

Forum for International Criminal Justice Newsletter: June 2018

Welcome to the IAP's Forum for International Criminal Justice (FICJ) June 2018 Newsletter which focuses on the prosecution of war crimes, crimes against humanity and genocide, including a roundup of video highlights, legal analysis, announcements, events, new publications and major news developments from the past month.

Domestic news covered in this Newsletter includes:

Gambia to domesticate all international crimes recognised by ICC; **Romania** arrests Serb for alleged Genocide in **Croatia**; **Austria** holds **Croatia** ruling party member for 'Nazi Salute'; **Guatemala**: ex-military officers convicted of crimes against humanity; and **Colombia** truth commission starts work to give war victims answers.

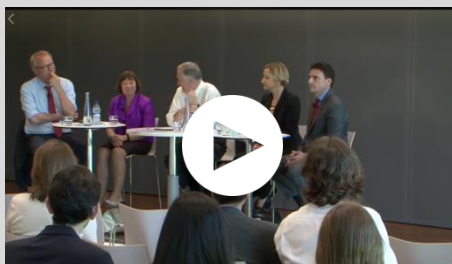


***Please have a look at the [FICJ forum](#) page on the IAP**

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 Secretariat: info@iap-association.org.

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

Video Highlights



[Click here](#) to watch the Geneva Academy of International Humanitarian Law and Human Rights panel discussion on the International Criminal Court 20 years since the drafting of the Rome Statute



[Click here](#) to watch a lecture by David Schwendiman who reflects on his time at the Kosovo Specialist Prosecutor's Office and the challenges that lie ahead



FICJ

Forum for International Criminal Justice

3rd EU Day Against Impunity for Genocide, Crimes Against Humanity and War Crimes held at ICC in The Hague

The IAP's FICJ Coordinator, Danya Chaikel, recently attended this momentous event



ICC Chief Prosecutor Fatou Bensouda addressed the importance of European cooperation in support of the Rome Statute principles of justice and accountability

The EU Day Against Impunity was marked at the seat of the Court on 23 May, bringing together representatives from the Bulgarian Presidency of the Council of the European Union, EU Member States, Eurojust, the European Parliament, the European Commission, ICC officials and other relevant stakeholders, with a special focus on the 20th anniversary of the Rome Statute, the ICC's founding treaty.

The main purpose of EU Day Against Impunity is to raise awareness of the crimes of genocide, crimes against humanity and war crimes. The day is also intended to promote national investigations and prosecutions, to address the position and participation of victims in criminal proceedings for these crimes, and to stimulate commitment for the continuing fight against impunity of these crimes.

As we commemorate the 20th anniversary, the event served to acknowledge the efforts of the European Union in ending impunity. While all Member States have ratified the Rome Statute, the ICC remains complementary to the national systems of criminal law. The obligation of every state remains to investigate and prosecute persons responsible for atrocity crimes. Close cooperation at national and transnational level is the only effective and efficient way to bring the perpetrators entering and residing within the European Union's territory to justice.

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

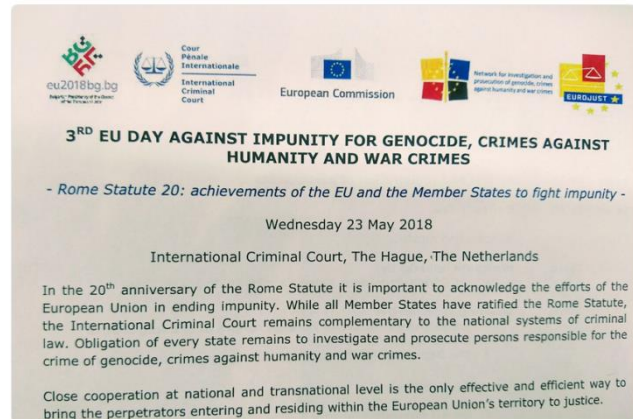
Follow us on twitter: [@iaprosecutors](https://twitter.com/iaprosecutors)

Panel discussions focused on the EU's contribution to 20 years of fighting impunity for global atrocities through the Rome Statute, and how this contribution will continue in the future, with speakers from the ICC, the Kosovo Specialist Chambers, the International, Impartial and Independent Mechanism for Syria, representatives of national authorities as well as Public Prosecutors from the EU Member States. The panel discussion addressed achievements of the EU and the Member States to fight impunity.



Danya Chaikel @DanyaChaikel · May 23

Attending #EUDayAgainstImpunity at @IntlCrimCourt. Impressive presentation by @EUparliament member @MarietjeSchaaake: even though EU leads in fighting impunity, states cannot be complacent; need common approach, for instance common EU strategy on #Syria conflict is still needed



Germany's contribution provided a good example of the efforts undertaken by authorities at the national level to investigate and prosecute core international crimes. Furthermore, the question of the importance of ensuring public support for the fight against impunity and the shared responsibility of national jurisdictions and the ICC was highlighted. With many armed conflicts going on, including within the EU, topics such as judicial cooperation and accountability for impunity gaps was also discussed, illustrating the various legal and practical challenges in tackling core international crimes.

European Parliament member Marietje Schaaake highlighted the importance of a common and ambitious approach and high-level leadership towards justice, including a strategy to end impunity for crimes in the Syrian conflict. Catherine Marchi-Uhel, head of the Syria International, Impartial and Independent Mechanism (IIIM), spoke of the opportunity of domestic jurisdictions to support national cases for international crimes, with the help of the IIIM. Virginie Amato, Coalition for the



Danya Chaikel @DanyaChaikel · May 23

Catherine Marchi-Uhel, #Syria Mechanism Head: while hope is for eventual intl jurisdiction (at #ICC or other), urgency now is to support national cases. IIIM is preserving evidence & much more such as providing expert analysis to facilitate investigations #EUDayAgainstImpunity



ICC's regional Europe coordinator, called on the EU to establish a Special Representative on International Humanitarian Law and

International Justice to strengthen their much-needed principled leadership to promote international humanitarian law and to secure justice for international crimes. and to ensure victims' rights are at centre of all efforts.

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

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

Looking ahead, the importance of a multilateral treaty for mutual legal assistance and extradition, as a vital tool for domestic prosecutions of international crimes was also discussed.

African regional courts must prosecute international crimes – Gambia Chief Justice

Business Ghana - Regional courts in Africa should be allowed to prosecute international crimes as a way of strengthening complementarity on the Continent, Chief Justice Hassan Jallow of The Gambia has suggested.

“I remain convinced that complementarity can and should be taken a notch higher by vesting African regional courts such as the ECOWAS Court and the East African Court of Justice with the mandate to prosecute international crimes,” Mr Jallow said at the recent West African



Chief Justice Hassan Jallow of The Gambia

Stakeholders’ Consultation on Emerging Trends on Complementarity in Banjul. This would help in burden sharing where the task was too great for the country of primary jurisdiction and ensure that the process of accountability occurred not far from the community directly affected, while respecting the principle of complementarity, he said.

The programme was organised by Africa Legal Aid (AFLA), a flagship non-governmental organisation on justice and accountability based in The Hague, in conjunction with the Attorney General’s Chambers and the Ministry of Justice of The Gambia, and the Raoul Wallenberg Institute of Human Rights in Sweden. Members of the Judiciary, prosecutors, civil societies, legal fraternities and victims of crimes of atrocity from West Africa attended. Chief Justice Jallow said; “The current patchwork or mosaic of bilateral treaties on mutual legal assistance – some dating a century or more between states – does not facilitate cooperation between states in this field.

“Efforts underway to prepare a multilateral legal assistance treaty in this regard should be supported in order to facilitate cooperation in extradition, access to witnesses and evidence, transfer of prisoners and proceedings, and other matters.”

