

Update on Domestic Accountability for International Crimes

JUNE 2013

SUMMARIES of decisions related to international justice from domestic courts from late 2011 to May 2013. Prepared by lawyers at the Open Society Justice Initiative to bring these decisions to the widest possible audience.

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Developments related to the Rwandan Genocide

Gacaca Courts finish up

In June 2012, Rwanda's gacaca courts finished their work, after 10 years of trying those accused of involvement in the 1994 genocide.

Background: After the 1994 genocide, Rwanda's legal system was left in ruins. The International Criminal Tribunal for Rwanda (ICTR) was set up to try the ringleaders of the genocide, but it was not mandated or equipped to try most of the hundreds of thousands of people accused of involvement in the killings, leading to an enormous backlog of cases in Rwanda. Reportedly, up to 10,000 people died in prison before they could be brought to justice.

Gacaca: The *gacaca* were established in 2001 to speed up domestic prosecutions. They are community courts that met once a week in villages throughout Rwanda. Previously, *gacaca* had only been used to settle local disputes. One of the main aims of the *gacaca* established after the genocide was to achieve truth, justice and reconciliation among Rwandans.

Local and international human rights groups raised concerns because judges elected to the *gacaca* lacked legal qualifications and defendants did not have access to qualified lawyers.

About two million people went through the *gacaca* system, with about 65% being convicted. Some of those found guilty have been sentenced to long jail sentences, with hard labor. Others have been released and sent back to help rebuild communities – where they live side-by-side with the people they were accused of trying to kill.

In June 2012, the *gacaca* closed – reportedly because the Rwandan government felt that the backlog of cases was completed. Cases that have not been settled by the *gacaca* courts will reportedly be sent to ordinary courts in Rwanda.

Further Information: [BBC, Rwanda 'gacaca' genocide courts finish up, 18 June 2012](#); [Refworld, Rwanda: Whether the gacaca courts are still operational; if not, the new mechanisms for solving issues that were under the jurisdiction of the gacaca courts, 4 October 2012](#)

Belgium: Thadée Kwitonda

Uganda deports accused to Belgium where he will be tried for genocide

Background: Thadée Kwitonda is alleged to have participated and organized Tutsi massacres during the genocide in early April 1994. After living as refugee in the Democratic Republic of the Congo, he moved to Brussels where he attained Belgian nationality in 2000. Kwitonda served as an ICTR defense investigator from June 1999 – July 2001, where the Office of the Prosecutor investigated his role in the genocide.

Domestic litigation: A Belgian judge opened a preliminary investigation against him in 2006 and an international arrest warrant was issued on 4 October 2011. Kwitonda was arrested in Kampala, Uganda after the expiration of his residence permit on 5 July 2012. Thereafter, Kwitonda was deported to Brussels after his arrest, where his case is continuing to be investigated.

Further Information: [Trial Watch, Trial Watch: Thadée Kwitonda](#)

Canada: Léon Mugesera

Canada deports accused to Rwanda for immigration violation where he is tried for genocide

Background: Léon Mugesera was a political advisor to the National Republican Movement for Development and Democracy, a party that advocated for “Hutu Power”, and a Rwanda free of Tutsi. On 22 November 1992, while he was Vice-President of the MRND, Mugesera gave a speech in which he advocated for the Tutsi to be forcefully returned to Ethiopia, the country of Tutsi origin, according to extremist Hutu propaganda. Mugesera is allegedly one of the senior officials responsible for the planning of the genocide. Mugesera fled to Canada where he was granted permanent residence in 1993

Domestic litigation: Canadian authorities discovered his speech in 1995 and initiated deportation proceedings on the grounds that he had incited murder, committed crimes against humanity and genocide. He appealed his deportation order and it was set aside by the Federal Court of Appeal, who held the allegations to be unfounded, despite the fact that the lower Canadian Court had upheld the crimes against humanity charge. On 28 June 2005, the Canadian Supreme Court had ultimately ruled that there were reasonable grounds to believe that Mugesera committed crimes against humanity and that deportation was valid because he was inadmissible to Canada. Mugesera stayed in Canada authorities determined whether he faced safety risks upon his return. In 2007, Mugesera requested to be tried in Canada, arguing that he would not be granted a fair trial and that he would be killed if he was deported pursuant Rwanda’s arrest warrant and that 22 of his family members had been killed already. On 6 December 2011, Mugesera received notification of his extradition and tried to appeal it in Federal Court, but failed. Mugesera left to Rwanda on 2 February 2012, and his trial before the Kigali High Court began after several postponements on 17 December 2012. On 15 February 2013, Mugasera pleaded not guilty to genocide, planning and preparing genocide, conspiracy in the crime of genocide, torture as crime against humanity and incitement of hatred.

Further Information: [Trial Watch](#), [Trial Watch: Leon Mugesara](#)

France: Pascal Simbikangwa

Accused may face trial in France for complicity in genocide and crimes against humanity.

Background: Pascal Simbikangwa was an intelligence officer under Rwanda’s Hutu government and a captain in the Rwandan army. He is suspected of organizing Interahamwe militia and preparing lists of the Tutsi to be killed during the genocide. In 2008, he was arrested on the French island of Mayotte, and has been detained since.

Domestic litigation: France has repeatedly refused to extradite genocide suspects to Rwanda, fearing they would be denied a fair trial, but it has sent some to Tanzania to be tried at the ICTR. In 2010, France established a new unit to investigate cases of genocide and crimes against humanity involving suspects detained in France.

French prosecutors seek to charge Simbikangwa with complicity in genocide and crimes against humanity. They bring the case on behalf of an association of civil plaintiffs, the Collectif des Parties Civiles pour le Rwanda, based in Reims, France. The case is reportedly set to go to trial

later in 2013 or in early 2014. It would be France's first attempt to prosecute a case related to the Rwandan genocide.

Further Information: Bloomberg, [France Plans to Hold First Trial on Rwandan Genocide](#), 29 January 2013

France: Claude Muhayimana

Accused may face extradition to Rwanda if French courts find trial guarantees would be in place

Background: Claude Muayima is a Rwandan currently residing in Rouen, France, where he has been residing for the last twelve years. During the Rwandan genocide, Muhayimana, a part time driver, was allegedly driving soldiers to take part in executing Tutsis. He is also alleged to have been involved in a church and stadium massacre in west Rwanda, both of which resulting in the death of thousands of victims. There are eye witnesses who can attest to his involvement.

