialist Prosecutor's Office. Photo: SPO.

Senior KLA figures are expected to be indicted for alleged crimes committed during and after the war with Serbian forces, although the first indictments are still pending.

In Kosovo, the court [is seen as biased](#) as it will only try former KLA fighters - people perceived as liberators by the majority of the country's ethnic Albanian population - while in Serbia, the court [has wide support](#) due to hopes that it will prosecute crimes against Serbs.

But Schwendiman said that the main message he wanted to convey during his first visit to Serbia and Kosovo last week is that he will be independent and free of any political influence.

"Our role is to look at individuals, not to look at ethnicities; I know there is a perception out there - not a lot I can do about that, other than do my job and to do it right," he explained.

The new court will hear cases arising from the 2014 EU Special Investigative Task Force, SITF [report](#) which said that unnamed KLA officials would face indictments for a "campaign of persecution" against Serbs, Roma and Kosovo Albanians believed to be collaborators with the Belgrade regime.

The alleged crimes include killings, abductions, illegal detentions and sexual violence.

Kosovo and Serbian media have speculated widely about who will be prosecuted by the court.

[A Council of Europe report](#) from 2011, which laid the grounds for the SITF investigation, alleged that Kosovo President Hashim Thaci was key figure in an organised crime ring that was responsible for human rights abuses in post-war Kosovo. Thaci has denied the allegations. However, Schwendiman declined to identify who was under investigation, and said that one of the reasons for his visit to Belgrade and Pristina last week was to quell such rumours. "I wanted to raise the issue of speculation, assumptions and rumours and make sure that people understood that unless it comes from me, it is not something you should believe," he underlined.

### **Ensuring assistance and independence**

Last week's visit was Schwendiman's first to Kosovo and Serbia, although he has experience working in the Balkans. From 2006 to 2009, he served as an international prosecutor in the Special Department for War Crimes at the state prosecutor's office in Bosnia and Herzegovina.

"I have never been to Pristina and I have never been to Belgrade, although I have been in the region. I wanted to meet the people that we need to be working with as we go into this next phase. I wanted to ensure that they understood we appreciate their continuous support and effort and I also wanted to ensure they understood from me key things about my job and my responsibility," Schwendiman told BIRN.

- Read the full interview on the [Balkan Transitional Justice website](#)





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# ICC Prosecutor's Statement to the UN Security Council on the Situation in Libya

***Excerpts from the Prosecutor's statement on the OTP's twelfth report on the Situation in Libya delivered on 9 November 2016, pursuant to Security Council Resolution 1970 (2011). The Prosecutor plans to "significantly expand" investigations in Libya in 2017 with new arrest warrants served in the "near future" potentially including members of Daesh. The Office is considering opening an investigation into alleged criminal acts against refugees and migrants in Libya, including any alleged acts of sexual violence or crimes against children.***

[...] Let me briefly update you on the Saif Al-Islam Gaddafi and Abdullah Al-Senussi cases. Following this update, I will discuss the current situation in Libya and my Office's plans for further investigations.

[...] in July of this year, media reports suggested that Mr Gaddafi had been released from detention in Zintan on the basis of a grant of amnesty. I must report to you that reliable sources, including the Libyan Prosecutor-General's office, have confirmed this information to be incorrect. From the information available to the Office, it is clear that Mr Gaddafi remains in Zintan and is still outside the custody and control of the Presidency Council of the Government of National Accord.

[...] Allow me to offer a few words about the current challenging situation in Libya. In short, the situation continues to deteriorate and innocent civilians continue to bear the brunt of the fighting between the warring factions vying for control of Libyan territory. The current state of affairs, in which civilians are victimised, is completely unacceptable. As stated in my Office's twelfth report to this Council, multiple conflicts across Libya consume the country, and parties to this conflict allegedly continue to commit serious crimes.

This Council has repeatedly condemned crimes allegedly committed by Daesh, Ansar Al-Sharia, and other parties to the conflict in Libya. Executions, including allegedly by Daesh, reportedly account for the largest numbers of killings during the reporting period. Reports of mass graves are on the increase. There are also multiple reports of civilian deaths from indiscriminate airstrikes, shelling and gunfire. Abductions and unlawful detentions continue. The number of internally displaced persons in Libya is believed to be almost 350,000. Finally, Libya is a major hub for the illegal migration trade, which I will discuss in more detail shortly.