He said such a global or regional multilateral treaty would provide an ideal framework for cooperation in pursuit of global justice and accountability. Article 17 of the Rome Statue of the International Criminal Court (ICC) explains complementarity thus: “The Court shall determine that a

case is inadmissible where the case is being investigated or prosecuted by a state, which has jurisdiction over it, unless the state is unwilling or unable genuinely to carry out the investigation or prosecution.”

Mr Jallow, also a former Judge of the Appeals Chamber of the Special Court for Sierra Leone, and ex-prosecutor at the International Criminal Tribunal for Rwanda, said there were constant arguments over the role of the ICC in Africa, which felt hampered by the Court, as the Continent attempted to move forward with complementarity.

"It is...fitting that periodically we review the trends in complementarity and explore ways in which that fundamental principle of justice can be further strengthened. "For the future of justice and accountability lies ultimately on the extent to which we can give concrete reality to the principle of complementarity," he said.

He, however, acknowledged that weak national legal systems and overburdened international tribunals had given rise to fertile territory for impunity to flourish. In that regard, Mr Jallow said he wanted to see states “empowered – individually or collectively – to discharge their primary responsibility for the prosecution of serious crimes”.

Evelyn Ankumah, the Executive Director of AFLA, said: “In simple terms [complementarity] means that the ICC should not deal with a case if national or local criminal systems can and will deal with it. She said international criminal justice should be pursued in the village, the province, the state or region where the crimes were committed, adding that The Hague was not the ideal place where international criminal justice should be first pursued.

“Justice should be done at home, or as close to home as possible,” she added.

Morten Kjaerum, of the Raoul Wallenberg Institute, said there were numerous setbacks to the prosecution of international crimes, which include “the tension between Africa and the Global North over prosecutions, and the lack of popular knowledge about the ICC, which makes people vulnerable to populist attacks on the Court and what it stands for”.

Mr Kjaerum said consultations like the one in Banjul were crucial to strengthening the current efforts for the promotion of human rights and the global fight against impunity. He said the exchange of promising practices and honest deliberations about hurdles and barriers could push the Continent forward, as she explored how to optimise the use of the current human rights landscape. The Banjul Consultation was the first of a series of two regional meetings on complementarity in Africa, with the one for East and Central Africa scheduled for July in Kampala. Southern Africa has been excluded because the Region does not appear to have issues with complementarity...

- Read the full article on the [Business Ghana website](#)



FICJ

Forum for International Criminal Justice

Prosecutors on the Front Line: Inside European War Crimes Units

By: **Noémi Manco and Valérie Paulet**, [The Philippe Kirsch Institute](#)

They work from the Netherlands, Denmark or the United Kingdom, but they deal with mass crimes occurring on the other side of the world – in Syria, Rwanda or Nepal. “They” are the prosecutors in the war crimes units (WCUs). These highly specialized professionals are tasked with bringing to justice war criminals present on European soil, regardless of where their alleged crimes were committed. We met with these dedicated individuals who, in challenging circumstances and through endless legal complexities, seek justice for the most severe crimes.



It's 9:00 am in Rotterdam (the Netherlands) and Prosecutor Nicole Vogelenzang arrives at her office. “These days, we are working around the clock” she smiles. Her team at the Dutch Public Prosecution Service is in the middle of a case against an Ethiopian national accused of war crimes and torture. The accused is a foreigner and the crimes occurred on another continent. Yet, the trial is taking place in Europe – thanks to universal jurisdiction (UJ).

According to this principle, states have to prosecute criminals present on their territory, regardless of where the crimes took place or the nationality of the perpetrators or of the victims.

“This is a groundbreaking principle”, explains Valérie Paulet, legal advisor and expert on universal jurisdiction. “Traditionally, a state must have a strong link with the alleged crime to be able to prosecute it. Universal jurisdiction is an exception to that rule, based on the idea that some crimes constitute an offense to all humankind, so all humankind must fight them.”

Migrating criminals, borderless justice

WCUs were founded in answer to an increasingly permeable world, where alleged criminals can escape justice by moving to another country – an increasingly likely scenario with the recent influx of migrants from war zones.

“In the years 2000, the Danish immigration services flagged some asylum seekers present on our soil as suspects of mass crimes”, recalls Prosecutor Jakob Willaredt (Denmark). “As such they were not entitled to refugee status, but could not be sent back either, because their country was at war. What could we do with them? The only solution left was to try them in Denmark.”

A similar situation arose for example in 2016 in Switzerland, when a former Gambian minister was arrested at the immigration center of Lyss (canton of Bern), where he had filed for asylum. “It was a situation out of a movie: this man, who may have overseen the torture of countless Gambians under

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

Yahya Jammeh's dictatorship, was right here in Switzerland where he could be prosecuted. We raced against the clock to investigate and denounce the case to the Swiss authorities, in case he got wind of our work and fled beyond our reach",

says Benedict De Moerloose, head of the Investigations and Criminal Law Department at TRIAL International.

"At the core of WCUs is the idea that justice, in the 21st century, is borderless."

At the core of WCUs is the idea that justice, in the 21st century, is borderless. In an unprecedented movement, some states are committing resources to making the fight against impunity a truly global one.

A legal path riddled with political hurdles

However, the picture is far from rosy for prosecutors in WCUs, and political considerations sometimes weigh heavily on their work. Cooperation with the countries where the crimes occurred can be protracted, complex and difficult. *"The crimes happened abroad, so what we can and cannot do is entirely in the hands of the local authorities",* explains Prosecutor Jakob Willaredt (Denmark). *"Our domestic police cannot go and investigate independently; everything is done by mutual legal assistance."*

And there are no means to coerce a state unwilling to cooperate. International obligations weigh little in this game. *"In a case against the former Army General Kumar Lama, Nepal never allowed us to enter the country even though, as a signatory to the Convention against Torture, it was under obligation to do so",* notes Tom Halpin, the lawyer in the Lama case in the United Kingdom.

Other times, the state where the crimes were committed cannot offer help because they are in the midst of a crisis. Syria and Iraq are obvious examples.

Thankfully, mutual legal assistance sometimes blossoms into successful collaborations, and the cases can move forward. In a case against a Ugandan warlord, the Danish WCU found a prize ally in the Ugandan government. Prosecutor Jakob Willaredt remembers: *"We made our request for assistance through our Embassy in Kampala, and they were immediately willing to help. They shared with us results of a previous investigation they had conducted. They gave us access to the evidence that they had. When victims were heard in a Ugandan court, the judge allowed us to bring the transcript back to Denmark."*

Building understanding and relatability

Work involving distant and foreign settings also presents less obvious difficulties. Tom Halpin (UK) highlights how discrepancies in criminal justice systems can play a dramatic role: *"In the case against General Kumar Lama, some of the evidence we presented did not hold in court, because it was*

gathered by Nepali partners in accordance with local standards, not British ones – which are significantly higher.”

Likewise, it can be highly challenging for victims and witnesses to testify in alien surroundings, which may compound the trauma many of them still suffer years after the events.