Domestic litigation: On 13 December 2011, an international arrest warrant was issued by Rwandan authorities for Muhayimana's participation, and they have officially requested France to extradite him. The Chamber of the Rouen Court of Appeal issued a favorable opinion concerning the extradition request, stating that the Rwandan judicial authorities are competent to ensure that Muhayimana with due process in conformity with the "French conception of international public policy". Despite his French citizenship, Muhayimana could still be extradited given that he was a Rwandan citizen at the time of the crimes. Muhayimana appealed the decision, denying his involvement and arguing that we would not have a fair trial guarantee in Rwanda, indicating that he preferred a French Court of the ICTR. On 11 July 2012, the French High Court of Appeal overruled the lower Court, and judged the decision as lacking a legal basis because the Court had not verified if Muhayimana would benefit from the proper guarantees to a fair trial. The extradition request has been sent back to the Paris Appeals Court for further review.

Further Information: Trial Watch, [Trial Watch: Claude Muhayimana](#)

France: Innocent Musabyimana

Accused faces extradition to Rwanda for committing genocide and crimes against humanity.

Background: In November 2012, the Rwandan government issued an arrest warrant for Innocent Musabyimana, a Rwandan suspected of genocide and crimes against humanity related to the 1994 genocide.

Domestic litigation: On 11 January 2013, Musabyimana was arrested in the Dijon area. On 30 January 2013, a French court granted Rwanda's extradition request. Musabyimana has the right to appeal, which would suspend the extradition order. If extradited, Musabyimana would be the first Rwandan that France has extradited to Rwanda to face charges related to the 1994 genocide. Previous court decisions granting Rwandan extradition requests have been overturned on appeal by France's highest court, the Cour de Cassation.

Further Information: UPI, [France arrests Rwandan on Genocide Warrant](#), 24 January 2013; Hirondele News, [French court grants Rwandan extradition request](#), 30 January 2013

Netherlands: Yvonne Basebya

Accused sentenced to prison for inciting genocide.

Background: Yvonne Basebya, the wife of a former Rwandan government minister (Augustin Basebya), allegedly led meetings in the Rwandan capital, Kigali, of a radical Hutu party and sang a song that called for the murder of all Tutsis. Basebya emigrated to the Netherlands in 1998 and gained citizenship in 2004, before her crimes were known.

Domestic litigation: Dutch courts can try Netherlands citizens for genocide, or foreign suspects if the genocide was committed after October 1970, following a recently changed law to broaden prosecution possibilities for the most serious of all crimes. On 1 March 2013, the Hague district court convicted Basebya of inciting genocide, and sentenced her to six years and eight months in prison – the maximum available prison term at the time of the crimes. It is the first conviction of a Dutch citizen for the crime. Basebya was acquitted of the more serious crimes of genocide and conspiracy to commit genocide, on the grounds that there was no evidence that she helped compile lists of people to be killed, or that she participated in the killings. The Prosecution has appealed the acquittals.

Further Information: *New Times*, [Dutch court hands Basebya six years for Genocide](#), 2 March 2013; *Modern Ghana*, [Dutch Prosecutors Appeal Rwandan Genocide Sentence](#), 13 March 2013

Norway: Sadi Bugingo

Accused sentenced to prison for complicity in Rwandan genocide.

Background: Sadi Bugingo was allegedly responsible for supervising killings and coordinating attacks by Interahamwe militia that targeted Tutsis. He arrived in Norway in 2001, and was granted a residence permit in 2005. He worked in Bergen as a cleaner until he was arrested in 2011.

Domestic litigation: Bugingo was charged with supervising killings and coordinating attacks by Interahamwe militia that targeted Tutsis. He pled not guilty. His trial was held in Oslo, and began in September 2012. On 13 February 2013, he was found guilty of complicity in the premeditated killings of at least 2,000 people belonging mainly to the Tutsi ethnic group. Bugingo was sentenced to 21 years in prison – the maximum he could get from a Norwegian court. Bugingo has appealed. This trial was the first genocide case in a Norwegian court. Bugingo denied the charges, and has said he will appeal.

Further Information: *New York Times*, [Norway: Rwandan Convicted for His Role in 1994 Genocide](#), 14 February 2013; *AllAfrica*, *Rwanda*: [Norway Hands Maximum Sentence to Sadi Bugino](#), 14 February 2013

Sweden: Stanislas Mbanenande

Sweden to try genocide for the first time with parts to be held in Rwanda

Background: Stanislas Mbanenande was a former university lecturer in Kibuye, Rwanda, where he functioned as an informal leader for young Hutus militias in 1994. Mbanenande is accused of having organized and participated in massacres, attempted killings and enforced disappearances between 6 April and 30 June 1994 with the intent to eradicate the Tutsi ethnic group. After the genocide, he fled to Sweden and was granted Swedish citizenship.

Domestic litigation: Mbanenande was sentenced to life imprisonment in absentia by a Gacaca court in 2009, and indicted by the Stockholm District Court on 5 November 2012 for genocide and other crimes including murder, attempted murder and abduction. He pleaded not guilty. The Swedish government held that because he is a Swedish citizen, the trial will be held in Sweden, but questioning of victims and witnesses will be held on Kigali Supreme Court premises while the Swedish district court monitors the examinations through video link. This is the first time for a Swedish court to hear a genocide case.

Further Information: [Trial Watch](#), [Trial Watch: Stanislas Mbanenande](#)

Switzerland: Gaspard Ruhumuliza

Switzerland refuses to extradite alleged war criminal due to “lack of evidence”

Background: Gaspard Ruhumuliza was the Minister of Environment and Tourism during the Rwandan genocide, and is believed by Rwandan authorities to have participated in the genocide. He resigned from his position in 1994 and applied for asylum in Switzerland, where he was rejected in 1997. Ruhumuliza is accused of arming the Interhamwe militia, spreading hatred against the Tutsis, and participating in killings and rapes.

Domestic litigation: Swiss authorities opened an investigation against Ruhumuliza for his alleged role in war crimes in Rwanda but closed the case on 20 May 2005. A warrant was issued for crimes of genocide, conspiracy to commit genocide in joint criminal enterprise, and complicity in genocide and crimes against humanity. On 29 June 2009, the Swiss officially refused to extradite Ruhumuliza because they did not feel that Ruhumuliza’s human rights would be guaranteed, citing the standard set forth by European Court of Human Rights for extradition. On 29 September 2009, Rwanda’s Prosecutor General requested the Swiss authorities to transfer Ruhumuliza. A Swiss judge dismissed the charge in Swiss proceedings for lack of evidence on 2 October 2012.

Further Information: [Trial Watch](#), [Trial Watch: Gaspard Ruhumuliza](#)

United States: Beatrice Munyenyezi

Rwandan woman found guilty of making false statements about her role in the Rwandan genocide, and stripped of US citizenship; she faces deportation.

Background: Beatrice Munyenyezi allegedly checked identifications at a roadblock designed to identify Tutsis to be killed, and was a member or associate of an extremist Hutu political party. She moved to the US in 1998.

