

Independent Legal  
Representation of  
**Victims of War Crimes  
and Crimes Against  
Humanity**

**CIVITAS  
MAXIMA**

# 2022 ANNUAL REPORT





# 2012-2022

## Civitas Maxima

### 10 year anniversary

In 2022, Civitas Maxima celebrated 10 years of activity. In these years, our work facilitated one way or another 10 cases that are public, leading to 9 arrests and 4 convictions, in 6 different countries involving 3 continents.

The Civitas Maxima model is simple yet effective: identify and train a suitable local human rights NGO to partner with, and coordinate a network of international and national lawyers to initiate cases whenever, wherever, and however possible.

Capacity building, investigations, legal representation, and outreach are all part of our core work. Our main focus is to achieve justice for victims: we do this by pursuing a multitude of available legal avenues so that victims can be heard in court and obtain some form of redress. We follow the evidence wherever it leads. And finally, we generate awareness and informed debate around victims' cases, in order to shorten the distance between affected communities and legal institutions.

This decade has witnessed our work exponentially increase, and our achievements set legal precedents. We are looking forward to the next 10 years.



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# Foreword

Alain Werner, Director of Civitas Maxima



The Annual Report that you are about to read has a double ambition: both to recount our work of 2022, which has been rich and intense, and also to mark the tenth anniversary of Civitas Maxima, whose adventure began in 2012. For this latter occasion, we wanted to pay tribute to three figures who have marked the field of international criminal law over the last 60 years - without whom we would have never been able to do what we have done these last ten years.

The first of these, the German prosecutor Fritz Bauer, who died in 1968, was the embodiment of persistence in seeking justice. He did so alone, pushing against the Germany of the 1950s and 1960s. Without him, it seems unlikely that Adolf Eichmann would have ever been found in Argentina and later tried. Without him, the Frankfurt trials (1963-1965) would not have taken place. Without him, the pioneer of national war crimes units in Europe, the Central Office for the Investigation of National Socialist Crimes, would have hardly become what it is today. Fritz Bauer was a visionary and a forerunner. Author Geraldine Schwarz, winner of the 2018 European Book Prize with her novel 'Those Who Forget', tells us about his exceptional journey.

Our second homage goes to Juan Garcés, a Spanish lawyer without whom former Chilean President Augusto Pinochet would have never been arrested. After surviving the assault on the Presidential Palace 'La Moneda' in Santiago, Chile, on September 11, 1973, Mr Garcés spent 25 years documenting the crimes of the Chilean regime. From this, by 1998, he had managed to get Spanish judges to issue an arrest warrant against Augusto Pinochet in London. The rest is history. The case shocked the world, as it understood that the prosecution of international crimes is not to only occur before international courts, but before national ones too. Lawyer Hernan Garcés, son of Juan Garces, explains the case that forever changed the prosecution of international crimes.

Finally, Reed Brody, a lawyer from the US, immediately brought the Pinochet jurisprudence to life. The former President of Chad, Hissène Habré, had found refuge in Senegal after being ousted from power in 1990 - and Mr Brody is the great architect of the criminal case against him. This case, which lasted more than 15 years, shook up international relations' dynamics, notably through a decision of the International Court of Justice that pushed Senegal and the African Union to act and to try Hissène Habré in Dakar, where he resided. This case will go down in history as, among other things, the first universal jurisdiction trial in Africa. Mr Brody narrates this groundbreaking legal adventure in the following pages.

To celebrate our anniversary, we are also publishing words by 7 personalities from 4 different continents: lawyers, ambassadors, justice advocates, friends, and donors. They speak, in their own words, about the unique adventure that has been Civitas Maxima since 2012.

The second part of this report looks back at 2022, which was an incredibly intense year for Civitas Maxima. In particular, the trial of Kunti Kamara - the first conviction for crimes against humanity for acts committed during the First Liberian Civil War (1989-1996) - was held in Paris at the end of 2022. This case, where Civitas Maxima was one of the plaintiffs, is also significant in that it is the only case of extraterritorial international crimes not related to Rwanda held in France so far. In this regard, we are proud to publish excerpts from the eloquent final pleadings of both the plaintiffs' and the defense lawyers.

Unfortunately, 2022 will forever remain as the year in which the war in Ukraine began. Thanks to its Knowledge and Training Center, Civitas Maxima facilitated a denunciation by a Ukrainian organization, Truth Hounds, to the Public Ministry of the Swiss Confederation, on an attack of a Swiss Journalist by Russian Forces. This denunciation is detailed in this report. On the multiple challenges this conflict poses against justice, we also publish an article by our colleagues from Truth Hounds, winners of the Sakharov Freedom Award in 2023, as well as our colleague from Memorial, the Russian organization that was co-awarded the Nobel Peace Prize in 2022.

We also remember our dear colleague and friend Fayah Williams, deputy director of our sister organization in Liberia the GJRP. Fayah will always be with us through his work that lives beyond him, and we will never forget his passion for justice.

Civitas Maxima has come a long way since 2012: from 1 staff member, today the organization counts 18, and its budget has more than quintupled. This growth is not at all a given in a field as specific as ours, especially with a strict policy, from the outset, of never accepting any government funding. Through their trust, their exigency, and their loyalty, the support of our donors - foundations and individuals - has been simply phenomenal over the past ten years. For this we will be forever grateful.

Sincerely,

Alain Werner



# ON THE SHOULDERS OF GIANTS

*The historic cases and figures that have shaped the world of international criminal justice, paving the way for our work.*

10<sup>th</sup> ANNIVERSARY

**10** **FRITZ BAUER, ALONE AGAINST AMNESIA** *by Géraldine Schwarz*

How German Prosecutor Fritz Bauer fought against the country's incapacity to deal with its past, spearheaded landmark trials in Germany and initiated the arrest of Adolf Eichmann.

**14** **THE CASE THAT FOREVER CHANGED THE FIELD OF INTERNATIONAL CRIMINAL LAW** *by Hernán Garcés*

How Spanish lawyer Juan Garcés pioneered, through decades of work, the case against former Chilean President Augusto Pinochet and paved the way for the expansion of universal jurisdiction.

**18** **FROM PINOCHET TO HABRÉ TO CIVITAS MAXIMA** *by Reed Brody*

How U.S. lawyer Reed Brody, alongside his African colleagues, used the Pinochet jurisprudence to push for Africa's first ever universal jurisdiction case against a head of state, former Chadian President Hissène Habré.





Adolf Eichmann is sentenced by the Supreme Court of Israel, December 1961  
© National Photo Collection of Israel

## Fritz Bauer, Alone Against Amnesia



Géraldine Schwarz

Journalist, author, and documentary filmmaker

After World War II, the German Jewish political scientist Hannah Arendt made a trip from exile in the US to her native Germany. She was dismayed to encounter a population frozen in a complete lack of empathy for the victims of Nazism. Worse, the Germans saw themselves as victims: of Allied bombing, of the war, of a bunch of Nazi criminals in power who had supposedly fooled them. The majority of them, however, had enthusiastically supported Hitler. He had made them dream. No one had any real interest in shedding light on the crimes of a regime of which many had become accomplices, out of blindness, conformity, cowardice or opportunism. Most of them wanted to turn the page. Thus, following a series of scandalous amnesty laws, by the end of the 1950s there were almost no Nazis left in German prisons and the machine for forgetting the past seemed unshakeable. But this was without counting on the obstinate fight of a prosecutor who would stand up against the comfortable amnesia in which German society had taken refuge.