Yet, their testimonies are invaluable for the prosecution. Most people in the courtroom have never set foot in the country where the crime occurred, so the human element is key to building understanding and relatability. *“Victims’ testimonies are often a highlight of the trials”,* reports Prosecutor Nicole Vogelenzang (the Netherlands). *“Their narration is so powerful, it usually makes an impression on the Court.”*

Equally important to the court’s understanding is travelling to the country in question. In a case against a suspected Rwandan genocidaire, the Swedish WCU conducted six field missions *“to really see what the village looks like, how Rwanda is so hilly you can actually see from one hill to the other... you need to be on the ground to understand the crime scene.”*

Unfortunately, such trips require time and funds, and are not always possible for all WCUs. *“To my knowledge, the Swiss WCU has never investigated on the ground”,* laments Benedict de Moerloose (Switzerland). *“It is frustrating, because some of their cases are set in relatively safe countries.”*

Driven to the core

At 8pm, Prosecutor Nicole Vogelenzang (The Netherlands) leaves her office. Tomorrow will be another intensive day in court for the Ethiopian case. *“This job keeps you on your feet. I have learned more in 3 years at the WCU than in 10 years working as a public prosecutor.”*

Does the scale and gravity of the crimes sometimes take its toll? Prosecutor Jakob Willaredt (Denmark) highlights: *“There are hideous crimes in national jurisdiction as well.”*

Teamwork is nevertheless essential to withstand the pressure, acknowledges Prosecutor Hanna Lemoine (Sweden): *“You need to trust your team to navigate this job. Not only for the workload and the stress, but it is also psychologically heavy. When a sensitive case goes on for years, a professional approach is essential. You need to reenergize.”*

“Investigating international crimes really gives you a perspective on your own life. The victims’ testimonies, in particular, show the remarkable strength we humans have, and what we can survive.” - Prosecutor Hanna Lemoine (Sweden)

She concludes: *“Investigating international crimes really gives you a perspective on your own life. The victims’ testimonies, in particular, show the remarkable strength we humans have, and what we can survive.”*



FICJ

Forum for International Criminal Justice

Jack Smith Appointed Specialist Prosecutor of Kosovo Specialist Prosecutor's Office

Jack Smith, a US prosecutor with experience in both high-level political investigations and international criminal investigations, has been appointed Specialist Prosecutor in The Hague after a selection process organised by the European Union. He will be succeeding David Schwendiman, the first Specialist Prosecutor and formerly Lead Prosecutor of the Special Investigative Task Force, who stepped down at the end of March when his term as a US Foreign Service Officer expired.



KOSOVO SPECIALIST CHAMBERS &
SPECIALIST PROSECUTOR'S OFFICE



"I am honoured and delighted to have been given this challenge and am looking forward to taking the investigation forward," Mr Smith said. Mr Smith is currently Vice President and Head of Litigation for the Hospital Corporation of America, the largest non-governmental health-care provider in the United States, a position he has been in since September 2017.

Between February 2015 and August 2017, Mr Smith served as First Assistant United States Attorney and Acting United States Attorney for the Middle District of Tennessee. Between 2010 and 2015, Mr Smith served as Chief of the Public Integrity Section of the US Department of Justice, supervising the litigation of complex public corruption cases across the United States.

From 2008 to 2010, Mr Smith served as Investigation Coordinator in the Office of the Prosecutor at the International Criminal Court (ICC). In that capacity, he supervised sensitive investigations of foreign government officials and militia for war crimes, crimes against humanity, and genocide. Mr Smith joined the ICC from the US Attorney's Office for the Eastern District of New York, where he served for nine years in a number of positions, including Chief of Criminal Litigation and Deputy Chief of the Criminal Division. As Chief of Criminal Litigation, Mr Smith supervised approximately 100 criminal prosecutors across a range of programme areas, including public corruption, terrorism, violent crime and gangs, as well as white collar and complex financial fraud.

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

Before becoming an Assistant US Attorney, Mr Smith served for five years as an Assistant District Attorney in the New York County District Attorney's Office where he was a member of the Office's Sex Crimes and Domestic Violence Units.

Mr Smith has received a number of awards during the course of his career. These include the US Department of Justice Director's Award; the US Attorney General's Award for Distinguished Service; the Federal Bar Association's Younger Federal Attorney Award; the Eastern District Association's Charles Rose Award; the Henry L. Stimson Medal of the New York County Bar Association; and a Harvard Law School Wasserstein Fellowship.

He is a graduate of both Harvard Law School and the State University of New York at Oneonta.

UN adopts resolution linking conflict to hunger and starvation

Denouncing the starvation of civilians as a method of warfare and the unlawful denial of humanitarian access to those need, the UN Security Council has underscored that all parties to armed conflict must uphold their obligations under international law and protect civilians from harm.



Years of conflict in Yemen has resulted in rampant shortages of food, medicine and basic supplies, leaving millions of people on the brink of starvation.

The Security Council adopted a resolution on 25 May 2018 condemning the starving of civilians as a method of warfare — as well as the unlawful denial of humanitarian access to civilian populations — with members welcoming it as a landmark expression of unity on those critical issues.

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

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



Unanimously adopting resolution 2417 (2018), the Council drew attention to the link between armed conflict and conflict-induced food insecurity and the threat of famine. It called on all parties to armed conflict to comply with their obligations under international humanitarian law regarding the protection of civilians and on taking care to spare civilian objects, stressing that armed conflicts, violations of international law and related food insecurity could be drivers of forced displacement. Underlining the importance of safe and unimpeded access of humanitarian personnel to civilians in armed conflicts, it also strongly condemned the unlawful denial of such access and depriving civilians of objects indispensable to their survival — including wilfully impeding relief supply and access for responses to conflict-induced food insecurity.

Urging those with influence over parties to conflict to remind the latter of their international obligations, the Council also recalled that it could consider adopting sanctions, where appropriate and in line with existing practices, that would apply to individuals or entities obstructing the delivery or distribution of humanitarian assistance to civilians in need.

*“For the first time, this Council unequivocally condemns starvation as a method of warfare” -
Lise Gregoire Van Haaren (Netherlands)”*

Lise Gregoire Van Haaren (Netherlands), speaking after the adoption on behalf of the resolution’s co-penholders — Côte d’Ivoire, Kuwait, Sweden and her own country — said this week’s open debate on the protection of civilians had provided ample evidence of the urgent need to adopt such a text. “For the first time, this Council unequivocally condemns starvation as a method of warfare,” she said, noting that the landmark resolution recognized the need to break the vicious cycle of conflict and food insecurity. Importantly, it placed the world’s most vulnerable people firmly at the centre of its agenda. Among other things, she said the resolution would help ensure full respect for international law, support early warning efforts and compel parties to conflict to ensure full humanitarian access, while also allowing the Council to consider its full range of tools — including sanctions — to achieve those ends.

Stephen Hickey (United Kingdom) said millions of civilians trapped in armed conflict situations continued to suffer from starvation that was used against them as a weapon of war. Today’s resolution showed that the Council was not unable to address that issue. In South Sudan, for example, 1 million people had been declared food insecure as of 1 January 2018 — a 40 per cent increase since the same time the previous year. The country had suffered from famine conditions and overall more than 7 million people would require food assistance during the upcoming lean season. While humanitarian aid was crucial, political solutions were the only way to resolve such crises, he stressed, calling for more regular reporting to the Council on country-specific

situations. For its part, the organ had today taken a major step forward by unanimously condemning starvation as a tool of war.

Elaine Marie French (United States), noting that the resolution underscored the Council’s ability to address the clear connection between war and hunger, said the body had today demanded unanimously that parties to conflict comply with their obligations under international law. It had laid out clear expectations that those parties refrain from impeding humanitarian assistance, she said, encouraging the Secretary-General to proactively alert the Council on situations of concern in that regard. “We have shown here today that we have the will to address conflict-related hunger,” she emphasized.

Mr. Pronin (Russian Federation), welcoming the drafters’ constructive and sensitive negotiation efforts — which had resulted in a well-balanced text — said armed conflicts were only one factor impacting a population’s food security. Imbalances in the global distribution of food, climate change, fluctuations in food prices and the imposition of sanctions could all make it difficult to ensure food security. In that regard, he said, finding solutions to those challenges went beyond the Council’s scope. Efforts were also needed to liberalize trade, address the impacts of climate change and refrain from imposing unilateral restrictive measures. Challenges related to food security could not be resolved without comprehensive international efforts to develop a fairer economic system.