Munyenyezi's husband and his mother were convicted by the ICTR and sentenced to life in prison in June 2011 for genocide, crimes against humanity and war crimes. They were deemed to be high-ranking members of the Hutu militia party that orchestrated savage attacks on members of the rival Tutsis. The mother was a cabinet minister in the Hutu-dominated Rwandan government when the genocide began in early April 1994.

Domestic litigation: Munyenyezi was arrested following her indictment in 2010. She was tried in a New Hampshire federal court for: (i) denying having any role in the genocide or affiliation with any political party at the time; and (ii) entering the US unlawfully by making the same false statements on her refugee and green card applications, making her ineligible for citizenship.

Munyenyezi was first tried in 2012, but it ended in a hung jury and she was released to home confinement. Following a retrial, the jury convicted her on 21 February 2013 of two counts of masking her role in the genocide to gain refugee status and citizenship. The judge stripped her of her US citizenship, and she is now in jail. She will be sentenced in June 2013, and faces up to ten years in prison and deportation to Rwanda – which her lawyer says would be the equivalent of a death sentence. Her lawyer plans to appeal her conviction.

The same team of prosecutors in Munyenyezi's case also secured a conviction against her sister last summer in Boston, for fraudulently obtaining a visa to enter the US by lying about her own Hutu political party affiliations, and for perjury and obstruction of justice related to her immigration court testimony. She was sentenced to 21 months in federal prison in Connecticut.

Further Information: [The Guardian, Rwandan woman stripped of US citizenship after lying about genocide, 22 February 2013](#)

Developments related to Hissene Habré

Background: Hissene Habré was president of Chad from 1982-1990. He is allegedly responsible for thousands of political deaths and for systematic torture committed during his regime. In 1990, he fled to Senegal. Despite a 1992 Truth Commission in Chad accusing Habré of being responsible for widespread torture and the death of 40,000 people during his eight-year rule, Habré has not yet been tried for these crimes.

Habré was indicted in Senegal in 2000, but Senegalese courts ruled that he could not be tried. With the support of Human Rights Watch, Habré's victims then filed complaints in Belgium under its universal jurisdiction law, which allows domestic prosecution of human rights offences committed anywhere in the world. In 2005, Belgium charged Habré with crimes against humanity and torture. Senegal refused four requests to extradite Habré to Belgium.

In November 2010, the court of the Economic Community Of West African States ruled that Habré must be tried before a "special ad hoc procedure of an international character." In January 2011, the African Union (AU) responded by proposing a plan for a special court within the Senegalese justice system with some judges appointed by the AU. Senegal rejected the plan, but later agreed in principle to the plan in March 2011. However, in May 2011 Senegal withdrew from negotiations about the creation of the special court.

In 2011, Habré was sentenced to death in Chad in absentia. Senegal did not repatriate him, following concerns raised by the UN High Commissioner for Human Rights about the absence of guarantees that Habré would be free from torture and receive a fair trial.

Recently, there has been new progress in regard to trying Habré in Senegal.

International Court of Justice: *Belgium v. Senegal*

ICJ rules that Senegal must begin proceedings to try Habré "without delay", or extradited to Belgium to face trial there.

Background: Belgium brought claims against Senegal before the ICJ in February 2009, on behalf of Chadian citizens and Belgian citizens of Chadian origin who claimed to be victims of Habré's regime. Belgium charged that Senegal had failed to meet its obligations under the UN Convention against Torture to bring criminal proceedings against Habré and, failing that, to extradite him to Belgium.

Decision: On 20 July 2012, by 14 votes to two, the ICJ found that Senegal had failed to meet its obligations under the Torture Convention. It found that Senegal failed to immediately initiate a preliminary inquiry as soon as its competent authorities had reason to suspect that Habré – who was in their territory – was responsible for acts of torture, in violation of Article 6(2). The ICJ also found that Senegal's failure to submit Habré's case to its competent authorities for the purpose of prosecution had breached its obligation under Article 7(1) of the Torture Convention. The ICJ ordered Senegal to bring Habré to justice "without further delay", either by prosecuting him in Senegal or extraditing him to Belgium.

Link to [decision](#) (PDF)

Further Information: BBC, [Hissene Habre: ICJ rules Senegal must try ex-Chad leader immediately](#), 20 July 2012

Creation of the Extraordinary African Chambers (EAC)

Senegal and the AU establish a special court to try Habré.

On 24 July 2012, Senegal and the African Union (AU) agreed on a plan to create the EAC to try Habré within the Senegalese judicial system. Senegal adopted a law in December 2012 allowing it to create the special tribunal.

The EAC opened in early February 2013. Its statute calls for the creation of chambers to handle investigations, trials and appeals. The trial and appeals chambers will each consist of two Senegalese judges and one non-Senegalese judge from an AU member State, who will preside over the proceedings.

The chambers will prosecute “the person or persons most responsible” for international crimes committed in Chad between 7 June 1982, and 1 December 1990. It is possible that Habré will be the only person tried.

The pre-trial phase, including an investigation by four Senegalese magistrates, is expected to last 15 months. It will potentially be followed by a trial in 2014.

Link to [EAC Statute](#) (French)

Further Information: Human Rights Watch, [Senegal: Hissène Habré Court Opens](#), 8 February 2013

Developments in Bangladesh: International Crimes Tribunal

Background: Bangladesh's International Crimes Tribunal (ICT) was established in 2009 to investigate and prosecute atrocities committed in 1971 by the Pakistan Army and their local collaborators during the Bangladesh Liberation War. The first indictments were issued in 2010. By 2012, nine leaders of Jamaat-e-Islami, the largest Islamist party in the nation, and two of the Bangladesh National Party (BNP), had been indicted.

Jamaat has been accused of opposing the independence war and helping the Pakistani army during the war in what was then East Pakistan. Jamaat denies this. It has threatened to paralyze the country in protest, saying that the ICT is politically biased. Jamaat demands that the government dissolve the tribunal and release all of its leaders facing trial.

Critics have raised concerns that the ICT is being used against members of the BNP and Jamaat, which are two of Bangladesh's biggest opposition parties.

Abul Kalam Azad

Former Jamaat leader sentenced to death for crimes against humanity.

Azad is a former senior member of Jamaat. When the ICT charged him last April, Azad fled to Pakistan. He was expelled from Jamaat.

The ICT tried him in absentia. Tribunal officials said his family did not co-operate with his court-appointed defense lawyer, and they did not provide any witnesses to testify on his behalf. As a result, the case was concluded fairly quickly.

On 21 January 2013, Azad was convicted of crimes against humanity committed during the 1971 war, including murder, abduction, and looting. Azad's conviction was the ICT's first verdict. That same day, he was sentenced to death. Azad remains at large.