Fritz Bauer had embarked on a brilliant career as a judge when the Nazis came to power in 1933. Persecuted for being Jewish and a social democrat, he went into exile in Denmark and then Sweden. After the war, when many exiled Jews could not imagine returning to their homeland, Bauer decided to go back to Germany to help build a new, free and democratic country. He was one of the few who understood that the young Federal Republic of Germany (FRG) had to eradicate the roots of National Socialism in order to start on a sound footing, and that this could only be done by an honest confrontation with the Nazi crimes. By contrast, the majority of Germans wanted to draw a line under the past, leaving Bauer to work relentlessly, alone and against all odds. Having been appointed public prosecutor in Braunschweig (Lower Saxony), he scored his first victory in 1952 by legally establishing that the Third Reich had been a "lawless state". Therefore, fighting against the regime and its Führer had been legitimate. This rehabilitation of Germans who had fought against Nazism was unwelcome in a society that regarded them as traitors to the fatherland. Bauer made many enemies, but also some important allies who enabled him to obtain the prestigious post of public prosecutor for the state of Hessen in 1956. He was going to use the considerable leverage this position offered to shed light on Nazi crimes and prosecute those responsible for them.

In 1958, in Ulm, Bauer initiated a trial against ten members of an *Einsatzkommando*, paramilitary death squads, accused of murdering more than 5,000 Jews in Lithuania. The defendants, who had returned to civilian life after the war, were sentenced to between three and fifteen years in prison for "collective participation in mass murder". They escaped life imprisonment because the judges refused to attribute to them an individual will to kill, despite overwhelming evidence of personal initiative. This trial was the first of its kind in a German court and shocked public opinion. Germans were confronted by the stark evidence that in Eastern Europe there had not only been a traditional war but also massacres that the West German authorities now sought to conceal. In response to the outrage, a *Zentrale Stelle zur Aufklärung nationalsozialistischer Verbrechen* (Central Office for the Investigation of National Socialist Crimes) was created, whose mission was to investigate, independently of the Ministry of Justice, Nazi crimes committed outside of Germany, particularly in Eastern Europe. For a long time, the regional public prosecutors' offices refused to collaborate with the *Zentrale Stelle* and systematically closed the files it sent to them. As always acting against the current, Fritz Bauer did take on these laborious and risky investigations, sometimes working outside legal boundaries. Isolated in a judicial system where two thirds of the officials were former members of the Nazi party, he resisted pressure, sabotage and other obstacles blocking his way.

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**"ISOLATED IN A JUDICIAL SYSTEM WHERE TWO THIRDS OF THE OFFICIALS WERE FORMER MEMBERS OF THE NAZI PARTY, HE RESISTED PRESSURE, SABOTAGE AND OTHER OBSTACLES."**

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One day, among the many anonymous letters of insult and threats that flooded his desk, Bauer discovered an envelope from Argentina. The judge's hands must have been shaking as he read the letter written by a certain Lothar Hermann, a Jew who had fled Nazi Germany. It stated that Adolf Eichmann, the major organiser of the logistics of the Holocaust, wanted by international justice for crimes against humanity, was hiding in Buenos Aires. Without mentioning the letter, Bauer asked the German authorities if, in the event that Eichmann was found, they would be willing to request his extradition to stand trial in Germany. The answer was no. No one wanted a high-profile trial that would lead to a cascade of charges. As the chief organiser of the Holocaust, Eichmann knew the many actors who had participated in one way or another in the worst organized state crime known to mankind. Many had managed to recycle themselves in the new democratic Germany. How embarrassing it would have been if, in the middle of the trial, Eichmann had suddenly pointed at the judges and prosecutors and said, "By the way, we know each other from before, surely you remember..."

But Bauer was a fierce guardian of justice, willing to bend the law when it seemed unjust. At the risk of being sacked and hauled before the German courts for treason, he revealed Eichmann's hideout to the Mossad, the Israeli intelligence service. In May 1960, Mossad agents were dispatched to Buenos Aires. They kidnapped the Nazi criminal and under the nose of the Argentine authorities brought him back in secret in the plane of an Israeli delegation, in order to try him in Jerusalem. Hearing this news, the German Chancellor Konrad Adenauer pretended that he had never heard the name Eichmann in his life. Indeed, one can well imagine how many trembled at the announcement of the trial of this man who had the power to ruin their lives, or at least their careers. In particular, the Chancellor's right-hand man, Hans Globke, had reason to fear. As a jurist he had helped draft the Nuremberg laws, antisemitic and racist laws enacted in Nazi Germany in 1935. The FRG exerted pressure on Israel to keep Globke's name out of the trial and ensure that the young Republic would not be tarnished. Curiously, Eichmann did not denounce any of the countless accomplices in the Shoah, except those who had nothing to lose because they were dead or had already been tried. At his trial, he rejected all responsibility, presenting himself as a simple executor: *"The mass murder is the fault of the political leaders. My fault is my obedience, my submission (...) The subordinates too are victims. I am such a victim"*. On June 1, 1962, Eichmann was hanged, his last words remain legendary: *"Gentlemen, soon we will meet again"*.

Bauer considered this trial to be a partial failure because it did not lead to the opening of others. In truth, it had marked an important step forward: for the first time, hundreds of Holocaust survivors had come to testify before international television stations. In Israel, these testimonies were decisive in making the Holocaust known to those who had not experienced it. In Germany, even though the trial did not have the impact that Fritz Bauer had hoped for, many households watched it on television and were shaken. But the will to forget was still tenacious. In the early 1960s, very few people in Germany or elsewhere knew what Auschwitz was. It would be Fritz Bauer again who, together with a team of courageous lawyers and the Auschwitz survivor Hermann Langbein, would force this German creation on the collective consciousness.

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**"BAUER WAS A FIERCE  
GUARDIAN OF JUSTICE,  
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THE LAW WHEN IT  
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In December 1963, on his initiative, a trial against twenty-two Auschwitz camp collaborators began in Frankfurt (Hessen). Fritz Bauer did not participate personally in the trial to avoid it being perceived as the "revenge of a Jew", preferring to hand over to young prosecutors. The preparatory work had been titanic. Tens of thousands of archival documents had to be combed, hundreds of witnesses interviewed and convinced to speak, evidence against the executioners sought and located, all this despite the reluctance of the German political and judicial authorities, and the police. The trial was a major event: hundreds of journalists were present, an exhibition on the camp was opened in Frankfurt where experts were called to the stand to describe the complex functioning of Auschwitz with the help of plans and photos projected on the walls. Among the accused were Robert Mulka, the camp's number two; Wilhelm Boger, who used the most perverse forms of torture; Josef Klehr, the head nurse who was known for dispensing of prisoners with a syringe. The defendants were almost all from the middle class and eight of them had completed higher education.