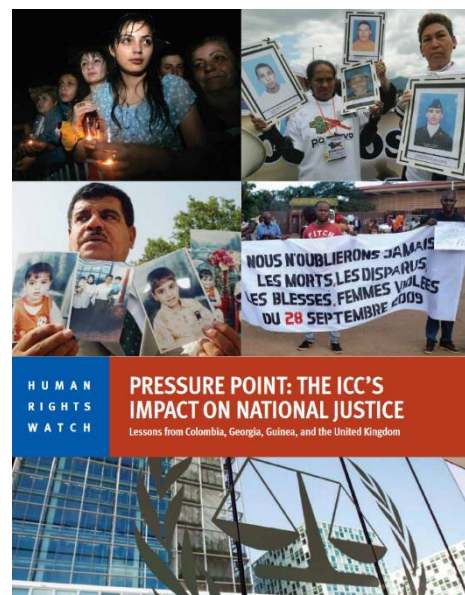
- Read the full resolution on the [United Nations website](#)

Pressure Point: The ICC’s Impact on National Justice

Lessons from Colombia, Georgia, Guinea, and the United Kingdom

A new [report](#) by **Human Rights Watch** assesses the influence of the preliminary examinations of the ICC Prosecutor on domestic prosecutions of crimes in **Guinea, Colombia, Georgia and the United Kingdom**. Findings of the report reflect the opportunities of the complementarity principle, which establishes the ICC as a court of last resort, to expand the reach of justice for international crimes.

Elizabeth Everson, associate international justice director at Human Rights Watch, stated that “the ICC’s burgeoning caseload and limited resources underscore the need for fair and effective domestic prosecutions. More ICC member countries should support the prosecutor’s efforts to encourage successful local proceedings.”



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

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

The report concludes the mixed success in encouraging domestic prosecution of alleged crimes, with the highest level of influence being recorded in Guinea, and the lowest level being the United Kingdom, where the prosecutor has to date not sought to encourage national proceedings.

In Guinea, the ICC Prosecutor's engagement with authorities spurred progress in a stagnating investigation into the September 2009 attack by security forces on opposition supporters. Human Rights Watch called for similar efforts in other preliminary examinations, including in Colombia, where Prosecutor Bensouda has identified gaps in the information authorities provided for national prosecutions.

“The ICC prosecutor cannot go it alone when it comes to sparking progress toward national justice efforts,” Evenson said. “Effective relationships between the ICC and activist groups, UN agencies, national authorities, and donor governments are needed to mobilize justice at the national level.”

- Read the full report on the [Human Rights Watch website](#)

400 Thumbprints: Behind the Push to Prosecute Myanmar for Atrocities

[New York Times](#) - In a request submitted to the International Criminal Court on Wednesday, lawyers included an unusual annex: 20 pages of purple thumbprints. These are the equivalent of signatures from 400 Rohingya women and girls, most of them illiterate refugees who were driven out of Myanmar last year after thousands of Rohingya Muslims were massacred.

The request urges the ICC in The Hague to open a criminal investigation into continuing atrocities, including genocide, against the Rohingya, the latest twist in a brewing dispute about whether the international court has the authority to intervene in what the United Nations and United States have called a clear case of ethnic cleansing. “We feel so vulnerable. We feel so sad. We are unable to bear the emptiness of losing our family members,” the women’s petition says. “We are looking for justice from the United Nations and the International Criminal Court.”



Rohingya in the Kutupalong refugee camp in Bangladesh in November.
Adam Dean for The New York Times

Thus far, the attacks have been carried out with impunity, and many witnesses have said it was Myanmar government soldiers, in uniform, who raped and killed civilians. Human rights groups say the lack of accountability is particularly jarring, arguing that the attacks on the Rohingya involve exactly the kind of mass atrocities this court was created for. Its mandate is to judge crimes against humanity, war crimes and genocide.

An obvious obstacle is that Myanmar, where the violence was meted out, is not a signatory to the court. That means the court cannot address crimes committed in Myanmar, by Myanmar citizens, unless the United Nations Security Council authorizes it, which most observers say is unlikely. And Myanmar has shown little interest in punishing those responsible or pursuing the evidence, which has been documented by rights groups and journalists and corroborated by satellite imagery.

So prosecutors and human rights lawyers are trying a novel approach: They argue that since hundreds of thousands of Rohingya have been deported to Bangladesh, and since this can be construed as continuing crimes against humanity taking place in Bangladesh, a member of the court, the prosecutor can have jurisdiction to act. Bangladesh is not suspected of crimes, but would provide the route to jurisdiction.

The request submitted on Wednesday by the group Shanti Mohila, or Peace Women, goes further: Its lawyers say that as long as Myanmar refuses the return of the Rohingya and forces them to live in terrible conditions, its “crimes of apartheid, persecution and genocide continue” even outside its territory. If the court goes along with the request, it would mark a radical departure in international law.

In April, Fatou Bensouda, the court’s chief prosecutor, asked court judges for an advisory opinion. Her position was that granting jurisdiction would be consistent with “well-established principles” and that forced migration issues were of “acute international concern.” On June 20, a panel of judges will hold a closed-door hearing on the question, which has drawn criticism from lawyers following the case. Court rules require that judges must explain why a session would be held in secret. Kevin Jon Heller, a professor of law at the University of London, wrote in a recent blog post that jurisdiction “is a pure issue of law, so what justifies the secrecy?”

The court has received many requests to intervene in the Myanmar violence. But the prosecutor and the judges are now for the first time weighing the jurisdiction question, using Bangladesh as the springboard. The ruling could have far-reaching implications beyond Myanmar and Bangladesh. Syria is not a member of the court, but neighboring Jordan is, and hundreds of thousands of Syrians have fled to Jordan amid atrocities in Syria. Some analysts wonder if it could open the door to the court’s taking up cases in that and other sweeping conflicts.

This issue comes at a time when the court is struggling to rebuild its reputation after losing several high-profile cases in Africa, including giving up on prosecuting Uhuru Kenyatta, Kenya’s president.

Scholars say it is unclear which way the court will rule. Phil Clark, a political scientist at the School of Oriental and African Studies in London, called the jurisdiction question a “major gray zone” since the worst of the atrocities took place inside Myanmar. But he said this was a huge opportunity for the ICC to become more global. Though the court has opened some recent investigations involving Georgia, Afghanistan and the Palestinian-Israeli conflict, many of its biggest cases have centered on atrocities in Africa. “The ICC has also struggled to show that it can deal with crimes committed by sitting members of governments, including high-ranking military officials,” Mr. Clark said. The court has no police force of its own and depends on national governments to make arrests.

In the petition filed Wednesday, lawyers for the 400 Rohingya women and girls assert that Myanmar’s government is continuing “a persecutory and genocidal campaign that spans both Myanmar and Bangladesh.” The petition accuses the authorities in Myanmar of deportation, persecution, genocide and apartheid. “If a person is illegally detained, the crime isn’t over until that person is released,” said Wayne Jordash, the lead human rights lawyer representing the Rohingya women. “Similarly, in this case, the crimes are ongoing. The Myanmar authorities are maintaining conditions for either the destruction of the group or so they can’t go home.”

A United Nations special rapporteur said earlier this year that the attacks on the Rohingya people bear the “hallmarks of genocide.”

The court is waiting on Bangladesh’s government to say what it thinks about the jurisdiction issue. So far a group of Bangladeshi scholars has come out in support of the court’s taking the case.