Further Information: BBC, [Bangladesh cleric Abul Kalam Azad sentenced to die for war crimes](#), 21 January 2013; The Guardian, [Bangladesh cleric sentenced to death for crimes against humanity](#), 21 January 2013

Abdul Qader Mollah

Senior Jamaat leader sentenced to life in prison for murder, rape, and other charges.

Mollah is assistant secretary general of Jamaat. On 5 February 2013, the ICT sentenced Mollah to life in prison for charges including murder, rape, torture and arson during the 1971 war. The prosecution had asked for the death penalty. Mollah's lawyer said he will appeal the verdict.

Jamaat officials have denounced the verdict. Following his sentencing, Jamaat activists clashed with police in Dhaka and elsewhere. In Chittagong, police killed one man and injured dozens of others when they opened fire on Jamaat supporters. On the opposing side, war veterans have protested Mollah's sentence, demanding that he be executed.

Further Information: Al Jazeera, [Bangladesh Politician Jailed for War Crimes](#), 5 February 2013; BBC, Bangladesh: [Abdul Kader Mullah gets life sentence for war crimes](#), 5 February, 2013

Delwar Hossain Sayedee

Jamaat leader sentenced to death for mass killings, rape and other atrocities.

Sayedee was a teacher at an Islamic school during the war. He is now the president of Jamaat. Prosecutors said he was directly involved in the deaths of three people, guided Pakistani soldiers to kill dozens of others, and forced 150 Hindus to convert to Islam.

On 28 February 2013, the ICT found Sayedee guilty on eight of twenty counts involving mass killings, rape, and other atrocities committed during the 1971 independence war. He is the most senior Jamaat leader convicted so far. The ICT sentenced him to death. Lawyers for Sayedee boycotted the announcement of the verdict, which they said was politically motivated. They intend to appeal the verdict.

In protest of the trial and verdict, Jamaat organized a nationwide strike, and announced that more would follow. Protesters reportedly clashed with security forces in Rangpur district (where two were killed) and Sirajganj district (where another two were killed). Police confirmed eight more deaths in clashes across the country.

Further Information: [Huffington Post, Delwar Hossain Sayedee, Bangladesh Islamic Party Leader, Sentenced to Death Over War Crimes, 28 February 2013](#); [BBC, Bangladesh war crimes trial: Delwar Hossain Sayeedi to die, 28 February 2013](#)

Developments in Africa

Ivory Coast

Charges brought against Gbagbo allies for their role in the 2010-2011 post-election violence.

Background: From November 2010 to May 2011, supporters of opposing political leaders in Côte d'Ivoire besieged one another along political, ethnic, and religious lines in the aftermath of the presidential election between then incumbent Laurent Gbagbo and opposition leader Alassane Ouattara. Even though the Independent Electoral Commission declared that Ouattara had won the presidential election, Gbagbo refused to step down. It is estimated that over 3,000 civilians were killed during the crisis. The standoff ended in April 2011 when Ouattara's forces overran Gbagbo's stronghold and captured him.

Gbagbo currently faces charges at the International Criminal Court, on the grounds that he and members of his inner circle adopted a policy to attack Ouattara, his political group, and his civilian supporters. The ICC has also charged Simone Gbagbo, Laurent Gbagbo's wife.

In June 2011, Ivory Coast issued arrest warrants for 24 people in connection with the violence. Recently, a few of these people have been arrested.

Cases

In June 2012, Moise Lida Kouassi, a key Gbagbo ally, was arrested in Togo and extradited home. Previously defense minister, he has not held a formal post in the past few years but he was part of Gbagbo's team. Kouassi was the first Gbagbo ally to be arrested in connection with the election violence. A warrant for his arrest had been issued in June 2011.

Further Information: [BBC, Ivory Coast: Ex-President Gbagbo ally Kous, 7 June 2012](#)

In January 2013, Charles Ble Goude, Ivory Coast's former youth minister and Gbagbo ally, was charged with war crimes, murder and theft of public funds. He was extradited from Ghana to Ivory Coast. Ble Goude was the first Gbagbo ally who fled to Ghana to be returned by authorities in that country.

Further Information: [Bloomberg, Ivory Coast Charges Charles Ble Goude With War Crimes, Murder, 22 January 2013](#)

South Africa

First ruling setting out South Africa's obligation to prosecute ICC crimes under universal jurisdiction.

Background: In 2002, South Africa passed the "Implementation of the Rome Statute of the International Criminal Court Act", and in 2003 former President Thabo Mbeki created a specialized unit to manage and direct investigations and prosecutions under the Act. The Act

provides universal jurisdiction to South African courts in respect of ICC crimes, and allows them to prosecute the perpetrator if he or she is later present in South Africa.

In March 2008, the Southern Africa Litigation Centre (SALC) presented a memorandum and docket of information and evidence to the National Prosecuting Authority (NPA). SALC sought for the NPA to investigate and prosecute in 17 Zimbabwean suspects for torture as a crime against humanity committed in connection with a raid on an opposition headquarters in Zimbabwe in March 2007. In June 2009, the NPA informed SALC that the docket had been referred to the South African Police Service (SAPS), and that SAPS did not intend to investigate the matter due to insufficiency of the evidence contained in the docket, problems in obtaining further evidence from Zimbabwe, concerns over whether South Africa's authorities had jurisdiction in respect of the investigation, and the fear of undermining Zimbabwe's sovereignty.

In December 2009, SALC, together with the Zimbabwe Exiles Forum (ZEF), challenged the decision. They asked a South African court to set aside the decision not to open an investigation and to order that the matter be remitted to the authorities for them to reconsider the decision.

Judgment: After a year of pleadings, the North Gauteng High Court in South Africa heard the case in March 2012. On 8 May 2012, the High Court ordered the NPA and SAPS to properly investigate the allegations of torture that took place in Zimbabwe. The court found the NPA and SAPS were remiss in their failure to properly investigate a docket providing a reasonable basis to believe that international crimes that fell within their investigative remit had been committed by individuals who visited South Africa. The ruling is the first under the ICC Act spelling out South Africa's obligations to prosecute ICC crimes under universal jurisdiction.

Link to the [judgment](#) (PDF)

Further Information: War and Law, [Prosecuting International Crimes in South African Courts](#), 25 March 2013; War and Law, [Zimbabwe Torture Docket and the Ghosts of Crimes Past](#), 23 May 2013; War and Law, [Landmark case for international criminal justice in South Africa](#), 3 April 2013

Developments in Latin America

Argentina: crimes during the military regime, 1976-1983

Prosecution of former government officials for crimes committed during the military regime.