More than two hundred Jews from all over the world - where they had gone into exile - took the stand to tell of the naked barbarity of the Nazis. Their cruelty went as far as drowning babies in a basin of cold water or smashing their skulls against the wall before piling them up in warehouses among the rats.

For Bauer, the defendants did not matter as individuals. What mattered most was what they represented: the extent of German guilt. *"The trial must show the world that the new Germany, the democratic Germany, has the will to guarantee human dignity"*. By judging collectively people of all ranks who had held various positions at Auschwitz, the prosecutor wanted to convey the idea that only the cooperation of all had made such an ignominy possible. *"Anyone who worked in the service of this killing machine,"* he explained, *"was guilty of murder from the moment he knew the purpose of the machine. Now, all those who worked in the extermination camps or had knowledge of these camps, from the simple guard to the highest management, understood without any doubt the true objective. All of them are therefore guilty of murder, whether it is the leader who gives the order to kill from his office, the one who distributes the guns, who denounces, who shoots with his own hands, who helps or who carries out the task assigned to him within the framework of the division of labor."*

Among the witnesses called to the stand were nearly one hundred former SS. The result of their testimony was distressing: they had seen nothing, heard nothing, done nothing. Their solidarity in lying was astounding, but symptomatic of the attitude of a society immersed in denial of its crimes. However, one man broke the silence, Konrad Morgen, a former SS-Sturmbannführer. He was sent to Auschwitz once to investigate the level of corruption, especially how staff helped themselves to stolen Jewish property, like gold teeth. While visiting the camp, including the gas chambers and crematoria, he came across haggard SS men who told him they had had a *"difficult night because they had to deal with several transports in a row"*. He realized that while he was sleeping on the train from Berlin to Auschwitz *"a few thousand people, several train loads had been gassed and burned to ashes. Of these thousands of people, not a hair was left on the frame of an oven"* he told the court before collapsing.

The defendants for their part denied everything, even Robert Mulka, the camp's deputy commander, who went so far as to claim that he had never heard of gas chambers. Fortunately, thanks to the German penchant for bureaucracy, many stages of the extermination had been documented: the transport of Zyklon B from Dessau to Auschwitz, the radio exchanges with Berlin, the total number of Jews on arrival, and the number of those who had received "special treatment".

Despite the evidence and testimony, the outcome of the trial was disappointing: Robert Mulka avoided life imprisonment,

three of the accused were acquitted, and only six were convicted of murder. The others were considered mere accomplices because they had not killed with their own hands.

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**“HE ALSO WARNED AGAINST AN UNSHAKEABLE TRUST IN LAWS BECAUSE THEY CAN BE MISUSED FOR EVIL, AS HAD BEEN THE CASE UNDER THE THIRD REICH.”**

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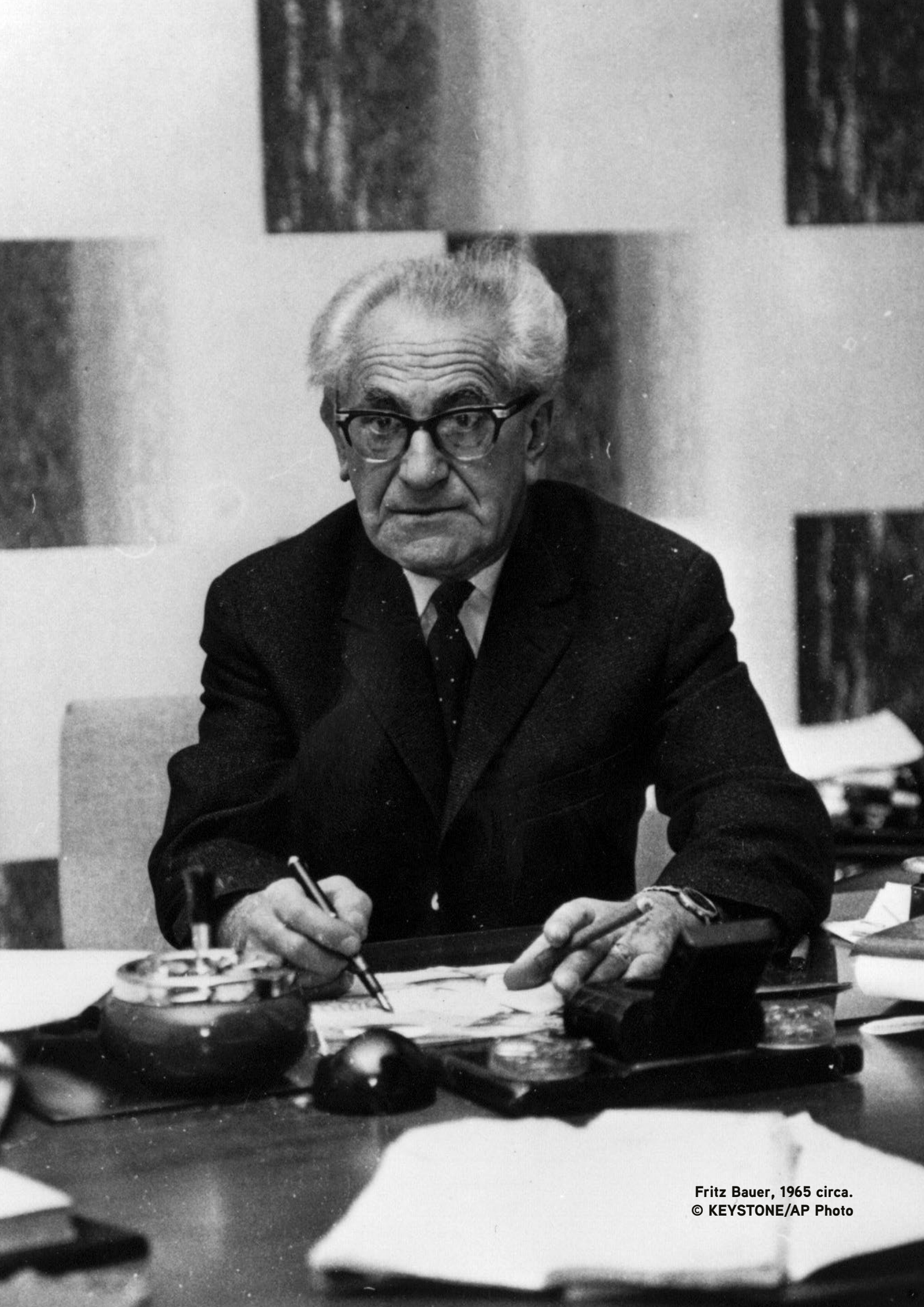
The idea that these men had responded to an order continued to be a mitigating factor, even though experts had proven that the SS did not risk death if they refused to comply with the Vernichtungsbefehl (extermination order). Unconditional obedience to orders and laws was still considered a virtue in the FRG of the 1960s. It was a priority of Fritz Bauer to immunize the younger generation against this blind automatism. He said: *“No one has the right to execute an order that contains a criminal action.”* There is *“a limit in our lives beyond which we have no right to participate (...). This is what all our ethics are based on, this is what the law is based on”*. He also warned against an unshakeable trust in laws because they can be misused for evil, as had been the case under the Third Reich: *“You can write paragraphs, draft articles, imagine the best basic laws. What matters is that men are just.”*

After the Auschwitz trials, threatening and insulting letters, often with anti-Semitic overtones, poured onto the prosecutor’s desk. Bauer sometimes bordered on despair, dismayed by the persistent bias of the West German authorities in favor of former Nazi criminals and the slow pace of the investigations. In reality, his relentlessness had paid off: the term “Auschwitz” had burst into the comfortable living rooms of the German economic miracle. In all, about 20,000 people, many of them students, and hundreds of journalists, had come to the hearings while 80,000 saw the Auschwitz exhibition that opened in Frankfurt and then toured the country. The return to amnesia was unimaginable.