[...] my Office continuously analyses the security situation through a variety of sources in order to identify opportunities to investigate in situ in Libya. The Office will continue to work in partnership with the Libyan Prosecutor-General's office to find a solution to safely conduct investigations in Libya as soon as possible.

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[...] Notwithstanding the many difficulties posed by the investigation of the Libya situation, including in particular resource challenges, my Office will do all it can to significantly expand investigations in 2017. The new investigations will consider bringing charges for recent and current instances of alleged serious criminal activity falling under the Court's jurisdiction, which could potentially include alleged crimes committed by Daesh and affiliated groups.

My commitment to make Libya a priority situation in 2017 is compelled by a number of factors: by the widespread violence, lawlessness and impunity that currently prevails in many parts of the country; by a desire to provide justice for victims of Rome Statute crimes, and to alleviate the suffering of those civilians who continue to endure the tragic consequences of the conflict in Libya; and finally, by the opportunities for further investigation that the Office has identified.

Further, my Office's on-going efforts in regard to the arrest of an additional suspect or suspects have advanced significantly. I can report to you that my Office intends to apply for new warrants of arrest under seal as soon as practicable and hopes to have new arrest warrants served in the near future. Timely execution of these new arrest warrants will be crucial, will require coordinated efforts by States, and may also require support from the Council.

[...]the Office convened a two-day operational level meeting in The Hague in October of 2016, bringing together judicial and investigative agencies from several States. This productive meeting resulted in agreement in principle that the Office would work collectively with these States with a view to augmenting their respective, independent investigative efforts.

In particular, the Office is engaging with those agencies investigating individuals involved in organised crime and facilitating and financing illegal migration through Libya. The importance of investigating alleged crimes related to illegal migration is reflected in this Council's 6 October 2016 Resolution 2312.

In 2017, my Office intends to step up its cooperation with States in relation to this issue and will continue to study the feasibility of opening an investigation into alleged criminal acts against refugees and migrants in Libya, including any alleged acts of sexual violence or crimes against children, that fall under the Court's jurisdiction.

In discussing collaboration, I must also acknowledge with gratitude that the Office's investigative efforts have greatly benefitted from the operational investigative support and cooperation it continues to receive from the Libyan Prosecutor-General's office.

Regional states, including in particular the Republic of Tunisia and the Hashemite Kingdom of Jordan have also continued to cooperate with my Office in its investigations in Libya, for which my Office is grateful. Exceptionally, certain States have proved far less cooperative, and I take this opportunity to urge all States that have not responded to our requests for assistance to do so without further delay.

- Read the full statement on the [ICC website](#)
- Read the Twelfth Report of the Prosecutor of the International Criminal Court to the United Nations Security Council pursuant to UNSCR 1970 (2011) [English](#), [Français](#), [العربية](#)

*Source : Office of the Prosecutor*

## New Publication "Two Steps Forward, One Step Back: The Deterrent Effect of International Criminal Tribunals"

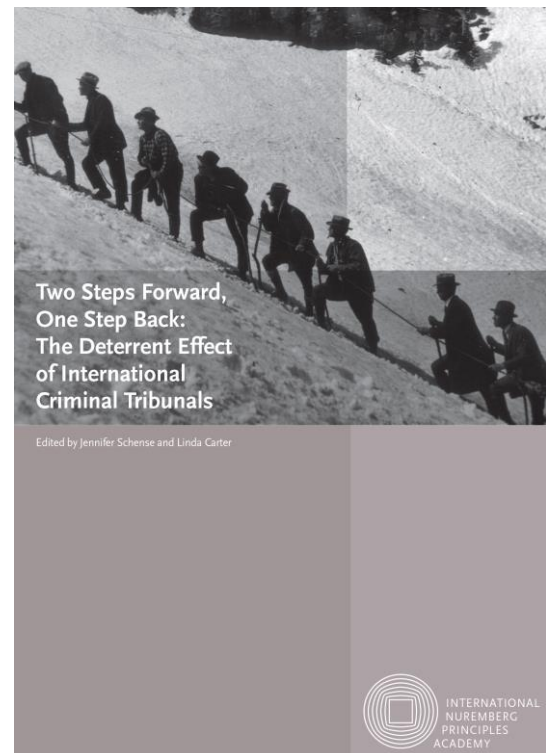
### *Nuremberg Academy*

The International Nuremberg Principles Academy has published its first book; a volume of deterrence studies titled, [Two Steps Forward, One Step Back: The Deterrent Effect of International Criminal Tribunals](#).