Background: Argentina was ruled by a military junta from 1976-1983. When Argentina returned to civilian rule in 1983, leading members of the military were tried for crimes committed during this period, but were then granted amnesties by laws enacted in 1986 and 1987. In 2003, Argentina's Congress annulled the amnesty laws, and in 2005 the Supreme Court confirmed the laws' unconstitutionality. Trials resumed.

Case: prosecution of 68 former officials related to Naval School of Mechanics

In November 2012, a court began hearings in a case against 68 former Argentinian officials facing 800 charges of kidnap, torture and murder associated with the infamous Naval School of Mechanics in Buenos Aires – the deadliest of the regime's secret detention camps.

This is the largest trial of crimes committed during the “Dirty War.” Among the defendants are Alfredo Astiz, known as the Blond Angel of Death, and eight former “death flight” pilots who dropped drugged victims from planes flying over the Atlantic Ocean.

Further Information: BBC, [Largest trial of 'Dirty War' crimes starts in Argentina](#), 28 November 2012

Case: conviction of three ex-army officers

In October 2012, three ex-army officers – Luis Sosa, Emilio Del Real and Carlos Marandino – were sentenced to life in prison for crimes against humanity committed amid escalating violence that led to the 1976 military coup. In 1972, they were involved in killing 16 rebel fighters at an air base near the city of Trelew after a failed jailbreak, in what became known as the “Trelew massacre”. Two other officers charged in the case were acquitted.

Further Information: BBC, [Argentina army officers jailed over 'Trelew massacre'](#), 15 October 2012

Case: conviction of former Interior Minister and 22 others for torture and murder in detention

Jaime Smart and 22 other defendants were found guilty of involvement in the torture and murder of opposition activists at illegal detention centers. Smart was sentenced in December 2012 to life in prison. As the interior minister from 1976-1979, he is the first civilian sentenced for crimes committed as part of Argentina's Dirty War. The former chief of the investigative police in Buenos Aires, Miguel Etchecolatz, was also sentenced to life in prison.

Further Information: BBC, [First civilian sentenced for Argentina Dirty War crimes](#), 19 December 2012

Case: conviction of 13 former army and navy officers

In February 2013, 13 former army and navy officers were convicted of kidnapping, torture and homicide committed at the Mar del Plata naval base (south of Buenos Aires). Seven received life sentences, while the other six received sentences ranging from three to 25 years. The case was brought by relatives of victims and rights groups including the Grandmothers of the Plaza de Mayo. Sixteen people were originally indicted, but two died before the trial ended and a third was absolved for health reasons. The court has ordered an investigation into the possibility that certain civilians, including judges, prosecutors, lawyers and police officers, were guilty of keeping these crimes secret.

Further Information: **Business Standard**, [Life in prison for rights violators in Argentina](#), 17 February 2013

Case: conviction of Chief of Information of Misiones Police

During the dictatorship, several clandestine centers were set up in secret locations where torture techniques were used on individuals, all of which were run by Misiones Police. Felipe Giménez was put in charge of Misiones Police, where as the Chief of the Information Department he wrote reports about “terrorists” that needed to be punished and carried out various “extermination plans”. Legal proceedings were initiated against him on 21 March 2012, and on 4 July 2012 he was sentenced to 21 years in prison for crimes against humanity.

Further Information: TRIAL, [Trial Watch: Felipe Nicolás Giménez](#)

Brazil

Creation of a National Truth Commission and domestic prosecution of “continuing crimes”, related to violations committed during the military regime.

Background: From 1964-1985 Brazil was ruled by a military regime that killed or “disappeared” hundreds of political activists and trade unionists and tortured thousands of others. A 1979 amnesty law that allowed exiled activists to return also shielded human rights violators from prosecution. In April 2010, Brazil’s Supreme Court upheld the use of the amnesty law. However, in 2009 and 2011, the Supreme Court ruled that the amnesty law does not afford protection for the crimes of forced disappearance or kidnapping. These rulings were made in two extradition cases, of a Uruguayan and an Argentinian military officer.

In November 2010 the Inter-American Court of Human Rights (IACtHR) found that the amnesty law was not compatible with the American Convention on Human Rights, that it lacked legal effect, and that it should not continue as an obstacle for the investigation, prosecution and punishment of those responsible of human rights violations. However, the amnesty law is still in force in Brazil.

Though perpetrators have not until recently faced criminal sanctions, other steps were taken. After studying hundreds of military court records, the Archdiocese of São Paulo published a report in 1986, called *Brasil: Nunca Mais*, (Brazil: Never Again), documenting the widespread and systematic practice of torture during the dictatorship.

In 1995, Brazil passed a law acknowledging the deaths of 136 missing persons, and establishing a Special Commission on Deaths and Disappearances. In its 2007 report, the Special Commission documented 479 cases of forced disappearance, acknowledged state responsibility, and created a framework for compensating victims' families. In 2001, the "Amnesty Commission" was charged with granting reparations for victims of abuses not covered by the first commission. As of mid-2010, financial compensation had been awarded in over 12,000 cases.

Further Information: [ICTJ, ICTJ: Brazil: The World, Brazil's Truth Commission Under Fire from Military and Torture Victims, 30 October 2012](#)

National Truth and Reconciliation Commission

On 21 September 2011, Brazil's Chamber of Deputies approved the creation of a National Truth Commission (*Comissão Nacional da Verdade*) (NTC). It will investigate crimes committed from 1946-1988, which includes Brazil's military dictatorship. The NTC will last for two years and consist of seven members, who will have access to all government files from the period. It can convene testimony, although it will not be mandatory for witnesses to attend. After the two-year period, the commission will issue a report with its findings. The Commission is not obligated to disclose everything it discovers, and can choose whether to reveal information only to the President and Defense Minister or to the whole public. Because of the amnesty law, the Commission's work will not have legal consequences.

The Commission began working in May 2012. In September, the Commission created a working group to investigate the activities of Operation Condor, the military-political alliance of Latin American dictatorships in the 1970s, which was organized and led by the US. Its objectives include "[c]larifying the facts, circumstances and perpetrators of serious cases of rape, torture, forced disappearances and concealment of corpses".

Further Information: [ICTJ, ICTJ: Brazilian Truth Commission to Investigate Operation Condor Action](#); [BBC, Brazil truth commission begins rights abuse inquiries, 16 May 2012](#)

"Continuing crime" cases

On 13 March 2012, Brazil's Federal Prosecutor's Office announced that it had charged retired Colonel Sebastião Curió Rodrigues de Moura for the disappearance of five guerrilla members in the state of Pará in 1974. This is the first criminal case brought against an army member for human rights violations committed during the military dictatorship. Prosecutors argue that the 1979 amnesty law does not apply because – as the victims' bodies have never been found – the crime of kidnapping has stretches beyond 1979. These charges were not upheld by a federal judge, who found that they were covered by the amnesty law; this decision has been appealed.