Myanmar has expressed “serious concern” about the prosecutor’s request for jurisdiction.

The Rohingya, a Muslim ethnic minority reviled by Myanmar’s Buddhist majority, have been persecuted for decades. In August, after Rohingya rebels attacked several police posts, witnesses said that Myanmar government soldiers stormed into villages and burned everything in sight. Many witnesses said the soldiers rounded up civilians and systematically slaughtered them, sometimes in groups of several hundred. Countless women and girls were brutalized and raped. Human rights groups said the international court might be the only hope for justice for the Rohingya, including the 400 who pressed their inked thumbs to the legal papers.

“The authorities in Myanmar have become more intransigent over time, not less,” said Param-Preet Singh, an international justice specialist at Human Rights Watch. “Against this backdrop, the idea that Myanmar’s military and security forces would hold themselves to account feels especially divorced from reality...The only clear path to justice left for victims,” she added, “is the ICC.”



FICJ

Forum for International Criminal Justice

Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights Law Summer Course

The **Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights Law (SLS)** has a few remaining places for its commemorative Twentieth Anniversary Summer Session:

'Towards an Effective International Criminal Justice System in the Era of The Permanent International Criminal Court – Coordinating and Strengthening Enforcement on National, Regional, and International Levels', being held from 5 to 15 August 2018. The remaining places will be filled on a rolling basis until 30 June 2018. For further information about this internationally renowned course see the draft academic programme and information on the eminent 2018 SLS faculty at

<http://sls.sbg.ac.at/programme> or contact SLS by email: Salzburg_Law_School@sbg.ac.at. FICJ

Coordinator, Danya Chaikel, will be assisting with the course as a legal consultant.

Draft Academic Programme

2018 is a year of plenty notable international (criminal) law events to commemorate. 400 years ago, the defenestration of Prague provoked the Bohemian revolt and the outbreak of the [Thirty Years' War](#); 100 years ago, the [treaty of Brest-Litovsk](#) concluded Russia's participation in World War I and the [Armistice of Compiègne](#) ended fighting on the Western Front; 90 years ago, the [Kellogg-Briand Pact](#) for the renunciation of war as an instrument of national policy was signed at Paris; 75 years ago, the [Warsaw Ghetto uprising](#) marks the largest and symbolically most important Jewish uprising in



Gilbert Bitti and Eleni Chaitidou at SLS 2014

German-occupied Europe; 70 years ago, the [International Military Tribunal for the Far East](#) delivered its [judgment](#) against major war criminals, the General Assembly adopted the [Genocide Convention](#) and the [Universal Declaration of Human Rights](#); 25 years ago, United Nations [Security Council Resolution 827](#) established the [International Criminal Tribunal for the former Yugoslavia](#); and 20 years ago, the [United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of](#)

[an International Criminal Court](#) adopted the Rome Statute of the [International Criminal Court](#) (ICC).

One year later, the Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights Law (SLS) held its inaugural summer session.

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

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

At its Twentieth Anniversary Summer Session, SLS will concentrate on the **enforcement of international criminal law** through multiple judicial mechanisms. When the Statute of the International Criminal Court was adopted in Rome in 1998, hopes were high that the complementarity regime with the ICC at its centre would be an adequate tool to close the impunity gap. 20 years later, there is notable progress regarding implementing legislation, establishing competent national organs, and exercising territorial as well as extraterritorial jurisdiction. But on a wider perspective, many states have still not lived up to their primary duty to exercise criminal jurisdiction over those responsible for international crimes and some states have even taken steps to shield individuals from prosecution. On international level, the ICC continues to face limitations in terms of jurisdiction and resources and has not been seized with major situations of impunity, as for instance in Syria. Against this background, SLS 2018 will examine current efforts to strengthen the international criminal justice system within existing and through new institutions on international, regional and national level.



Luis Moreno Ocampo, Chris Hall, David Donat Cattin, and Otto Triffterer at SLS 2008

SLS will discuss **different generations of international courts and tribunals**: From the post World War II military tribunals to the ad hoc and hybrid tribunals of the 1990s and the ICC. In addition, we will cover latest developments such as the regional criminal chambers at the [African Court of Justice and Human Rights](#), the [Extraordinary African Chambers](#), the [Kosovo Specialist Chambers](#), and the [International, Impartial and Independent Mechanism on international crimes committed in the Syrian Arab Republic](#).

With multiple actors within a global system of international criminal justice, coordination becomes paramount. SLS 2018 will analyse concepts such as complementarity and cooperation and assess their value as structuring elements and their impact on delivering international criminal justice.

Efforts to **enhance effectiveness** will be a further emphasis at this year's SLS. On national level, we will have a look at the status of implementing legislation and national institutional building, as well as on initiatives to the strengthening of international cooperation for crimes under international law, such as the [draft Convention on Crimes Against Humanity](#) and the initiative for a Mutual Legal Assistance Treaty for Core Crimes. On international level, performance indicators and the institutional reform at the ICC as well as campaigns for self-restraint of the Security Council's veto powers in face of mass atrocities will be considered.

SLS 2018 will offer ample opportunity to debate **current developments** in the field of international criminal law, e.g. the [activation of the crime of aggression](#), the withdrawals of [Burundi](#) and [the Philippines](#) from the Rome Statute, the [situation in Afghanistan](#), and the Prosecutor's recent [Request for a Ruling on Jurisdiction under Article 19\(3\) of the Statute](#) with a view to crimes committed against the Rohingya. Irrelevance of official capacity and questions of [immunities continue to remain an issue](#), Court officials will give an update on the latest jurisprudence of the [ICC](#) and we will resume our project on [international criminal law in cinema](#).

The SLS 2018 faculty includes **HE Ms. Kimberly Prost**, Judge at the International Criminal Court (key-note speaker); **Dr. Philipp Ambach**, Chief of the Victims Participation and Reparations Section, Registry, ICC; **Mr. Gilbert Bitti**, Senior Legal Advisor to the Pre-Trial Division, ICC; **Ms. Eleni Chaitidou**, Legal Officer at the Pre-Trial and Trial Divisions, ICC; **Ms. Julie de Huits**, Deputy Head of the Belgian Central Authority for the Cooperation with the International Criminal Court and other international criminal jurisdictions; **Dr. David Donat Cattin**, Secretary-General, Parliamentarians for Global Action; Adjunct Assistant Professor of International Law, Center for Global Affairs, New York University; **Ms. Franziska Eckelmans**, Legal Counsel, Kosovo Specialist Chambers; **Prof. Benjamin Ferencz**, A leading Nuremberg Prosecutor with continuous efforts to enhance international criminal law and its enforcement (via video message); **Prof. Gerhard Hafner**, Emeritus Professor of International Law, University of Vienna; **Ms. Michelle Jarvis**, Deputy Head, International, Impartial and Independent Mechanism on Syria; **Prof. Claus Kress**, Professor of Criminal Law and International Law, Chair for German and International Criminal Law, Director of the Institute of International Peace and Security Law, University of Cologne, Germany; **Prof. Susan R. Lamb**, Visiting Professor, Faculdade Direito, Universidade NOVA de Lisboa, Lisbon, Portugal; **Prof. Suzannah Linton**, Distinguished Professor, International Law Department, Law School, Zhejiang Gongshang University, Hangzhou, China; **Ms. Angela Mudukuti**, International Criminal Justice Lawyer, Wayamo Foundation; **Dr. Astrid Reisinger Coracini**, Postdoctoral Researcher and Lecturer, Department of European, International and Comparative Law, University of Vienna; Director of the Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights Law.