This project involved a study of the deterrent effect of international criminal tribunals through a selective study of ten conflict or post-conflict countries. The impact of the ICC is explored through studies of the Democratic Republic of Congo, Darfur (Sudan), Kenya, Uganda, Côte d'Ivoire, and Mali. An examination of several non-ICC situations where other tribunals have been active provides a comparative perspective. In this regard, the project also analyses the role and effect on deterrence of the ICTY in Serbia and Kosovo, the ICTR in Rwanda, and the SCSL in Sierra Leone.

Based on the case studies and the themes from this research, some of the recommendations in the book include:

- Since the impact of selectivity in prosecutorial choices is fundamental to the credibility of international criminal prosecutions, the ICC Office of the Prosecutor should devise strategies, which effectively explain the reasoning behind who is prosecuted and for what crimes.
- There is a need for greater outreach to the affected communities, which is necessary for accurate knowledge. Knowledge, in turn, is key to handling issues related to selectivity, politics, and even the nature of the proceedings in the courts. A better understanding of a



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court's processes leads to a greater perception of legitimacy for the court, which is essential for any deterrent effect.

- Deterrence can only be achieved through the combined efforts of international and national entities means that there is a need to cooperate and to coordinate efforts. The multitude of actors and institutions, national and international, involved in a conflict or post-conflict situation create some confusion, but also important opportunities.
- Fostering national capacity to prosecute international crimes cannot be overlooked or relegated to a lesser status. Instead, deterrence is dependent upon the actual and perceived ability to hold individuals accountable. International tribunals are designed only to try a limited number of the highest level perpetrators. A greater sense of certainty, severity, and celerity in punishment necessitates a greater number of prosecutions, which must occur at the national level.

## Upcoming: The World in Crisis Conference - International Bar Association

**4 February 2017, The Peace Palace, The Hague, the Netherlands. A conference presented by the IBA War Crimes Committee and supported by the IBA European Regional Forum**

**Topics will include:**

- Introductory remarks and Keynote – The World in Crisis: a review of significant events and cases of 2016 relating to war crimes
- The Refugee Crisis – Refugees as victims of slavery and other crimes
- The Funding of War - the sale of antiquities, trafficking and money laundering
- Peace vs. Justice – the Jus Post Bellum dilemma (Colombia, Yemen, Syria, Sri Lanka, Nepal)
- Immunities and Universal Jurisdiction: current national practice in relation to immunity *ratione materiae* and *ratione personae* and special mission immunity



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## In Focus: The ICC Legal Tools Database

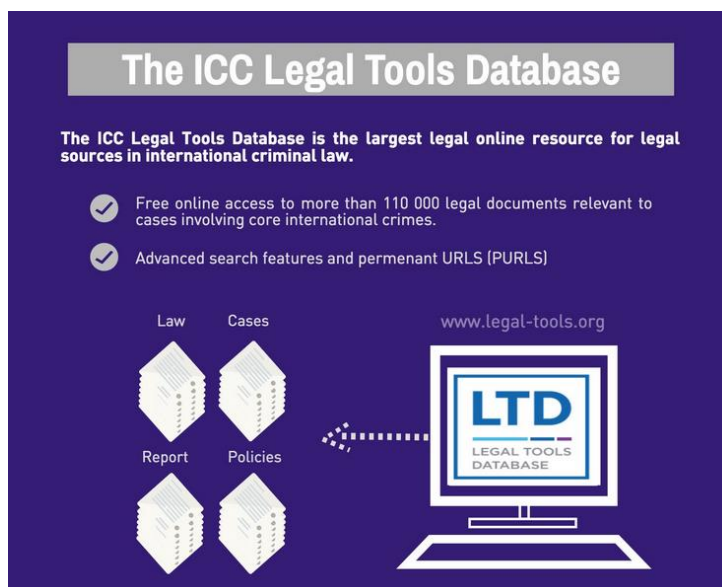
The ICC Legal Tools Database is an excellent open source resource for domestic, regional and international prosecutors. It includes, for instance, the largest online library of national case law of genocide, crimes against humanity and war crimes proceedings from around the world.