Further Information: [Amnesty International, Brazil: Historic efforts by federal prosecutors to challenge decades of impunity for military regime, 25 April 2012](#)

On 24 March 2012, federal prosecutors charged retired Colonel Carlos Alberto Brillhante Ustra and police chief Dirceu Garvina with the kidnapping of union leader Aluizio Palhano Pedreira Ferreira in 1971. According to witness reports, Ferreira was tortured while held by the security

services. Prosecutors again argued that the amnesty law does not apply because the crime has continued beyond 1979 and is therefore not covered by the amnesty.

Further Information: Amnesty International, [Brazil: Historic efforts by federal prosecutors to challenge decades of impunity for military regime](#), 25 April 2012

Chile

Prosecution of former government officials for crimes committed during the military regime.

Background: In 1973, Marxist President Salvador Allende was overthrown by a military coup, backed by the US due to fear he would lead a pro-Soviet communist government. The coup installed a military regime led by Augusto Pinochet, who held power until 1990. Pinochet's regime was characterized by the systematic suppression of political parties and the persecution of dissidents. More than 3,000 people were killed or went missing.

Before Pinochet relinquished power in 1990, an amnesty law was passed, preventing most members of the military from being prosecuted by the subsequent regime. Although the amnesty law is still in force, Chilean courts began prosecuting former members of the regime in the late 1990s under the theory that the amnesty does not apply to continuing crimes.

Cases

On 17 July 2012, Chile arrested and charged retired air force colonels Ramon Caceres and Edgar Ceballos for their roles in the 1974 torture that apparently killed air force brigadier general Alberto Bachelet (father of Chile's first female president). Bachelet was arrested in 1973 and court-martialed for his loyalty to Allende. Bachelet was said to have died of a heart attack in prison, but a recent forensic study found that Bachelet in fact died as a direct result of the torture he suffered during his confinement.

The case was pursued by Judge Mario Carroza, who has investigated the deaths of Allende and hundreds of his allies who were murdered or disappeared under Pinochet's regime. Judge Carroza agreed to investigate the death of Bachelet last year following a complaint brought by relatives of the victims of Chile's military rule alleging that the general had been tortured to death.

Further Information: BBC, [Link to Chile charges two over General Aleberto Bachelet's death](#), 17 July 2012

On 5 September 2012, former general Manuel Contreras was found guilty of the murder of Ramon Martinez, a 23-year-old left-wing activist who died in police custody in 1975. Contreras was sentenced to 15 years in prison. Judge Alejandro Solis also sentenced former secret police officers Brig Miguel Krasnoff Marchenko, Col. Marcelo Moren Brito, Col. Fernando Lauriani Maturana and Col. Mario Jahn Barrera for the murder of Martinez. They were also given 15 years in prison each. All of them are already in jail serving sentences for other crimes.

Further Information: BBC, [Chile ex-police chief Contreras sentenced for murder](#), 5 September 2012

On 28 December 2012, Chilean Judge Miguel Vásquez charged eight former army officers with involvement in the murder of singer-songwriter Victor Jara, who was tortured and killed days after the 1973 military coup in a stadium that had been turned into a detention center. Former officers Pedro Barrientos and Hugo Sánchez are charged with committing the murder and the other six as accomplices (Roberto Souper, Raúl Jofré, Edwin Dimter, Nelson Hasse, Luis Bethke and Jorge Smith). Barrientos currently lives in the US, and was interrogated by the FBI earlier in 2012 at the request of a Chilean court. Judge Vásquez ordered the arrest of all eight suspects. Four turned themselves in on 3 January 2013. The US has not yet extradited Barrientos.

Further Information: [New York Times, Eight Are Charged with Chilean Singer's 1973 Murder After Military Coup, 28 December 2012](#); [BBC, Victor Jara murder: Chile arrests ex-army officers, 3 January 2013](#)

Guatemala

Prosecution of former government officials for crimes committed during the civil war.

Background: Guatemala was engaged in a civil war from 1960-1996. In March 1982, Ríos Montt took control of Guatemala in a coup d'état, and stayed in power until he was deposed in August 1983. His reign is one of the most violent periods of the civil war.

In 1996, at the end of the armed conflict, a Law of National Reconciliation established an amnesty for “political crimes” committed by both sides during the armed conflict, but explicitly excluded genocide, torture, enforced disappearances, and crimes that are not subject to statutes of limitation under international law. However, members of the Guatemalan Congress enjoy immunity from prosecution.

In 1999, a UN-backed Commission on Historical Clarification reported that over 200,000 people were killed or disappeared and that security forces committed more than 600 mass killings, mainly in rural and indigenous communities. It attributed 93% of the human rights abuses it documented to state security forces, and concluded that the military had carried out “acts of genocide” against the Mayan people.

Cases

In January 2012, Ríos Montt lost the immunity from prosecution that he had enjoyed as a member of the Guatemalan Congress when his term ended. On 26 January 2012, Judge Carol Patricia Flores Blanco ruled that there was sufficient evidence linking Montt to the killings of 1,771 indigenous people and the forced displacement of tens of thousands from the Ixil triangle region of southern Quiché during his 17-month rule. Ríos Montt was indicted for genocide and crimes against humanity. Former general Mauricio Rodríguez Sánchez, head of military intelligence under Ríos Montt, had earlier been indicted for his alleged role in these crimes. The prosecution alleged that they bore command responsibility for the crimes. The allegations are based on exhumation records from mass grave sites, witness and expert testimonies, military files and other documentary evidence.

In March 2012, a judge denied Ríos Montt's request for amnesty. The judge found that the country's 1996 National Reconciliation Law, which coincided with the end of the country's civil

war, does not guarantee amnesty for those accused of international crimes, including genocide and crimes against humanity. Secondly, the judge found that Guatemala is party to international treaties that obligate it to prosecute these crimes.

In May 2012, Ríos Montt was charged with further counts of genocide, murder and crimes against humanity for his role in a separate incident – the 1982 massacre in the town of Dos Erres, in which soldiers murdered more than 250 people, including children.

The trial concerning the Ixil region crimes began on 19 March 2013 and concluded on 10 May 2013. It was the first trial of a head of state for genocide in a domestic court. The trial court found Ríos Montt guilty, but acquitted his co-defendant, Rodríguez Sánchez, of the same crimes. However, on 20 May 2013, a divided Constitutional Court nullified the verdict on a procedural issue, ordering the trial to pick up from the middle of the process. The initial trial court recused itself, as it had already issued a verdict and judgment, and a new tribunal has not yet been appointed. Without further clarity from the Constitutional Court, a new court might find it impossible to begin at a stage where it would have to rely on evidence already heard by another court. Another obstacle is the fact that the new trial court would lack the authority to invalidate the prior court's proceedings or begin a new case without the Constitutional Court's permission. With the prior court forced to disqualify itself and no appellate court composed that would be able to order the case re-assigned, the genocide case is currently in legal limbo.