The academic programme runs from *Monday 6 August through Tuesday 14 August, daily from 9.30 a.m. to 1 p.m. and 2.15 p.m. to 5.45 p.m.* with a free Saturday afternoon and Sunday. Sunday 5 August and Wednesday 15 August are our days of arrival and departure respectively. During these eight working days, *26 academic sessions* of 1,5 hrs are offered (equalling 52 academic contact hours in total). The course consists of lectures, discussions, workshops and case studies, allowing for discussion and interaction among lecturers and participants. It is held at the [Faculty of Law of the University of Salzburg](#), located at a 16th century residence in the centre of the old town.

Participants will obtain a certificate of attendance, but may also take an exam, for which the University of Salzburg allocates 4 credits according to the European Credit Transfer System.

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

The Guardian view on civilian deaths in war: be honest and investigate

The Guardian

Britain ought to shrink the credibility gap in accounting for the death of innocents. Otherwise we will continue to wage wars without a true understanding of the costs

In Kate Atkinson's dazzling 2015 novel, *A God in Ruins*, about war and the shadow it casts, there is an exchange between the main character, an RAF pilot who is involved in the terrible aerial



An RAF mechanic checks a plane before a mission over Iraq.
Photograph: Petros Karadjias/AFP/Getty Images

bombardment of Hamburg in 1943, and his sister, in which she probes how heavy the deaths of civilians weigh on his conscience. She asks: "The civilian population considered to be a legitimate target – innocent people. It doesn't make you feel ... uncomfortable?" His reply is loaded with Old Testament spite and vengeance. "We don't target civilians! Can you devise a war where no one is killed? We have to destroy their industry, their economy, if we're to win. Their housing, too, if necessary. I'm doing – we're doing – what's been asked of us to defend our country, to defend freedom. We're waging war against a deadly foe and we're risking our lives every time we fly." As the novel unfolds, history teaches the main character that Hamburg was no turning point, but rather a staging post in the violence that led to Hiroshima. Ultimately he is broken by this knowledge, a "god in ruins" to borrow Atkinson's resonant phrase.

Britain still fights, but thankfully not on the appalling scale of the world wars of the last century. Last week the defence secretary admitted for the first time in the four years of anti-Isis operations in Iraq and Syria that UK forces caused civilian harm. [Ministers said](#) a missile fired from a drone this March "unintentionally killed" a civilian in eastern Syria. The admission came a day after the [BBC reported](#) that British forces had likely caused civilian deaths "on several occasions" in the [tough and brutal battle](#) to take the Iraqi city of Mosul. While the Ministry of Defence's concession of a single civilian fatality is a welcome step towards greater accountability, it is also a tiny one. There is an [astonishing disparity](#) between official statistics and the findings of researchers like those at [Airwars](#), a not-for-profit organisation that tracks military action in combat zones, which estimates that 6,000 civilian


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

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

deaths have been caused by coalition attacks since operations began. This may be because the forces – US, French, British and Australian – investigate only those attacks they deem necessary. This is problematic because the military tends to emphasise the surgical nature of airstrikes or the “precision” with which they practise warfare in cities. This means, like the main character in Ms Atkinson’s novel, the armed forces appear to wage wars without a true understanding of the costs, only to discover later that civilians caught up in conflict tragically understand them all too well.

Coalition forces [are fighting](#) a brutal enemy that, unlike them, has no concerns about killing civilians. But western militaries have a moral responsibility to take extraordinary care that innocent lives are not lost. This is harder when nations like Britain are unable to confess to the scale of our own mistakes. [US experts say](#) such a lacuna raises serious concerns about compliance with the laws of war. Undercounting civilian casualties after airstrikes may affect the pre-strike assessment of expected civilian casualties. If allowed to continue unchallenged, military operations might fail to take adequate precautions to avoid non-combatant deaths or to ensure bombing raids are proportionate to the threat posed. These are live concerns: campaigners have won the right to [appeal against](#) a decision to allow UK arms sales to Saudi Arabia because they “might be used in the commission of a serious violation of international humanitarian law”. Britain ought to shrink the credibility gap in accounting for civilian casualties – and properly investigate claims of harm.

News May 2018

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

29 May

[Torture survivors from Syria file criminal complaint in Austria against senior officials in Assad government](#)

(ECCHR)

They survived torture and detention in Syria and fled to Europe, where they now hope to obtain justice. Austrian authorities should follow the example set in Germany, Sweden and France and initiate investigations into systematic torture under Syrian president Bashar al-Assad...

[Lithuania and Romania complicit in CIA torture - European court](#)

(BBC)

European judges have ruled that Lithuania and Romania violated the rights of two al-Qaeda terror suspects by allowing the CIA to torture them. The

US captured Abu Zubaydah and Abd al-Rahim al-Nashiri after the September 2001 attacks in the US and they are now at the Guantanamo Bay prison in Cuba...

[Calls for independent review after report shows 3 Canadians targeted in Syria and Iraq](#)

(Global News)

The Trudeau government is being urged to conduct an independent review into how Canadian citizens become military targets in conflict zones following a Global News report that revealed three Canadians were deliberately targeted by the coalition conducting airstrikes against the so-called Islamic State...

28 May

[War crimes court due to start probes in Central African Republic: U.N.](#)

(Reuters)

A special criminal court to try the worst crimes committed in the Central African Republic (CAR) is due to start its formal investigations next week,



FICJ

Forum for International Criminal Justice

the United Nations' deputy representative in the country said on Monday.

25 May

[Mostar Crimes Against Humanity Trial Opens in Bosnia](#)

(Balkan Transitional Justice)

The trial of the 11 former Croatian Defence Council fighters opened at the Bosnian state court in Sarajevo on Friday, with the defendants accused of detaining, persecuting and committing grave abuses against Bosniak civilians in Mostar...

[Kosovo Convicts Serb Ex-Policeman of War Crimes](#)

(Balkan Transitional Justice)

Mitrovica Basic Court on Friday sentenced former Serbian policeman Zoran Vukotic to six-and-a-half years in jail for war crimes against the ethnic Albanian civilian population in 1999. Vukotic was found guilty of torturing ethnic Albanian inmates at the Smerkonica prison in the Mitrovica region...

24 May

[France upholds landmark Rwandan genocide conviction](#)

(AFP)

France's highest court on Thursday upheld a landmark conviction against a former Rwandan intelligence agent for his role in the country's 1994 genocide. Pascal Simbikangwa, 58, was sentenced to 25 years in 2014 in a trial that marked a turning point in France's approach to genocide suspects living on its soil. The former presidential guard member had already lost an appeal against his conviction for crimes against humanity and genocide in 2016...

23 May

[Georgia accuses Russia of war crimes during 2008 conflict](#)

(The Guardian)

Georgia has accused Russia of war crimes, human rights violations and a "rampage" across its territory during the military conflict between the countries almost 10 years ago.

In closing evidence before the European court of human rights in Strasbourg on Wednesday, the Georgian government said Moscow was guilty of multiple violations during the fighting in August 2008...

[The Rohingya crisis bears all the hallmarks of a genocide](#)

(Economist)

Reports from parliamentary select committees are usually mild affairs. Often a consensus is forged out of competing party-political interests. Few committee members want to rock the boat too much. This makes the report on the Rohingya crisis out on May 22nd from Britain's International Development Committee even more striking. "Bangladesh, Burma and the Rohingya crisis" is as direct and hard-hitting as it gets. In the words of Stephen Twigg, the committee chairman, the report calls for "a decisive shift" in Britain's relations with Myanmar. It is a damning indictment on the Burmese government and Aung San Suu Kyi, the de facto leader of the country...