### What are the ICC Legal Tools?


The Legal Tools are the leading information services on international criminal law. They equip users with legal information, digests and an application to work more effectively with core international crimes cases. By being freely available in the public commons, the Tools equalize access to international criminal law information, thus empowering practitioners and levelling preconditions for criminal justice in both richer and materially less resourceful countries. The Legal Tools are a significant contribution to national capacity development in criminal justice for core international crimes.

The publicly available Tools comprise the online "Legal Tools Database", together with legal research and reference tools developed by lawyers with expertise in international criminal law and justice: the [Case Matrix](#), the Elements Digest, and the Means of Proof Digest.

- Click [here](#) for the online video tutorial on using the ICC Legal Tools – on how to search and source documents on international criminal law



## News November 2016

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

### 29 November

#### [Rwanda genocide: French officials face investigation](#)

(BBC)

Rwanda has opened a formal investigation into 20 French officials it says are suspected of

involvement in the genocide of 1994. Chief prosecutor Richard Muhumuza said French authorities had been contacted and full co-operation was expected. Relations between the two countries have been strained since the mass killings...

#### [Africa: Top Judge Advises Africa Against Pulling Out of ICC](#)

(AllAfrica)

The first African woman to sit at the International Court of Justice (ICJ) has described calls for African

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states to withdraw from the Rome Statute that establishes the International Criminal Court (ICC) as "insensitive", saying they pose a serious threat to access to justice for victims of mass atrocities...

## 28 November

### [Germany lawyers file suit against Syria president for war crimes in Aleppo](#)

(Jurist)

A group of German lawyers on Monday announced the filing of charges against Syrian President Bashar al-Assad, alleging that he committed war crimes in Aleppo. As Germany has the principle of universal jurisdiction, which allows countries to sue foreigners for international crimes, they are allowing the suit on that ground. The lawyers, citing reports from Amnesty International, [allege](#) [Zeit report, in German] that there is overwhelming evidence that Assad has committed war crimes such as bombings of hospitals, attacks on civilians, and forced expulsions ...

### [Oskar Groening Auschwitz conviction marks 'dramatic change'](#)

(BBC)

A German federal court has upheld the conviction of Auschwitz death camp guard Oskar Groening, who admitted witnessing murders but not taking part. The verdict overturns a 1969 ruling that being a staff member at Auschwitz was not enough to secure a conviction. Nazi hunter Efraim Zuroff said it was the biggest change in years. Groening, 95, who was known as "the bookkeeper of Auschwitz", had appealed against a four-year jail term handed down for being accessory to murder...

### [Extradition hearing for 5 Genocide suspects starts in UK court today](#)

(The New Times)

The High Court in London will today begin the appeal hearing in a longstanding case concerning extradition of five Rwandans suspected of participating in the 1994 Genocide against the Tutsi. The suspects are Vincent Bajinya, a medical doctor; Celestin Mutabaruka, a former pastor; as well as three former mayors Celestin Ugirashebuja, Charles Munyaneza, and Emmanuel Nteziryayo. They were separately arrested in 2013 in the UK after an extradition request from the Rwandan government, which has, for over a decade,

requested that they are brought to Rwanda to answer for the crimes they stand accused of...

### [Rodrigo Duterte shrugs off 'bulls\\*\\*\\*' ICC threat](#)

(Aljazeera)

Philippine President Rodrigo Duterte denounced what he called "bulls\*\*\*" Western threats to seek his indictment by the ICC over his role in a bloody crackdown on drug dealers. In a speech on Monday, Duterte, who has been accused of ordering extrajudicial killings in his anti-narcotics campaign since taking office in June, scolded the US government for what he called hypocritical threats to try him in the Hague-based tribunal, to which Washington is not a signatory. Duterte's "war on drugs" has been linked to more than 2,500 deaths over the last five months...Duterte, a former mayor and prosecutor, said lawyers in Europe were "rotten", "stupid", and had a "brain like a pea" ...