On July 1, 1968, Fritz Bauer was found dead in his bathtub in Frankfurt. The heart of this inveterate smoker, who was in poor health, had failed after a heavy dose of sleeping pills. Even today, the circumstances of his death give rise to speculation that he may have committed suicide or even been murdered. Boycotted by lawyers, Fritz Bauer was loved by the younger generation. He died too soon to witness what he had helped to trigger: the uprising of this new generation of Germans which, enlightened by men like him, would demand a radical transformation of German society and allow the construction of a solid democracy.

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*Géraldine Schwarz is a French-German writer, journalist and documentary filmmaker living in Berlin. She received, among others, the 2018 European Book Prize for her book [“Those Who Forget”](#) (Flammarion/Champs) translated into more than 12 languages. After discovering that her German grandfather had arianized a Jewish company in 1938, she retraces, through three generations of her family, the long work of memory that allowed German society to build a democracy. She regularly takes part in the media and in conferences on themes such as Europe, democracy, memory work and populism.*



Fritz Bauer, 1965 circa.  
© KEYSTONE/AP Photo

# The Case that Forever Changed the Field of International Criminal Law



Hernán Garcés

Lawyer

On September 11, 1973, General Pinochet overthrew the democratic government of Salvador Allende with the support of President Richard Nixon, Henry Kissinger and the American services. Juan Garcés, a lawyer and Doctor of Political Science (Sciences-Po, Paris), was in the Presidential Palace that day. He had been Allende's closest political advisor since the creation of his government three years earlier, having also collaborated with him in his fourth successful presidential campaign. Until the coup, Chile was the most developed and democratic country in the Spanish-speaking world.

Juan Garcés returned to Sciences-Po Paris as a research associate when he left Chile. Since then, he has not stopped working on the mission that Salvatore Allende entrusted to him before his death: to make known what had happened to Chile.

Since 1945, the establishment of the United Nations and the development of international law have made humanity a subject of law in its own right, placing it above states themselves. On the basis of these principles, the General Assembly of the United Nations condemned, on 19 occasions, the criminal activities of the Chilean state after the 1973 coup d'état.

Of the perspective of getting judges to deal with these crimes, the legal system in Chile was clearly not an option, as it had been under the orders of General Pinochet's regime. However, after the death of General Francisco Franco, Spain passed an article of law in July 1985 that gave jurisdiction to Spanish courts to judge, in accordance with the principles of universal jurisdiction, crimes of torture, genocide and terrorism committed by foreigners outside Spain, even if the victims were not Spanish. Under this law, ordinary citizens, including victims, could file complaints with judges and request an investigation.

While no member on the judiciary was willing to implement such a law in 1985 in the context of the Cold War, the post-Cold War world opened up new possibilities for such implementation.

In 1996, a Spanish anti-corruption prosecutor, Carlos Castresana, filed a complaint in the name of the Progressive Association of Prosecutors in the Audiencia Nacional of Spain against Argentine torturers who belonged to the dictatorship, with charges including genocide and terrorism. This case was assigned to Judge Baltasar Garzón, who had already investigated famous cases of organized crime.

**“JUAN GARCÉS HAS NEVER STOPPED WORKING ON THE MISSION THAT SALVATORE ALLENDE ENTRUSTED TO HIM BEFORE HIS DEATH: TO MAKE KNOWN WHAT HAD HAPPENED TO CHILE.”**

After that, Judge Garzón determined that he had jurisdiction in Spain over this case, Juan Garcés filed a criminal complaint against Augusto Pinochet and other members of the Chilean military junta on July 4, 1996, at the same time as a civil complaint. The strategy was to represent victims of all nationalities and political ideologies and to go after only those at the top of the Chilean repressive apparatus. The Spanish justice system accepted the criminal and civil complaints, and together with his colleague Manuel Murillo, Juan Garcés represented approximately 4,000 victims. They worked in collaboration with Chilean lawyers and those from other countries to obtain as much evidence as possible.

As with any attempt to prove crimes by people at the very top of a State apparatus, it was clear that cases of torture such as Pinochet's and his main accomplices' would require documents from the Chilean government or army to prove the active participation of the State in an organized system of repression. At a first glance, such evidence might seem impossible to obtain.

However, Juan Garcés and his colleagues succeeded in obtaining personal testimonies from the victims, as well as documents from the source that should have seemed the least willing to provide them: the United States.

In fact, the parallel investigations carried out in Spain on Argentina and Chile first brought to light kidnappings between the borders of the two countries and then to the existence of the disastrous Operation Condor. This was a system of secret operations of the repression of political opponents carried out in concert by six South American countries (Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay) with the support of the Nixon administration in the United States. Augusto Pinochet and Manuel Contreras were the chief strategist of Operation Condor.

Thus, in 1997 Juan Garcés, together with his colleague Sam Buffone (a lawyer in the Letelier case before the courts of Washington D.C.), began proceedings to obtain official documents on the role of Chile in Operation Condor from the Clinton administration. Even though the number of documents handed over before the arrest of Mr. Pinochet in London was not so large, having approached the US at that time would prove to be decisive later on.

On March 13, 1998, Juan Garcés asked Judge García Castellón to issue an arrest warrant for Pinochet and the political and military leaders of his regime.

Augusto Pinochet arrived in London on September 23, 1998. On the agenda of his stay in London: a tea with Baroness Margaret Thatcher and an operation for a herniated disk. Mr. Pinochet was aware of the complaints lodged against him in Spain, and his lawyers had tried to dissuade him from traveling to Europe, but to no avail. He was to remain there for 503 days under house arrest.

Juan Garcés was alerted to Augusto Pinochet's arrival in London and, based on the evidence gathered since 1996, he initiated a request for mutual legal assistance between two member states of the European Convention on Extradition. He got the Spanish judge in charge of the Operation Condor case to request the English authorities, via Interpol, to authorize him to directly question Augusto Pinochet on his role in this Operation, just after his back surgery.

But on October 16, Juan Garcés asked the Spanish judge to go further. He asked him to issue a warrant for Augusto Pinochet's arrest via Interpol, as he had learned that Pinochet was going to return to Chile the next day, and would therefore evade interrogation. Augusto Pinochet was arrested that same evening, while still in hospital, and an additional arrest warrant was issued the next day. The arrest warrant incorporated charges of systematic torture for political reasons, genocide, and terrorism in accordance with the respective international conventions. On October 18, Juan Garcés requested and obtained the sequestration of Pinochet's assets to guarantee his civil responsibilities.

