



BRIEFING NOTE

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HUMAN RIGHTS GAINS IN 2009/10

INTERNATIONAL JUSTICE

2009 was a landmark year for international justice. Significant advances were made in ensuring justice for victims and accountability for past human rights abuses. The development of universal jurisdiction played an increasingly important role in this.

- 110 states had ratified the Rome Statute of the International Criminal Court (ICC) by the end of 2009 with Bangladesh also ratifying in March 2010.
- By year-end, more than 40 states had enacted legislation to give their national courts jurisdiction over crimes under international law, allowing suspects to be brought to book even when they enjoy impunity at home.
- For the first time, a sitting head of state, President Omar Al Bashir of Sudan, was named in an arrest warrant issued by the ICC for crimes against humanity and war crimes. The court initially ruled there was insufficient evidence to prosecute him for genocide but in February 2010, the Appeals Chamber reversed this decision.

AFRICA

- While most African Union (AU) states initially refused to cooperate with the ICC warrant served on President Bashir, some, including South Africa and Botswana, later said they would not abide by the AU decision and would fulfil their obligations under the Rome Statute.
- By the end of 2009, the Special Court for Sierra Leone had concluded all its trials bar that of the former President of Liberia Charles Taylor.
- The UN set up an international Commission of Inquiry (CoI) following the killing of more than 150 people in Guinea when security forces violently repressed a peaceful demonstration in a stadium in the capital Conakry in September, including public rape of women participating in the demonstration. The CoI concluded that crimes against humanity had been committed and recommended referral to the ICC.
- In December, a Dutch court allowed a civil case to proceed against oil giant Shell in relation to the company's operations in the Niger Delta. The case was brought by four Nigerians seeking compensation for the damage done to their farms and fish ponds, which they claim is a consequence of oil leaks from Shell's pipelines. This is the first time that a Dutch company has been brought to trial in a Dutch court for damages occurring abroad.
- In February 2010, the African Commission on Human and Peoples' Rights ordered the return of ancestral lands to the Endorios, an Indigenous community in Kenya. The Endorios had been forcibly evicted from their lands between 1974-79 to establish a game reserve. The Kenyan Minister of Lands, James Orengo, joined the community to celebrate the decision and pledged to implement it.
- Sierra Leone started implementing a free health care policy for pregnant women and children in April 2010.

AMERICAS

- Increasing numbers of those who committed human rights violations during the Latin American military governments of the 1970s and 1980s – including Argentina, Uruguay, and Paraguay – faced prosecution for human rights violations committed during that era.
- In April, former Peruvian President Alberto Fujimori was sentenced to 25 years in prison for abuses committed in 1991, including torture, enforced disappearances and killings.
- US President Barack Obama ended the CIA's secret detention programme and its use of "enhanced" interrogation techniques.

ASIA-PACIFIC

- In March, Cambodia opened the first hearing of the UN-backed Khmer Rouge Tribunal to prosecute top leaders and those most responsible for atrocities during the Khmer Rouge rule. The first to go on trial was former prison chief Kaing Guek Eav, known as Duch. A verdict is expected in June 2010.
- In an historic decision, the Delhi High Court rejected India's colonial era law criminalising homosexuality. A formal repeal of the law remains pending.
- ASEAN member states began to create the human rights mechanisms outlined in the 2008 ASEAN Charter, albeit slowly.
- India enacted a law to guarantee the right to free and compulsory education to children aged 6 – 14 in August 2009, the law came into force in April 2010.
- In May 2009 Nepal adopted a landmark judgement on the government's obligation to ensure women were not denied an abortion because of their inability to pay for such services.

EUROPE AND CENTRAL ASIA

- In October, former Bosnian Serb leader Radovan Karadzic went on trial at the International Criminal Tribunal for the former Yugoslavia at The Hague for war crimes, crimes against humanity and genocide.
- In December, Lithuania admitted for the first time that a secret CIA "black site" had existed on its territory.
- In November, an Italian court convicted 22 CIA agents, one US military officer and two Italian agents for their part in the CIA-ordered abduction and rendition of Abu Omar – a man kidnapped from an Italian street and then illegally transferred via Germany to Egypt where he said he was tortured.
- The European Court of Human Rights held in March 2010 that segregation of Roma children, by Croatian authorities, into separate classes on the basis of language deficiencies violated the prohibition on discrimination.

MIDDLE EAST AND NORTH AFRICA

- In September, Judge Richard Goldstone's report from the UN Fact Finding Mission in Gaza concluded that both Israel and Hamas with other Palestinian armed groups had committed war crimes and possible crimes against humanity during the 22-day conflict in Gaza and southern Israel that ended in January 2009. The UN called for both parties to conduct credible investigations with a view to ensuring accountability - imposing greater international pressure on the parties than has previously been applied and which could potentially lead to the matter being referred to the ICC if they fail to take the actions required.
- In Lebanon, the possibility of prosecution for those responsible for the murder of former Lebanese Prime Minister Rafic Hariri and related attacks moved one step closer when the Special Tribunal for Lebanon, mandated by the UN Security Council, was formally established in March in The Hague in the Netherlands.
- While women continued to be discriminated against in law and practice throughout the region, 2009 saw further steps forward in several countries, including Yemen, Qatar, Kuwait, Jordan, Algeria and Saudi Arabia.
- In March 2010, Egypt's Administrative Court ruled that that a government decision not to set a minimum wage breached Egypt's Labour Law, Constitution and obligations as a party to the International Covenant on Economic, Social and Cultural Rights. The court ruled in favour of two workers who complained against government failure to implement a minimum wage to ensure balance with the cost of living.

DEATH PENALTY

- In August, the Kenyan government announced that more than 4,000 condemned prisoners would have their death sentences commuted to terms of imprisonment, the largest ever commutation of condemned prisoners known to Amnesty International.
- The death penalty was abolished in Burundi and Togo.
- Japan's new government suspended executions and opened a public debate on the death penalty.

OTHER HIGHLIGHTS

- In September, the fight against global poverty received an important boost when the Optional Protocol to the International Covenant in Economic, Social and Cultural Rights opened for signature. The OP provides an international remedy for violations of economic, social and cultural rights: it allows individuals to seek help when they are denied their basic human rights to food, education, housing and health at home. 32 states have signed the Optional Protocol as of May 2010.

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