## 24 November

### [Myanmar wants ethnic cleansing of Rohingya - UN official](#)

(BBC)

Myanmar is seeking the ethnic cleansing of the Muslim Rohingya minority from its territory, a senior UN official has told the BBC. Armed forces have been killing Rohingya in Rakhine state, forcing many to flee to neighbouring Bangladesh, says John McKissick of the UN refugee agency. The government of Myanmar, also known as Burma, has been conducting counter-insurgency operations since coordinated attacks on border guards in October. It denies reports of atrocities...

## 23 November

### [Cambodia: UN-backed court upholds life sentences for former Khmer Rouge leaders](#)

(UN News Centre)

The United Nations-backed court set up to bring to trial those most responsible for crimes committed during Cambodia's brutal Khmer Rouge regime today upheld life sentences for two top former Khmer Rouge leaders on Wednesday for crimes against humanity. A news release announced that the Supreme Court of the Extraordinary Chambers in the Courts of Cambodia (ECCC) upheld its judgement on appeals against the trial judgement regarding Nuon Chea, former Deputy Secretary of



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the Communist Party of Kampuchea, and Khieu Samphan, former Head of State of Democratic Kampuchea. The two, who are the most senior surviving members of the regime, were sentenced in August 2014...

## [International Criminal Court urged to probe Duterte, killings](#)

(ABS CBN News)

An international human rights group on Wednesday called for an International Criminal Court (ICC) investigation against President Rodrigo Duterte and alleged extra-judicial killings in the Philippines. "Our greatest concern is that there appears to be crimes against humanity being committed in the Philippines with no attempt to stop them no attempt to investigate and prosecute them," Alison Smith from the group No Peace Without Justice told ABS-CBN News...

## [President of Human Rights Council appoints Members of Commission of Inquiry on Burundi](#)

(OHCHR website)

...The Council decided to establish, for a period of one year, a commission of inquiry on Burundi at its thirty-third session on 30 September 2016, to conduct a thorough investigation into human rights violations and abuses in Burundi since April 2015. Through Human Rights Council resolution 33/24 the 47-member body also mandated the three-person Commission to identify alleged perpetrators of human rights violations and abuses in Burundi with a view to ensuring full accountability...

## **22 November**

### [Landless Cambodian farmers look to International Criminal Court for justice](#)

(Reuters)

A group of farmers who survived the Khmer Rouge's notorious "Killing Fields" genocide in Cambodia are at the center of a landmark legal case that could change the way global corporations manage large-scale land acquisitions, experts say. More than 400 families from a sleepy rural hamlet in Sre Ambel district in south-western Cambodia say they were pushed off their farms to make way for sugar plantations. The villagers are part of a larger group of about 770,000 Cambodians – or five percent of the nation's population – taking

action for being forced off at least four million hectares of land, according to a lawyer presenting their case at the ICC in the Hague...

## **21 November**

### [Bosnia's New Chief Prosecutor Undergoes Stormy Start](#)

(Balkan Transitional Justice)

After Gordana Tadic became Bosnia and Herzegovina's new acting chief prosecutor, controversy erupted as the prosecution was accused of bias over the arrests of ten Bosnian Croats on war crimes charges...

## **20 November**

### [Virtual reality to aid Auschwitz war trials of concentration camp guards](#)

(BBC)

On 20 November, 1945 the Nuremberg trials began - the military tribunals called to prosecute Nazi war criminals closely involved in the Holocaust. Now, 71 years later, that work continues through the Bavarian State criminal office (LKA) in Munich, that has created a virtual reality version of the Auschwitz concentration camp to assist with the continued prosecutions...