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**“THIS CASE HAS CHANGED  
THE SITUATION OF  
IMPUNITY ON A LARGE  
SCALE, NOT ONLY  
IN CHILE, BUT ALSO ON A  
GLOBAL LEVEL.”**

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The work undertaken since 1997 with the US Department of Justice led to the collaboration of the American government. On January 28, 1999 – more than a month before the final decision of the House of Lords – US authorities declassified some 20,000 documents, the largest ever discretionary declassification by the US government on a foreign policy issue. These documents demonstrated, in addition to the role of the US in Operation Condor under the Nixon Administration, the extent of the repression of opposition by the Pinochet regime.

After a judicial saga that has since become legendary, on March 24, 1999, the House of Lords (Pinochet No. 3) decided by majority that within the framework of the 1984 Convention against Torture, Mr. Pinochet did not enjoy immunity for crimes of torture and could therefore be extradited to Madrid for prosecution. In the ruling, it was accepted that the *jus cogens* nature of the prohibition of torture was recognized by international law and excluded the immunity that Mr. Pinochet would have otherwise enjoyed.

In the extradition hearings that followed in September 1999, Judge Ronald Bartle accepted the 'conspiracy' mode of responsibility. Since this mode of responsibility was considered 'continuous', crimes committed even before the UK had ratified the Convention against Torture in 1988 could be taken into account; that is to say, beginning from the coup d'état in September 1973. This same judge also decided that the impact of a disappearance could constitute a form of torture for their relatives. To this end, Judge Bartle approved the extradition of Pinochet, to be tried by Spanish courts.

Everything was ready for a historic trial of Augusto Pinochet in Spain. Their investigations estimated that during his time in power from 1973 to 1990, he was responsible for the torture of about 10% of the adult population and the assassination and/or forced disappearance of more than 3,000 people.

The British Home Secretary Jack Straw decided otherwise, for so-called medical reasons, he allowed Augusto Pinochet to return home to Chile in March 2000, despite the decision of the House of Lords and the extradition order.

The civil and criminal proceedings against Augusto Pinochet continued, however, with the release of some of his personal funds that had been laundered through Riggs Bank in Washington D.C. After investigations by the U.S.

Senate and judicial requests by Juan Garcés, executives of this bank agreed to pay more than US\$8,000,000 to Pinochet's victims as compensation for acts of terrorism, torture, and genocide.

Between 2006 and 2008, the funds received were distributed as compensation to 22,073 victims of Mr. Pinochet throughout Chile and 50 other countries.

Although the criminal aspect of the Riggs' Bank was dismissed after the extrajudicial settlement, it has changed the phenomenon of impunity on a large scale, not only in Chile, but also on a global level.

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**“THIS HISTORIC DECISION  
DIRECTLY PAVED THE WAY  
FOR THE EXPANSION OF  
UNIVERSAL JURISDICTION.”**

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At the time of Pinochet's return to Chile, Spain, the UK, France, Belgium, and Switzerland had collaborated with the investigation and prosecution of the crimes of his regime, and the European Parliament had passed resolutions of solidarity with the investigations. While he was free in his own country, Pinochet was a fugitive under international law, wanted in several countries and unable to travel abroad.

The worldwide interest in the “Pinochet affair” caused a considerable shift in Chile itself. In December 2000, 9 months after his return to Chile, Pinochet was indicted by Judge Juan Guzman for the murder of 77 people. He was arrested in 2001. In 2004, the Chilean Supreme Court decided that Pinochet did not have immunity and could therefore be tried. He was then indicted on other charges and placed under house arrest before he died in December 2006.

Undoubtedly, the fact that Chile finally decided to confront its past also had a wider impact in Latin America. Other countries involved in Operation Condor then began to prosecute crimes committed by their leaders.

By obtaining an extradition order against a former head of state in a foreign court for international crimes, the Pinochet case has been decisive in the field of international criminal law. Twenty-five years ago, on October 16, 1998, this monumental precedent showed victims and their lawyers all over the world that international courts were not the only way to obtain justice.

This historic decision directly paved the way for the expansion of universal jurisdiction. Under this principle, victims, under certain conditions, can obtain justice outside of the country where the crimes were committed and are not being tried. Following in the footsteps of the Chilean victims and their lawyers, Chadian, Syrian, Rwandan, Liberian and many other victims have obtained justice in national courts.

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Augusto Pinochet  
18 September, 1973.

# From Pinochet to Habré to Civitas Maxima



Reed Brody

Human Rights Lawyer

May 30, 2016 will be carved into history as the day that a band of unrelenting survivors brought their dictator to justice, when a court in Senegal convicted the former Chadian despot Hissène Habré of crimes against humanity, war crimes, and torture, including sexual violence and rape, and sentenced him to life in prison.

It was the first time that the courts of one country had prosecuted the former ruler of another for alleged human rights crimes. It was also the first trial of universal jurisdiction in Africa.

**“IT WAS THE FIRST TIME THAT THE COURTS OF ONE COUNTRY HAD PROSECUTED THE FORMER RULER OF ANOTHER FOR ALLEGED HUMAN RIGHTS CRIMES. IT WAS ALSO THE FIRST UNIVERSAL JURISDICTION TRIAL IN AFRICA.”**

Most importantly for the future, however, the verdict was the result of a 25-year campaign by Habré’s victims and their supporters who improbably succeeded in creating the political conditions to bring Habré to justice in Africa.

The case took shape in the mind of Souleymane Guengueng, a civil servant who was thrown into one of Habré’s clandestine dungeons on false charges. There, as he watched dozens of his cell mates succumb to torture and disease, he took an oath that if he ever got out of jail alive, he would bring his tormentors to justice. When Habré was overthrown in 1990 and fled to Senegal, Guengueng used his charm to persuade still-frightened victims to join him in an association and seek justice. Many people thought he was crazy. *“Mais, depuis quand la justice est-elle venue jusqu’au Tchad”* he was asked. Since when has justice come all the way to Chad?

An opening for the victims only came years later, in 1998, when Britain arrested the former Chilean dictator Augusto Pinochet, and the UK House of Lords ruled that he could be arrested anywhere in the world despite his status as a former head of state. I was part of that case for Human Rights Watch, and we began to think about how we could use international justice to bring to book torturers and tyrants who were seemingly out of the reach of justice. Delphine Djiraibe, a Chadian lawyer, approached me with the same thought: *“Why not in Africa, why not Hissène Habré?”*

Together we built an international team of investigators, legal experts, and victims to file a case against Habré in Senegal, which led to his arrest in 2000 – however, the case was sidelined by political interference. For the next 15 years, in what became known across Africa as a “political and legal soap opera,” we worked across three continents to unearth evidence and witnesses, petition courts and skeptical governments, and rally public opinion. We faced obstacles and constant threats. Our lead lawyer, Jacqueline Moudeina, was gravely injured in a bomb attack; Souleymane had to seek asylum in the US.

But in a case that looked dead so many times, the victims made it clear that they would never go away. They pressed forward in Senegal and Belgium, at the UN Committee against Torture, at the African Union and, with the support of Belgium, at the Interational Court of Justice.

Finally, after the ICJ in 2012 ordered Senegal to prosecute Habré “without further delay” and a new government in Senegal resolved to do just that, Senegal and the African Union created the Extraordinary African Chambers within the courts of Senegal and put Habré on trial in 2015.