After its nullification of the trial court's verdict, the Constitutional Court began to consider whether Ríos Montt may be entitled to amnesty under Guatemala's historic amnesty laws despite international law prohibitions about amnesty for these crimes. (Guatemala also has a domestic law explicitly rejecting prior general amnesties, and granting a limited amnesty that excludes international crimes.) The Constitutional Court will begin ruling on the amnesty issue at a later date.

Note: The Justice Initiative, together with International Center for Transitional Justice, the Center for Justice and International Law (CEJIL), the National Security Archive, and Plaza Pública, launched a new online project focused on the trial of Montt: www.riosmontt-trial.org. It provides news, analysis and commentary from legal and academic experts, as well as human rights advocates who will be attending the trial in Guatemala City.

Further Information: Human Rights Watch, Guatemala: [Ríos Montt Trial a Milestone for Justice](#), 28 January 2013; [Guatemala ex-leader Ríos Montt faces massacre trial](#), 22 May 2012; [The Independent, The Ríos Montt genocide trial finally begins in Guatemala](#); 18 March 2013; CNN, [Judge Denies Former Guatemalan dictator Amnesty](#), 2 March 2012; BBC, [Guatemala annuls Ríos Montt's genocide conviction](#), 21 May 2013

On 13 March 2012, Pedro Pimentel Ríos, a former member of the elite *Kaibiles* military unit, was sentenced to serve 6,060 years in prison for his role in the Dos Erres massacre (30 years for each killing and an additional 30 years for crimes against humanity). Ríos faced trial after being deported in July 2011 from the US.

Guatemala opened an investigation into the killings in 1994, and issued arrest warrants for 17 *kaibiles* several years later. Initially, the cases languished, but in August 2011 a Guatemalan court sentenced three other former special forces soldiers to 6,060 years in prison each for the massacre, and sentenced a former army second lieutenant to 6,066 years. Four other former soldiers were sentenced to similar terms last August for their involvement in the massacre.

Further Information: The Guardian, [Guatemalan ex-soldier jailed for 6060 years over Dos Erres Massacre](#), 13 March 2012

In 2004, the IACtHR found the Guatemalan state responsible for the 1982 massacre at Plan de Sanchez, a rural community in northern Guatemala. The IACtHR demanded it investigate the case and prosecute those responsible. On 20 March 2012, five former members of right-wing Guatemalan Patrullas de Autodefensa Civil, a civilian militia created by the army to help fight leftwing rebels, were sentenced to a total of 7,710 years in jail for their role in the massacre. Judge Jazmin Barrios set a sentence of 30 years for each of the 256 victims, plus 30 years for crimes against humanity. In addition to the prison sentences, the court ordered Guatemala's Ministries of Education and Culture to commission documentaries to honor the victims.

Further Information: Amnesty International, [Guatemala Court convicts paramilitaries over 1982 massacre](#), 21 March 2012

On 21 August 2012, Pedro Garcia, chief of Guatemala's police force from 1974 until 1982, was convicted of ordering the kidnapping of a university student who disappeared in 1981. Garcia was sentenced to 70 years in prison. At the time, Garcia was the highest ranking police official to ever be sentenced for war crimes in Guatemala. He also faces separate murder charges in the 1980 burning of the Spanish Embassy in Guatemala.

Further Information: BBC, [Guatemala ex-police chief jailed for civil war kidnap](#), 22 August 2012

In early 2008, Swiss organizations learned that Erwin Sperisen, a Swiss-Guatemalan dual national, was living in Switzerland. They promptly lodged a criminal complaint with the General Prosecutor in Switzerland with respect to Sperisen's role in a 2004 operation in which nine farmers and three policemen were killed. The Guatemalan government issued an international arrest warrant in August 2010 and Swiss authorities indicted Sperisen and nineteen others on 31 August 2012. On 3 September 2012, a Swiss local court confirmed the Prosecutor's request that Sperisen be kept in pre-trial detention for three months.

Further Information: Trial Watch, [Bringing Guatemalan Human Rights Defenders to Justice](#)

Haiti

Prosecution of Jean-Claude "Baby Doc" Duvalier.

Background: Former Haitian dictator Jean-Claude "Baby Doc" Duvalier ruled from 1971-1986. Duvalier, and his father François "Papa Doc" Duvalier before him, enforced their rule through the National Security Volunteers, a militia better known as the "Tonton Macoutes", who were blamed for hundreds of deaths and disappearances.

In 1986, Duvalier fled to exile in France, and did not return to Haiti until January 2011. Upon his return, Duvalier was charged with corruption, theft and misappropriation of funds. Separate

charges of crimes against humanity were filed by alleged victims of wrongful imprisonment, forced disappearances and torture. The case against Duvalier progressed in 2012-2013.

Case: In January 2012, a court ruled that the statute of limitations had run out on charges of murder, arbitrary arrest, torture and disappearances, and set them aside. The victims appealed. Human rights organizations like the [Justice Initiative](#), as well as the UN High Commissioner for Human Rights, argued that there is no statute of limitations for crimes against humanity.

In February 2013, Duvalier appeared before the Appeals Court, which will determine whether he can be charged with crimes against humanity. Duvalier boycotted three previous court hearings by refusing to appear. Following his third refusal, a judge issued a warrant ordering prosecutors to ensure his presence, under police escort if necessary. During the February hearing, judges asked Duvalier about more than a dozen of the most notorious cases involving alleged extra-judicial killings and detention of political prisoners.

Further Information: [The Guardian, Baby Doc Duvalier charges with corruption in Haiti, 18 January 2011](#); [BBC, Haiti's 'Baby Doc' Duvalier Avoids Appearing in Court, 21 February 2013](#); [BBC, Haiti's Ex-ruler 'Baby Doc' Duvalier attends court, 28 February, 2013](#)

Peru

Colina Group leader sentenced for role in massacres and disappearances

Background: In 1980, the “Colina Group” was detached as a part of a government strategy that was designed for low intensity warfare. It evolved into a death squadron that was responsible for numerous disappearances, the Barrios Altos massacre, a University massacre, and other human rights violations in Peru until 2000. Fernando Lecca served entered the Colina Group after his service as a military intelligence agent, and took an active role as an agent.