## [Rwanda: Catholic bishops apologize for role in genocide](#)

(Washington Post)

The Catholic Church in Rwanda apologized on Sunday for the church's role in the 1994 genocide, saying it regretted the actions of those who participated in the massacres. "We apologize for all the wrongs the church committed. We apologize on behalf of all Christians for all forms of wrongs we committed. We regret that church members violated (their) oath of allegiance to God's commandments," said the statement by the Conference of Catholic Bishops, which was read out in parishes across the country...

## **18 November**

### [ICC Prosecutor, Fatou Bensouda, launches Policy on Children: "We must strengthen our resolve to end impunity for atrocity crimes against and affecting children"](#)

(ICC press release)

...The Policy highlights the severity of atrocity crimes against and affecting children and will assist

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the Office of the Prosecutor in its efforts to robustly address these crimes in accordance with the Rome Statute. An important feature of the Policy is that it further reinforces the Office's child-sensitive approach, one that is respectful of the rights of children as recognised in the Convention on the Rights of the Child (1989). It will thus guide the Office in its efforts to hold accountable perpetrators of international crimes against children, bearing in mind their rights and best interests. The Policy is the product of extensive expert consultations and informed by the insights of children themselves, the primary beneficiaries of this initiative...

### State impunity is back in fashion – we need the international court more than ever

(Guardian, opinion by Kofi Annan)

The recently announced withdrawal from the international criminal court (ICC) by Burundi, Gambia and South Africa, following earlier threats from some other African countries, has created the impression that Africa is hostile to the court. Let me emphasise, however, that the people of Africa, and particularly the victims of war crimes and crimes against humanity, and members of those communities affected by genocide, stand by the ICC. Most of the continent's democratic governments stand by the ICC. I stand by the ICC, because the most heinous crimes must not go unpunished...

### **17 November**

#### The Trial of Thomas Kwoyelo: Opportunity or Spectre

(London School of Economics)

The pre-trial of Thomas Kwoyelo –the first war crimes prosecution of a former Lord's Resistance Army (LRA) fighter, and the only domestic war crimes prosecution in Uganda starts up again next week. Over the past years JSRP researchers have attended proceedings in the run-up to the trial and have been researching local reactions...

#### African Members Reaffirm Support at International Criminal Court Meeting

(Human Rights Watch)

A slew of African countries reaffirmed their backing for the International Criminal Court (ICC) during the past two days, giving much-needed

support to the court in the wake of recently announced withdrawals by South Africa, Burundi, and Gambia. African governments took the floor during the general debate session of the ICC's annual meeting and signalled their continued support and membership in the court. The reaffirmation of support by states helped tamp down speculation over mass withdrawal from the ICC...

#### Whatever Happens, the ICC's Investigation into US Torture in Afghanistan is a Win for the Court

(Justice in Conflict opinion)

It was predicted when the US Senate released its so-called 'Torture Report'. A few weeks ago, it was reported to be true. And now the Office of the Prosecutor of the ICC has confirmed it. A decision to request an official investigation into war crimes committed in Afghanistan is "imminent". What this means is that the ICC will finally investigate atrocities committed by the Taliban and Afghan forces. It also, and most remarkably, means the ICC will investigate crimes committed by American forces — particularly allegations of widespread torture against detainees. The momentous nature of this development is worth appreciating. In the history of international justice, never has an international criminal tribunal confronted the alleged crimes of the United States...

#### Philippines' Duterte says may follow Russia's withdrawal from 'useless' ICC

(Reuters)

An ICC prosecutor last month said the Hague-based tribunal may have jurisdiction to prosecute the perpetrators of killings in the Philippines' drug war, in which more than 2,400 have been killed. A Philippine diplomat addressing the court's general assembly in The Hague later on Thursday said his delegation was still awaiting instructions from Duterte regarding his country's future relationship with the ICC...

### **16 November**

#### Russia withdraws signature from international criminal court statute

(Guardian)

Russia has said it is formally withdrawing its signature from the founding statute of the international criminal court, a day after the court



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published a report classifying the Russian annexation of Crimea as an occupation. The repudiation of the tribunal, though symbolic, is a fresh blow to efforts to establish a global legal order for pursuing genocide, war crimes and crimes against humanity...