[Guatemala: ex-military officers convicted of crimes against humanity](#)

(The Guardian)

Four former high-ranking Guatemalan military officers once considered untouchable have been convicted of crimes against humanity. They were also found guilty of aggravated sexual abuse against a young activist, Emma Guadalupe Molina Theissen, one of a small number of civilians who escaped army custody during the country's 36-year civil war...

22 May

[Palestinians ask ICC to investigate alleged crimes by Israel](#)

(Associated Press)

Accusing Israel of systematic crimes, including apartheid in the occupied territories, Palestinians on Tuesday urged the International Criminal Court to open an investigation that could ultimately lead to charges against Israeli leaders. Israel immediately slammed the Palestinian move as "legally invalid." ...

[Myanmar Rohingya militants massacred Hindus, says Amnesty](#)

(BBC)

Rohingya Muslim militants in Myanmar killed dozens of Hindu civilians during attacks last August, according to an investigation by Amnesty International. The group called Arsa killed up to 99



FICJ

Forum for International Criminal Justice

Hindu civilians in one, or possibly two massacres, said the rights group. Arsa had denied involvement. The killings came in the first days of an uprising against Burmese forces, who are also accused of atrocities...

Statement by ICC Prosecutor, Mrs Fatou Bensouda, on the referral submitted by Palestine
(ICC Press Release)

... A referral or an article 12(3) declaration does not automatically lead to the opening of an investigation. Should I, however, ultimately determine that the situation referred warrants an investigation in accordance with the statutory criteria, as a result of this referral, the Statute does not require the Prosecutor to seek authorisation from the Pre-Trial Chamber of the Court in order to proceed with an investigation.

18 May

Gaza: UN to launch war crimes investigation into Israeli forces' shooting of protesters

(Independent)

The UN has voted to send an international war crimes probe to Gaza after the body's leading human rights official slammed Israel's reaction to protests along the border as "wholly disproportionate". Israeli firing into Hamas-ruled Gaza killed nearly 60 Palestinians at mass border protests on Monday...

Austria Holds Croatia Ruling Party Member for 'Nazi Salute'

(Balkan Transitional Justice)

Croatian daily newspaper *Slobodna Dalmacija* reported on Friday that Andjelko Bosancic, a member of the governing Croatian Democratic Union, HDZ, is being held in custody in Austria pending trial for doing a Nazi salute during the commemoration at Bleiburg field last weekend. Four other Croats and one Slovenian were also arrested last Saturday for breaching Austria's law against using Nazi and fascist symbols, a local court official was reported as saying.

17 May

"Looking for Justice": The Special Criminal Court, a New Opportunity for Victims in the Central African Republic

(Human Rights Watch report)

The establishment of the Special Criminal Court (SCC) in the Central African Republic is a significant, unprecedented initiative to deliver justice for victims of brutal crimes committed during conflicts there since 2003. The court, established by law in 2015, is integrated into the Central African Republic's domestic judicial system, but staffed by both international and Central African judges, prosecutors, and administrators...

Ghanaian and International Groups kick off campaign to prosecute Yahya Jammeh

(Africa Legal Aid)

A powerful campaign dubbed Jammeh2JusticeGhana has been launched in Accra, the Ghana capital, calling for prosecution of former Gambian leader, Yahya Jammeh, for the 2005 massacres of 44 innocent Ghanaian migrants in the Gambia, who were on their way to seek greener pastures in Europe and were allegedly mistaken for coup plotters by Jammeh's intelligence. Bringing Jammeh to trial in Ghana would be only a first step to ensure that the former Gambian strongman does not escape the wings of justice...

Like Uhuru Kenyatta before him, Saif Al-Islam Gaddafi sees a path to presidency despite ICC indictment

(Justice Hub)

Late last year, news emerged that Saif Al-Islam Gaddafi, the son of the former Libyan dictator Muammar Gaddafi, is planning to be a candidate in the upcoming Libyan presidential election. According to Basem al-Hashemi al-Soul, who spoke on Saif Gaddafi's behalf, "Saif al-Islam Gaddafi, the son of the former Libyan president, enjoys the support of major tribes in Libya so he can run for the upcoming presidential elections due in 2018."...

Poland stops 'Russian hybrid war groups'

(BBC)

Poland has arrested a Russian woman suspected of working with accomplices to foment tension with neighbouring Ukraine, Polish security officials say. Poland's internal security agency, the ABW, said "Yekaterina C" would be expelled soon. Four other people are now barred from entering Poland. ABW spokesman Stanislaw Zaryn said the agency had "neutralised" two "Russian hybrid war networks" targeting Poland...

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

16 May

[From memory to justice: addressing sexual violence in Chile 40 years on](#)

(IntLawGrrls)

...However, dealing with the past is complex, and a gap remains between memory processes and justice efforts. To date, there have been no convictions for sexual violence in human rights trials in Chile. The [2004 Valech truth commission report](#) marked the first public acknowledgement that the military regime routinely used sexual violence against political opponents in state-run detention facilities...

[Syria: UN-backed watchdog says chemical weapon 'likely used' in February attack](#)

(UN News)

Deadly chlorine gas was likely used in an attack that took place in a Syrian town in rebel-held Idlib last February, said the United Nations-backed chemical weapons watchdog on Wednesday. The report, released Tuesday by the fact-finding mission of the Organisation for the Prohibition of Chemical Weapons (OPCW), concluded that "chlorine, released from cylinders through mechanical impact, was likely used as a chemical weapon on 4 February 2018 in the Al Talil neighbourhood of Saraqib". The report said that their finding was based on the presence of two cylinders, which were determined to have containing the banned gas, together with samples that showed chlorine was unusually-present in the local environment.

[Collectivizing Threat: An Analysis of Israel's Legal Claims for Resort to Force on the Gaza Border](#)

(Just Security)

...The Government's argument comprises several novel claims. In terms of facts, it argues, the border protests are part of the armed conflict between Israel and Hamas, because they display a high level of violence and are meant to further Hamas's operational interests. Therefore, it claims, the applicable legal regime governing the resort to force, in this case, is the law of armed conflict (LOAC)...

15 May

[ICC chief prosecutor may investigate Gaza deaths](#)

(Israel National News)

The chief prosecutor of the International Criminal Court vowed Tuesday that she was watching closely the unrest in Gaza and would "take any action warranted" to prosecute crimes. "My staff is vigilantly following developments on the ground and recording any alleged crime that could fall within" the tribunal's jurisdiction, Fatou Bensouda warned in a statement to AFP...

14 May

[France tells Israel to show restraint, disapproves of U.S. Embassy move](#)

(Reuters)

France's foreign minister called on Israeli authorities to exercise restraint after more than 40 Palestinians were killed on Monday and said the U.S. decision to move its embassy to Jerusalem flouted international law...

10 May

[The Georgian Experience: A Story of How the ICC is Failing Victims in its First Case Outside Africa](#)

(OSJI)

...The majority of victims that we interacted with have not heard about the ICC investigation. This is largely because of the court's failure to provide outreach activities throughout the last two years. Furthermore, there appears to be no involvement from the Trust Fund for Victims, which could help make the process more meaningful to those harmed in the conflict. Georgian civil society continues to be the only ones that have visited the communities since the opening of the investigation...

[Kosovo's attempt to help wartime rape survivors reopens old wounds](#)

(The Christian Science Monitor)

During the 1998-99 conflict in Kosovo, Serbian forces used sexual violence as a weapon of war, raping thousands of people. After the territory unilaterally declared independence from Serbia, rape survivors were invisible. That began to change this year as a 2014 law, giving war-victim status to survivors of conflict-related sexual violence, finally came into effect. For the first time, victims of wartime rape are entitled to compensation and acknowledgment for their suffering, a deeply meaningful victory for the survivors and activists

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

who fought for years for recognition and respect. But the long-awaited success is also marred by problems...