Case: On 17 August 2005, Lecca and 54 other defendants were prosecuted for murder, attempted murder, abduction, enforced disappearance and conspiracy. On 1 October 2012, the First Special Criminal Court of the Superior Court of Lima sentenced twenty-one former soldiers and Lecca from the Colina Group for their role in the massacres and disappearances, holding that they were guilty of crimes against humanity. Lecca was sentenced to fifteen years imprisonment. However, in July 2012, Lecca’s sentence was reduced to thirteen years imprisonment because the Permanent Criminal Chamber of the Supreme Court dropped the “crimes against humanity” charge.

Further Information: [Trial Watch, Trial Watch: Fernando Lecca Esquen](#)

Developments in Europe

Bosnia and Herzgovina

Acquittal of Former Bosnian Serb PM

Gojko Klicovic and another Bosnian Serb official were on trial for ordering an attack in which civilians were unlawfully imprisoned and killed, during the 1992-1995 Bosnian war. The Court found that the prosecution had failed to prove a sufficient nexus between the defendants and the alleged crimes. The judgment may not be appealed.

The Bosnia and Herzgovina war crimes court continues to prosecute crimes from the Balkins conflict in the early 1990s.

Further Information: Jurist, [Former Bosnian Serb PM Cleared of war crimes charges](#), 8 May 2013

Poland

Acquittal of soldiers for alleged war crimes in Afghanistan

In 2011, seven Polish soldiers were acquitted of killing Afghan civilians in 2007 by a Warsaw court for lack of evidence that they had deliberately targeted civilians. Military prosecutors appealed. The appeal court upheld the acquittal of three but ordered a re-trial for the others. In January 2013, the re-trials began.

This is the first case in Poland in which Polish soldiers have been accused of violating the Hague and Geneva Conventions protecting civilians.

Further Information: BBC, [BBC Poland Troops Acquitted over deadly Afghanistan Raid](#), 1 June 2011; BBC, [New Trial for Polish Soldiers Over Afghanistan Killings](#), 9 January 2013

Spain

Indictment for 1976 murder of diplomat in Chile

On 30 October 2012, Spanish Judge Pablo Ruz indicted seven former members of the Chilean secret police for their alleged role in the kidnapping and murder of Spanish diplomat Carmelo Soria during Chile's military rule. The judge ordered international arrest warrants for the seven accused. The case was brought by Spain's President Allende Foundation and taken up by Judge Ruz after another Spanish judge ruled that the investigation into the alleged crimes against Mr. Soria "had not been effective" in Chile.

Soria was working in Chile when he was kidnapped, tortured and murdered in 1976. Six of the accused are Chileans. They include Juan Contreras, the former director of the secret police, who is currently serving a life sentence for crimes against humanity in Chile. The seventh is US citizen Michael Townley, who was extradited to the US in 1978. He is reportedly living in the US under a witness protection program.

Further Information: BBC, [Chile secret agents charged over 1976 diplomat murder](#), 30 October 2012

United Kingdom

Civil case for torture during Mau Mau uprising can proceed in UK courts

In 2009, three Kenyans who allege they were tortured by the British colonial authorities during the 1950s Mau Mau uprising filed suit seeking damages against the UK government.

In 2011, a High Court judge ruled the claimants had an arguable case. However, the UK administration argued that too much time had passed for a fair hearing to be conducted. The Kenyan claimants appealed.

In July 2012, hearing began at the High Court in London. The hearings had access to an archive of 8,000 secret files that were sent back to Britain after Kenya gained its independence in 1963. During the hearings, UK officials did not dispute that civilians had suffered “torture and ill-treatment at the hands of the colonial administration”. Lawyers for the claimants said this was the UK’s first acknowledgement that such acts occurred.

In October 2012, the High Court ruled that the case could proceed despite the time that had passed. In November documents from the secret files were declassified; they show the extent of ill-treatment to which the Mau Mau were subjected and the government’s awareness of it.

Link to [October 2012 decision](#) (PDF)

Further Information: BBC, [Veterans of Mau Mau Uprising in Kenya Seek EU Damages](#), 15 July 2012; BBC, [Mau Mau Case: UK Government accepts abuse took place](#), 17 July 2012; BBC, [Mau Mau Uprising, Kenyans Win Torture Ruling](#), 5 October 2012; BBC, [Mau Mau Massacre Documents Revealed](#), 29 November 2012

Civil case filed alleging torture by British in suppression of Cypriot independence

In November 2012, a group of 60 Cypriots who fought against British rule in the 1950s filed suit in London, claiming they were tortured and mistreated in British custody. When the Cypriots complained in the 1950s that they had been tortured, a group of Labour MPs visited them, and observed signs of their ill-treatment. Additionally, colonial-era files recently declassified in Britain support their claim. The Cypriots says they were encouraged to file by the High Court’s October 2012 ruling allowing the Mau Mau case to go forward.

Further Information: BBC, [Cypriots seek recompense over British Torture](#), 19 November 2012

Prosecution of torture case from Nepali civil war brought under universal jurisdiction statute

In early January 2013, Nepalese Colonel Kumar Lama was charged in the UK with intentionally “inflicting severe pain or suffering” as a public official on two separate individuals, for acts committed during Nepal’s civil war in 2005. He is charged under a British law that allows universal jurisdiction to prosecute torture. The Nepalese government says that Britain is breaching its sovereignty by carrying out the arrest.

On 1 March, 2013, Lama was released on bail. His trial is expected to begin in June. Lama is currently the only senior commander from either side to be charged for a serious crime relating to the 2005 civil war.

Further Information: BBC, [Nepal's Kumar Lama charged in UK with torture](#), 4 January 2013; BBC, [Nepal army officer on torture charge granted bail](#), 1 March 2013; BBC, [Nepali war victims long fight for justice](#), 13 March 2013

UK medical board suspends doctor for complicity in torture in Iraq under Hussein regime

Mohammed Al-Byati, an Iraqi doctor, served compulsory military service in Iraq under Saddam Hussein from 1992-1994. During this time, he treated detainees who had been tortured at camps in Iraq. In 2000, Al-Byati moved to the UK, and has since worked in the National Health Service.

On 1 March 2013, a UK fitness to practice tribunal ruled that Al-Byati was “complicit in acts of torture”, because Al-Byati knew it was likely that the prisoners would be tortured again (though it was not alleged that he witnessed any incidents of torture). The tribunal suspended Al-Byati from the medical register for 12 months. The tribunal noted that Al-Byati’s involvement was outside his control, but sanctioned him because his “conduct is unacceptable.” The tribunal did not find that Al-Byati’s actions were “so serious” that he should be struck off the UK’s medical register.

Further Information: BBC, [Iraqi doctor suspended over torture links](#), 1 March 2013

**E-mail: info@justiceinitiative.org
www.justiceinitiative.org**



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