### [Witness Interference at the ICC: A Widespread Practice Across Virtually All Cases](#)

(OSJI)

...The Open Society Justice Initiative has conducted research that suggests that witness interference has been alleged in nearly every case before the ICC. Actions aimed at interfering with witnesses and their testimony impede due process, undermine the rule of law, put ICC cases in peril, and weaken the credibility of the institution. Witness testimony has been the main form of evidence in all cases of grave international crimes before the ICC, which makes this problem one of the most urgent challenges facing the court. Our research, summarized in this [briefing paper](#), comes from a comprehensive survey of publicly available information on witness interference in cases before the ICC...

## 11 November

### [Risk of 'outright ethnic war' and genocide in South Sudan, UN envoy warns](#)

(UN News Centre)

Visiting conflict-plagued South Sudan, the United Nations envoy on genocide prevention today warned that the African country is at risk of plunging into "an outright ethnic war" and of genocide being committed. "I am dismayed to report that what I have seen and heard here has confirmed my concerns that there is a strong risk of violence escalating along ethnic lines, with the potential for genocide," Adama Dieng, the UN Special Adviser on the Prevention of Genocide, told reporters in Juba, the nation's capital...

### [Serbia Hopes Kosovo War Court Will Secure Convictions](#)

(Balkan Transitional Justice)

Serbian Prime Minister Aleksandar Vucic said on Friday after meeting David Schwendiman, the chief prosecutor at the new Hague-based court, that he hopes there will be independent and impartial investigations into crimes committed Serbs in

Kosovo during the war. Vucic "expressed the support of the government of Serbia to the work of the Special Court and office of the Special Prosecutor, with the expectations that he will prosecute those responsible for war crimes in Kosovo and Metohija, committed against Serbs, but also against other nationals", according to a statement issued by the government...

### [Myanmar: UN envoy urges investigation into alleged sexual assaults after violence flares in Rakhine state](#)

(UN News Centre)

Gravely concerned about allegations of rape and sexual assault of women and girls in Northern Rakhine state in Myanmar following recent border attacks, Zainab Hawa Bangura, the United Nations Special Representative on Sexual Violence in Conflict called today on the Government to ensure that an impartial and effective investigation is conducted into the alleged incidents...

### [GRC publishes 'Enforcement of International Humanitarian Law in Ukraine'](#)

(Global Rights Compliance)

...The report aims to provide useful guidance to the Government of Ukraine and its authorities on how to approach their international obligations to prosecute serious violations of IHL, and other serious violations of international law.

Using a representative sample of available public information over a six-month period, the report focuses on whether Ukraine's current approach to prosecutions is in accordance with international standards, and seeks to provide clear recommendations on how the current Criminal Code may be more effectively utilised...

## 10 November

### [Northern Ugandans "don't understand" Dominic Ongwen and Thomas Kwoyelo trials](#)

(Let's Talk Uganda)

Two former child soldiers of the Lord's Resistance Army (LRA) are currently being tried for war crimes and crimes against humanity. Dominic Ongwen is facing the International Criminal Court (ICC) in the Netherlands, while Thomas Kwoyelo is facing the International Crimes Division (ICD) in Uganda. As the two cases progress, technicalities are arising which include issues around witness





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representation and the legality of presiding judges. Meanwhile, many in northern Uganda are voicing a larger concern: the need for alternative justice mechanisms...

### [Canada could face investigation from international court it's fighting to save](#)

(Globe and Mail)

Foreign Minister Stéphane Dion is campaigning across Africa to save the beleaguered International Criminal Court – although Canada itself could soon be a target of a war-crimes investigation by the court...The ICC, however, is on the verge of announcing whether it will launch a full formal investigation into war crimes in Afghanistan – including crimes by the U.S. military. As a close partner of the United States in the Afghan military campaign, Canada is believed to be among the likely targets in this investigation, especially because of allegations that Canada handed over hundreds of detainees for near-certain torture or death at the hands of Afghan police and soldiers...

### [UN demands Turkey release international judge](#)

(Jurist)

The president of the UN Mechanism for International Criminal Tribunals, Theodor Meron, demanded the release of Turkish judge Aydin Sefa Akay in an address to the UN General Assembly on Wednesday. The General Assembly had elected Akay as a judge to the MICT in 2011. Turkish officials detained Akay in September after a failed coup against the Turkish government. Turkey's actions violated the diplomatic immunity of international judges, said Meron. In his address, Meron called for "Judge Akay's immediate release from detention and the cessation of all legal proceedings against him."...