9 May

[Liberians Pressure Government, Legislature for Establishment of War Crime Court](#)

(Front Page Africa)

A segment of the Liberian society is getting impatient with the utmost disregard for justice for victims of the country's brutal civil war. That group of people has therefore submitted a petition to their Legislature for the establishment of a war and economic crimes court...

[Libyans deserve justice, as war crime suspects remain at large: ICC Prosecutor](#)

(UN News)

Despite an International Criminal Court arrest warrant, a Libyan war crimes suspect remains at large and could have committed further murders, the ICC Prosecutor, Fatou Bensouda, told the Security Council on Wednesday...

[Kosovo, EU Mull New Rule-of-Law Mission](#)

(Balkan Transitional Justice)

As EULEX's ten-year mandate comes to an end in mid-June, Kosovo's Ministry of Justice told BIRN that instead of shutting down completely, the Pristina authorities want the EU rule-of-law mission to change its mandate and designation and stay on. The Ministry of Justice said it foresaw a "monitoring, mentoring and advisory role" for the redesignated EU mission...

[Time to Dust Off the War Crimes Act? – for an American ex-soldier now in command of UAE forces](#)

(Just Security)

Former members of the U.S. military are present in armed conflicts across the globe. Working for private military contractors, they are typically tasked with training and advising foreign armies. But a BuzzFeed article published this week profiles a former U.S. Army lieutenant colonel who has reportedly taken on a commanding role within the United Arab Emirates (UAE) military. American citizen Stephen Toumajan, as Commander of the UAE's Joint Aviation Command, is responsible for "combat readiness and execution" of all UAE

aviation missions. And as Just Security readers well know, the UAE is part of the Saudi-led coalition that has been accused of serious international law violations (including war crimes) for indiscriminate and disproportionate airstrikes in Yemen, arbitrary detention, torture, enforced disappearances, the imposition of a blockade, and closure of Sana'a International Airport...

8 May

[With Unspeakable Crimes All Around, International Criminal Justice Needs to Think Outside the Box](#)

(The Progressive)

Over the past twenty-five years, there has been remarkable headway in bringing to justice people accused of mass slaughter, rape as a weapon of war, and crimes against humanity...But international justice faces immense challenges today, especially with an alarming increase in international crimes over the past five years, especially in countries that haven't joined the ICC. Our modern international system of accountability was created following the end of the Cold War, when some were declaring the triumph of democracy and market capitalism—"the end of history"—and, as then President George H.W. Bush pronounced, a "new world order."...

[Expelling EU citizen war criminals: no sympathy from the ECJ](#)

(EU Law Analysis)

If an EU citizen (or his or her family member) has been excluded from being a refugee, in what circumstances can he or she be expelled from a Member State? The ECJ clarified this issue in its [K and HF](#) judgment last week: its first ruling that touches on the relationship between EU (and international) refugee law and EU free movement law.

[Colombia truth commission starts work to give war victims answers](#)

(Reuters)

The commission meant to expose the truth behind killings, kidnappings, sexual violence and other crimes committed during Colombia's five decades of war officially began work on Tuesday, in a bid to help victims heal from the trauma of the conflict. The 11-member truth commission, part of a 2016



FICJ

Forum for International Criminal Justice

peace deal between the government and Revolutionary Armed Forces of Colombia (FARC) rebels, will operate for three years and convene hearings on select incidents of violence...

7 May

[Romania Arrests Serb For Alleged Genocide in Croatia](#)

(Balkan Transitional Justice)

Stevan Budac, 50, was arrested by Romanian border police at the Danube harbour customs point in the eastern city of Galati when he presented his passport on Saturday. According to the Romanian police, Budac was held on a European warrant based on a court ruling from Osijek in Croatia which convicted him of committing genocide and “terrorist acts” against Croats and Hungarians in the village of Zmajevac in 1991-95, while he was part of an organised paramilitary group. The crimes in Zmajevac were committed in late 1991 by Serbian paramilitaries as Croatian Serbs rebelled against the state authorities...

4 May

[Yemeni rights group sues Saudi crown prince for crimes against humanity](#)

(France24)

A rights group filed a lawsuit against Saudi Crown Prince Mohammed bin Salman during his visit to France on Tuesday, accusing him of complicity in torture and inhumane treatment in Yemen, lawyers said. The complaint on behalf of Taha Hussein Mohamed, director of the Legal Center for Rights and Development (LCRD), said the prince who is Saudi Arabia’s defence minister was responsible for attacks that hit civilians in Yemen. The case was filed in a Paris court as pressure grows on President Emmanuel Macron to curb arms sales to Saudi Arabia and the United Arab Emirates, which spearhead a coalition fighting Iran-aligned Houthi rebels who control most of northern Yemen and the capital Sanaa...

[Islamic State assassin: How I killed more than 100 people](#)

(BBC)

Syria has been at war for seven long, deadly years. President Bashar al-Assad’s government is fighting both rebel groups and the jihadists of Islamic State.

The northern city of Raqqa has been a key battleground for many factions in the conflict. This is the story of how one peaceful protester there got sucked into the spiralling bloodshed, and became a killer...

3 May

[Making the Case for Protecting Cultural Heritage under the Alien Tort Statute](#)

(IntLawGrrls)

The intentional attacking or destruction of religious property—a form of cultural heritage—is as much a human rights violation as the physical destruction of a people. Nonetheless, this form of violence is on the rise throughout the world, occurring both in times of armed conflict and peace, systematically and sporadically...

2 May

[Gambia to domesticate all international crimes recognised by ICC](#)

(The Point)

The permanent secretary at the Office of the Vice President has spoken about government’s resolve as part of its transitional justice programme to domesticate all international crimes recognised by the ICC, so as to enable the country’s court deal with such atrocities at the domestic level...

[Ten armed groups share their views on education in armed conflict](#)

(Humanitarian Law & Policy)

It is well known that armed non-State actors (ANSAs) often pose a threat to education. This includes attacks against educational facilities and staff, as well as military use of schools. ANSAs—along with States—have, for instance, been found responsible for the military use of schools in 21 out of 26 countries (p. 33). There is, however, little awareness and data regarding the multiple roles ANSAs may play with respect to education in armed conflicts...

[Why We Must Reckon with ISIS’s Clear Genocide of Shia Muslims](#)

(IntLawGrrls)

ISIS’s near extermination of Iraq’s Yazidis has gained deserved notoriety, comprising a well-evidenced genocide. ISIS crimes against Shia Muslims, however, not received the same

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

attention. There are pragmatic explanations for this gap in scholarship—ISIS attacks on Shias have largely taken place in Iraq, where monitoring groups do not have the same autonomy and access as in Syria. Moreover, Shias are the governing majority in Iraq, mitigating concerns for the group's survival...

26 April

'The Accountant of Auschwitz' doc looks at prosecution of aging Nazi guards

The new documentary "The Accountant of Auschwitz" explores Groening's case — looking at the complicity of him and other lower-level SS guards, and the debates surrounding their prosecution. "The reason why he was on trial is because they could prove that he was on the ramp

where the selections took place: this person goes to the gas chamber, this person goes to work," said Matthew Shoychet, the doc's Toronto-based director...

Yemeni rights group sues Saudi crown prince for crimes against humanity

(France24)

A rights group filed a lawsuit against Saudi Crown Prince Mohammed bin Salman during his visit to France on Tuesday, accusing him of complicity in torture and inhumane treatment in Yemen, lawyers said. The complaint on behalf of Taha Hussein Mohamed, director of the Legal Center for Rights and Development (LCRD), said the prince who is Saudi Arabia's defence minister was responsible for attacks that hit civilians in Yemen...

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)