And now, just as Habré’s victims wanted to replicate what Pinochet’s victims had done, other victims are using what Habré’s victims did as a model. After the Habré verdict, Jacqueline, Souleymane, and I led a team to Gambia where we helped the former Gambian dictator Yahya Jammeh’s victims organize a “Jammeh2Justice” campaign. One of our lawyers on the Habré case, Alain Werner, had already founded Civitas Maxima to pursue international redress of atrocity crimes on behalf of Liberian victims who did not have access to justice at home.

In the past 20 years, the ICC has only managed to convict five rebels (all of them African), but a whole new ecosystem of international justice has been consolidated over the past decade. The list of former rulers prosecuted by domestic and hybrid courts for human rights crimes keeps growing. The UN has created three independent investigative mechanisms to build war crimes cases for atrocities committed in Myanmar, Syria, and by ISIL, to feed them to national prosecutors. Universal jurisdiction cases are also on the rise, with over 100 defendants, mostly living in Europe, being prosecuted for crimes committed in places like Syria, Liberia, Iraq, and Rwanda. This welcome

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**“JUST AS WE HAVE LEARNED FROM  
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development has been spurred in large part by NGOs like Civitas Maxima which work with national partners to develop cases, track perpetrators, and work with national authorities to bring them to trial.

Victims and NGOs like Civitas Maxima are better suited than official institutions to foster the emancipatory possibilities of litigation. They place the affected parties at the center of the legal struggle, involving them as protagonists, framing the issues, and tying criminal cases abroad to impunity at home. Just as we have learned from Pinochet and Habré, I am sure that in the next 10 years we will see many other groups replicating the Civitas Maxima model.

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*Reed Brody is a veteran lawyer and prosecutor. From Nicaragua and Guantanamo to Timor-Leste and the Congo, he has been on the frontlines of investigating atrocities and bringing their perpetrators to justice. He worked for eighteen years alongside Hissène Habré’s victims and has helped pursue despots such as Augusto Pinochet of Chile, Jean-Claude Duvalier of Haiti, and Yahya Jammeh of the Gambia. His most recent book is [\*“To Catch a Dictator, the Pursuit and Trial of Hissène Habré”\*](#) (Columbia University Press, Nov. 2022).*





Hissène Habré, then leader of Northern Army Forces, inspects his troops, at the Ouadi Barrid Headquarters, in the Biltine region (East of Chad), 10 March 1981, during civil war in Chad.  
© AFP/Getty Images

## PART II

# FILLING THE GAP

*How Civitas Maxima strives to do what bigger mechanisms do not or cannot do.*

10<sup>th</sup> ANNIVERSARY

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Security Prison 21 (S-21). More than 12'000 people lost their lives in S-21, during the Khmer Rouge rule. The premises are now a genocide museum, built in the memory of the victims. See pp. 36-37

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# Causing Insomnia to the Planetary Nomenclatura of Impunity



Nicolas Borsinger

Board Member and Advisor of Several Foundations

A large, even preponderant, part of public opinion seems to be discovering the problem of war crimes and their impunity through the war in Ukraine. If this can help consolidate awareness of the constant and urgent need to fight against such impunity, it is more than welcome.

Impunity for war crimes is not limited to any one conflict, but is a global scourge to which too little attention and resources are given. The difficulty of the task should make us all the more grateful for the work of the pioneers in this field.

Civitas Maxima is undoubtedly one of these pioneers. Who would have wagered 10 years ago that such a modest organization, in terms of resources and budget, would succeed in bringing so many alleged war criminals before so many courts, and that these courts would pronounce so many convictions for war crimes against so many actors in positions of power, all of whom, not without reason, were confident they could act with impunity?

The multiple and massive challenges that Civitas Maxima had to overcome in order to accomplish so much in 10 years are truly dizzying. Almost everything had to be invented on all levels, and moreover in multiple jurisdictions with their different particularities. The fact that during this period Civitas Maxima facilitated almost as many arrests and/or convictions as the International Criminal Court over 20 years, with 100 times fewer resources, must also be noted. While the record may be richer and broader than this assertion may suggest, the result of this comparison remains.

“ALMOST EVERYTHING  
HAD TO BE INVENTED  
ON ALL LEVELS.”

Civitas Maxima chose to focus for a long time on one main context, Liberia. What can we learn from this choice? At the time it was both realistic - trying to cover several conflicts with so few resources would have involved a serious risk of dispersion - and courageous: what judicial priority could such an “old” conflict in such a distant land have?

The answer seems simple to me. Impunity will only be overcome if the effort is universal, including the widest possible variety of courts, forgetting no conflict. Conversely, it will never be overcome if all efforts and resources are concentrated on a handful of conflicts and tribunals with a particularly high media profile: this would only lead to accusations of an obvious politicization of international criminal justice.

For this reason alone, it is essential that crimes committed 30 years ago in “geographical distant countries” be tenaciously prosecuted, for therein lies the key proof of the universality of the struggle. May the conviction of each alleged criminal cause insomnia to the “planetary nomenclatura of impunity”, forcing them to ask themselves “*will my turn come?*”. The greater the number of these insomniacs, the fewer will be inclined to join them and impunity will recede. May these insomniacs be a good auspice for the future.

An anniversary is, first of all, an opportunity to measure progress made and to celebrate successes achieved. It can also be an opportunity to express gratitude. The many advances and operational experience gained by (the still young!) Civitas Maxima, a pioneer in the cause, can only benefit the new actors in the war in Ukraine. For this and because in the end the fight against impunity protects us all, thank you for the fertile path traced over the past 10 years and best wishes for the new chapters to come.

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*Nicolas Borsinger is an agricultural engineer from the Swiss Federal Institute of Technology (ETH) and was an ICRC delegate for 15 years before becoming Executive Director of a donor foundation until 2016. During this period, he also held various positions within national and international foundation networks. He is currently a member of the board or advisor of several foundations.*

*Since its inception, Civitas Maxima and its partner in Sierra Leone CARL have been working on accountability against Western actors involved in the trade of so-called “blood diamonds” in Sierra Leone through Liberia. The case against Michel Desaedeleer would have been the very first trial in history for the pillage of minerals in Africa qualified as a war crime, but Mr Desaedeleer took his own life a few months before the trial in Brussels.*

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## **Blood Diamonds arrest sheds light over grim African trade**

*Malaga, Spain  
31.08.2015*

Last Friday, a 64-year old Belgian citizen, Michel Desaedeleer, was waiting to board a flight from Malaga in southern Spain to New York. But his name registered on a Europe-wide database of arrest warrants and he was detained by police at the airport, according to Spain’s Interior Ministry.

The accusation against Desaedeleer, who also holds U.S. citizenship, is that he profited from the illicit trade of “blood diamonds” during the civil war that ravaged Sierra Leone between 1991 and 2002. But it’s only in recent years that a case against him has been put together by Belgian authorities, and it’s largely based on eyewitness testimony.

Desaedeleer is suspected of having participated with former Liberian President Charles Taylor and the rebels of the Revolutionary United Front (RUF) led by Foday Sankoh in Sierra Leone in a scheme to mine diamonds illegally in the district of Kono in eastern Sierra Leone.