### [Austria charges Syrian rebel with 20 murders](#)

(The Local)

Austrian prosecutors have charged a member of a Syrian rebel group with 20 counts of murder for allegedly executing wounded government soldiers in his home country... The prosecutors were able to bring charges against the man under an international counterterrorism agreement, which is intended to prevent political murders from remaining unpunished if a criminal flees abroad...

### [ICC prosecutors say Congolese rebel leader coached witnesses from prison](#)

(Reuters)

Prosecutors have accused a Congolese rebel leader on trial at the International Criminal Court of tampering with witnesses, court documents published on Thursday showed, weeks after it found a former Congolese vice president guilty of the same. Rebel leader Bosco Ntaganda is on trial at the ICC for allegedly using child soldiers, keeping women as sex slaves and murder in the Democratic Republic of Congo between 2002 and 2003...

## 9 November

### [EU Raps Balkan States over War Crimes Progress](#)

(Balkan Transitional Justice)

The annual EU progress reports for Bosnia and Herzegovina, Serbia and Kosovo, published on Wednesday, said that the three Balkan countries still need to do more to deal with the crimes committed during the wars of the 1990s and their enduring impact. Serbia is criticised for not cooperating properly with the International Criminal Tribunal for the Former Yugoslavia and extraditing three wanted members of the nationalist Serbian Radical Party to The Hague...

## 3 November

### [Nils Melzer: Creeping Trend towards Increased Tolerance for Torture](#)

(Graduate Institute Geneva)

..."Sadly, today, torture remains a very real part of situations of conflict and violence", Dr Melzer told us, explaining that his main worry is not so much dramatic, high-profile contexts such as the war in Syria, but rather a "creeping trend" towards increased tolerance in society for certain types of treatment that can only be described as torture...

### [A Stronger Court for Crimes Against Humanity](#)

(New York Times, Editorial Board)

... At a time when President Bashar al-Assad of Syria and President Omar Hassan al-Bashir of Sudan are eluding accountability for a litany of war crimes, these defections have called into question the long-term viability of the court and the world's commitment to the principles it was created to uphold. Instead of allowing it to wither, the international community should redouble efforts





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to strengthen the court's mandate and its mission — no easy task given its complex history...

## 2 November

### [Prosecutor Asks ICC Judges to Give Bemba Longer Prison Sentence](#)

(OSJI)

The prosecution has made the case for a longer prison sentence for Congolese opposition leader Jean-Pierre Bemba, who was handed an 18-year jail term at the International Criminal Court (ICC). The prosecution argued that this sentence is disproportionate to Bemba's culpability and the harm caused to victims of the crimes. In the appeal document published on October 21, ICC prosecutor Fatou Bensouda asks judges to raise the prison sentence to at least 25 years. This was the same sentence the prosecution proposed in sentencing submissions last May...

## 1 November

### [ICC gets support after 3 withdrawals, but Kenya is critical](#)

(AP)

Many countries pledged support for the International Criminal Court on Monday following the announced withdrawal by three African

nations, but Kenya, which the tribunal is investigating, was sharply critical and questioned its long-term survival...

### [What the ICC Can Do to Improve its Relationship with African States](#)

(Justice in Conflict opinion)

Allegations that the ICC is biased against Africa aren't going away...At an African Union summit, Ethiopia's Prime Minister Hailemariam Desalegn declared that the ICC is "hunting" Africans because of their race. I continue to maintain that the Court is neither biased against Africa, neo-colonial, nor racist. Africa is not monolithic and many states continue to support the ICC and its mandate. As has often been pointed out, many African citizens don't share the views of their governments and, in fact, would like to see them held accountable. At the same time, even if some cases that aren't before the Court should be, no case or situation currently before the Court shouldn't be. As Abdul Tejan-Cole [writes](#), "while it is true that the ICC can be lambasted for inconsistent case selection, there is not a single case before the Court that one could dismiss as being frivolous or vexatious." ...

## 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](#)

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