The warrant for Desaedeleer’s arrest was based on testimony gathered by a Swiss-based NGO, Civitas Maxima from witnesses who were in Kono between 1999 and 2001. According to a statement from Spanish police, the allegation is that Desaedeleer “would have been one of the supervisors in charge of overseeing the extraction works on site” at the end of 1999 and the beginning of 2000.

Previous trials in international courts have established that the RUF ran an horrific regime of enslavement and brutality at mines it controlled in Kono and elsewhere, including amputation, rape and forced conscription of civilians and suspected rebels, according to Human Rights Watch. But also according to hundreds of pages of judgments issued in the Special Court.

Alain Werner, the lawyer who helped prepare the victims’ case, was previously one of the prosecuting attorneys in the Special Court that tried Taylor for war crimes and crimes against humanity, and was also involved in the trial of prominent RUF members. He told CNN he had first come across Desaedeleer’s name in 2006.

Werner told CNN that Sankoh and others needed “external actors to market the diamonds they were smuggling out to the Liberian capital, Monrovia.” He said the critical element in the complaint presented against Desaedeleer, which runs to some 50 pages, was that former members of the RUF had sworn that he was in Kono.

Werner said there was no suggestion that Desaedeleer had been personally involved in any abuses. But the complaint held that Desaedeleer was complicit in pillage as a war crime and enslavement through his involvement in the Kono diamond mining.

A U.N. panel of experts that investigated the trade in blood diamonds reported in 2000 that Desaedeleer first made contact with the RUF while in Togo during the summer of 1999. Within months, according to the U.N. panel, he and an associate had “worked up an arrangement with Foday Sankoh which would give them authority to broker rights to all of Sierra Leone’s diamond and gold resources for a 10-year period.”

The U.N. report also said that a letter, signed by a “Michel,” “proposed that his Belgian partner ‘Charles’ could hire a private jet to take the diamonds out directly from Kono” without having to pass through the capital, Freetown.

[...]

# On the Importance of Real North-South Partnerships



George Kegoro

Human Rights Lawyer

Eight years ago, when I was the Director of the Kenyan Section of the International Commission of Jurists (ICJ-Kenya), and already part of the governance of Civitas Maxima, Alain Werner asked me if two colleagues from Civitas Maxima's Liberian sister organization, the GJRP, could come to Nairobi for a monthlong exchange. I readily agreed as I felt that their visit to Nairobi not only offered them respite and protection from the difficulties back home but was also a chance for them to gain additional insights that would be useful into the future.

I knew that Alain greatly admired the model of ICJ-Kenya, an African organization created in 1959 and which is still today the only independent national section of the ICJ, founded in 1952 and based in Geneva. I was also aware that Civitas Maxima had already facilitated for GJRP staff to receive training in The Hague in The Netherlands with the IICI, and this partnership between IICI and GJRP continued for many years.

GJRP Director Hassan Bility and his colleague Sando Boakai spent four weeks with us in Nairobi during the summer of 2015, touring our departments, observing and asking questions, with humility and curiosity. At that time, the situation in Liberia regarding the prosecution of wartime atrocities seemed hopeless, as politicians had put on the back burner the recommendations of the country's TRC issued in 2009.

I wondered how this partnership between GJRP and Civitas Maxima would develop over the years, and whether, together, they would somewhat be able to move the lines.

The first question was far from obvious. Over several decades, I had seen a lot of Western lawyers and other human rights people – even well-intentioned – wanting to create lasting partnerships with people from the global south, only for those partnerships to collapse after a short period. I also often saw partnerships that were in name only and were never really true partnerships in the minds of the initiators.

When Alain Werner secured his own funding in Geneva in 2012 to run an initiative on international criminal justice, he wanted to work with Hassan as they had already been working together. Alain had secured some additional money in his budget line to hire someone in Europe and send him to work with Hassan in Liberia. Instead, Hassan suggested to Alain that with this money he would rather let him hire Liberians, get them properly trained and create a sister organization to Civitas Maxima, the GJRP. Alain's great merit then was to understand that this was the right thing to do. And so, a true partnership was created and it has lasted for over 10 years now.

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**"I OFTEN SAW PARTNERSHIPS THAT WERE IN NAME ONLY AND WERE NEVER REALLY A PARTNERSHIP IN THE MINDS OF THE INITIATORS."**

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The repartition of the tasks has been clear and the hallmark of a real partnership: for the GJRP the investigations on the ground with all their knowledge of the conflict and its actors, and for Civitas Maxima the liaison with, and assistance to, Western authorities for them to get the cases to Court.

On the second question, whether Hassan and Alain would be able to make a difference, I must admit that they both greatly surprised me. I knew they were sincere and would do everything possible for their endeavor to work, but I did not think they would succeed the way they did and would obtain as many results:

- First conviction for war crimes against a Liberian citizen for atrocities committed during the Liberian wars (Switzerland, 2021);
- First conviction for crimes against humanity against a Liberian citizen for atrocities committed during the Liberian wars (France, 2022);
- Two other criminal convictions obtained for immigration crimes including the first trial against a member of Charles Taylor's rebel group, the NPFL (United States, 2017 and 2018).

As a lawyer I know how difficult criminal trials are. In the particular case of Liberia, these difficulties were compounded by the passage of time since the crimes were committed; the distance between the place where crimes took place and where the trials were now happening and the paucity of evidence. It is therefore a remarkable result that Hassan, Alain and all their colleagues have achieved in 10 years.

I draw attention to, and commend, the fact that the GJRP and Civitas have managed a balanced and thoughtful approach that promotes accountability for crimes committed by all the sides to the Liberian conflict, rather than those of only one side. In this regard, their investigations have been directed at crimes committed by Charles Taylor's forces or regime, of which Hassan was a direct victim, those committed by governmental forces (AFL), as well as crimes committed by the rebel groups ULIMO and LURD. I commend the fact that Hassan found the courage to transcend the sectional limitations that would otherwise have been placed on him, especially in a small country where kinship ties are strong and can play a disabling role. In this regard, I note that, in seeking accountability against ULIMO and LURD rebels, Hassan risked the alienation of his own local community.

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**“LONG LIVE CIVITAS  
MAXIMA, THE GJRP AND  
THE LIBERIAN VICTIMS’  
MAGNIFICENT QUEST FOR  
JUSTICE THAT INSPIRE US!”**

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Long live Civitas Maxima, the GJRP and the Liberian victims’ magnificent quest for justice that inspires us!

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*George Kegoro is a human rights lawyer, and Director of Policy and Engagement at Open Society Foundations – Africa (OSF-Africa). He previously served as Executive Director of the Kenya Human Rights Commission and as Executive Director of the International Commission of Jurists-Kenya (ICJ-Kenya). George Kegoro is also a member of the Advisory Board of Civitas Maxima.*





A soldier loyal to the government lies prone while firing at enemy positions near a key bridge in Monrovia, Liberia. August, 2003  
© Chris Hondros/Getty Images

## Obtaining Justice at Home



Fatsah Ougergouz

Rector of the African Institute of International Law

I remember July 2, 2006 in Banjul, The Gambia, as an important date for two reasons. It was the date on which, as a newly elected judge of the African Court on Human and Peoples' Rights, I was sworn in alongside my ten colleagues before the Assembly of Heads of State and Government of the AU. It is above all a date that will mark an important turning point in the fight against impunity in Africa. On that day, I had the great privilege to hear my friend Robert Dossou, who had been appointed Chairman of the Committee of Eminent African Jurists six months earlier by the AU Assembly, present its report on the Hissène Habré case.

I also had the privilege to witness the adoption of a historic decision by this supreme organ of the AU. The Assembly of the African Union thereby decided to "*consider the Hissène Habré case as a case of the African Union*" and to mandate the Republic of Senegal "*to prosecute and ensure that Hissène Habré is tried, on behalf of Africa, by a competent Senegalese court with guarantees for fair trial.*" The AU Assembly took this decision after noting that under the Constitutive Act of the African Union, the crimes of which Hissène Habré was accused fell fully within the AU's jurisdiction, but that it did not have a legal organ competent to try him.

The "Hissène Habré case" would be the source of litigation against Senegal before three international courts: the African Court on Human and Peoples' Rights in 2008, the ECOWAS Court of Justice in 2008, and the ICJ in 2009. This case, along with those involving other high-level African officials, would also be at the origin of the Decision on the Misuse of the Principle of Universal Jurisdiction adopted on July 1, 2008 by the AU Assembly. In this decision, the Assembly indicated, among other things, that "*the political nature and abuse of the principle of universal jurisdiction by judges from some non-African States against African leaders, particularly Rwanda [was] a clear violation of the sovereignty and territorial integrity of these States*" and decided "*to urgently cause a meeting between the African Union (AU) and the European Union (EU)*". This meeting would examine the issue of the exercise of universal jurisdiction by European States, with a view of finding a lasting solution for the concerns expressed by the African side.

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**"AFRICA, WITH THE HISSÈNE HABRÉ TRIAL, HAS DEMONSTRATED ITS CAPACITY TO JUDGE ON ITS OWN SOIL THE CRIMES COMMITTED BY ITS PEOPLE."**

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It should be noted that the principle of universal jurisdiction allows, under certain conditions, judges from one state to prosecute a national of another, if the latter is accused of international crimes (genocide, war crimes and crimes against humanity).

In January 2009, following the above decision, the AU and the EU set up a group of independent technical experts composed of Antonio Cassese (Italy), Pierre Klein (Belgium), Roger O'Keefe (Australia), Mohammed Bedjaoui (Algeria), Chaloka Beyani (Zambia) and Chris Maina Peter (Tanzania). In April 2009, this group of experts issued its report in which it highlighted, among other things, that Europeans targeted Africans when prosecuting persons accused of international crimes in Europe: "*African states take the view that they have been singularly targeted in the indictment and arrest of their officials and that the exercise of universal jurisdiction by European states is politically selective against them. [...] The African perception is that the majority of indictees are sitting officials of African states.*"

Whatever the validity of such a feeling on the part of African states, it would seem that 14 years after the publication of this report, the situation has changed. In recent years, there have been more and more of such cases, in Europe and elsewhere, and they have no connection to the African continent. These include prosecutions in several countries against individuals suspected of crimes committed during the war in Syria, but also in connection with crimes against the Rohingya in Myanmar or even crimes in other countries such as Iran. And now, with the war in Ukraine, we will undoubtedly see many cases related to crimes committed during this conflict, in several European countries, for years to come.

In the above-mentioned report, the panel also emphasized the need for African states to try African nationals themselves: "*There seems to be a strength of feeling among EU Member States that African statements of concern over the assertion of universal jurisdiction by national courts of EU Member States need to be backed by a real willingness on the part of African states to prosecute the relevant crimes themselves*".

The prosecution of African nationals by African states was even more conceivable, since the report showed that 36

of these states provide, in one way or another, for the possibility of exercising jurisdiction over international crimes on the basis of universal jurisdiction in their own legislation. This is, of course, acknowledging that any state can investigate and prosecute crimes committed on its own soil on the basis of the principle of territoriality.

Since 2009, the situation has changed significantly with regards to the supposed inaction of Africans to judge the crimes committed on their own continent themselves. One thinks, of course, of the creation by the AU of the Extraordinary African Chambers and the mandate given to these Chambers to investigate and try in Dakar (Senegal) - thus in Africa - the crimes of the former President of Chad, Hissène Habré. This trial, which took place between 2015 and 2017, was a success, and the Chambers fulfilled their mandate promptly whilst scrupulously respecting the budget, which was one of the most modest in the history of international law.

In addition, the Malabo Protocol, adopted in 2014, once it is ratified by 15 African States (so far, it has been ratified by none) will empower the African Court on Human and Peoples' Rights to try 14 types of international crimes. The Transitional Justice Policy adopted in February 2019 by the AU, emphasizes alternative modes of justice (including reconciliation) and African values. It also reiterates the principle that all crimes committed must be investigated and tried, regardless of who committed them.

As an African and having been a practitioner of international law for 30 years, I welcome all this progress – but I cannot yet be satisfied with it.

Africa, with the Hissène Habré trial, has demonstrated its capacity to judge, on its own soil, the crimes committed by its people. This example must now be replicated and repeated. Our continent must no longer be a quasi-exclusive land of non-justice for victims when it comes to obtaining justice for the mass crimes they have suffered.

In this regard, I would like to commend the work done by Civitas Maxima over the past 10 years, hand in hand with their African partner, the GJRP, in Liberia. Since impunity still reigns in the country for crimes committed during the war, obtaining justice in Europe and the US for Liberian victims remains necessary and important.

What is even more important, in my opinion, is to then use the publicity of these trials, far from the shores of Africa, to empower Liberians with the knowledge and means to finally obtain justice from their leaders at home. This is just what Civitas Maxima and the GJRP are doing.

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**“OUR CONTINENT MUST  
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*Fatsah Ouguergouz is an independent international arbitrator and the Rector of the African Institute of International Law (Arusha, Tanzania); and is an Associate of the Institute of International Law. He served as Judge and Vice-President of the African Court on Human and Peoples' Rights from 2006 to 2016 and notably chaired the United Nations Commission of Inquiry on Burundi from 2016 to 2018. Judge Ouguergouz is the author of numerous publications, including several books, and was Deputy Director of the African Yearbook of International Law from 1992 to 2018.*



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**For Immediate Release**

**December 13, 2022**

**An Open Letter to Liberians from Ambassador Beth Van Schaack  
U.S. Ambassador-At-Large for Global Criminal Justice**

I am writing to extend my thanks to the people of Liberia for a very meaningful visit in October of this year. On my first trip to Liberia, I very much appreciated the opportunity to meet with, and hear from, a wide range of policymakers, lawmakers, members of the media, and Liberians who shared with our delegation their perspectives on the prospects for justice in Liberia. I owe special thanks to Pastor Janice Gono, who gave me a very moving tour of St. Peter's Lutheran Church, where 600 Liberians lost their lives after they sought sanctuary in this place of worship.

Liberia faces many challenges when it comes to justice and accountability, not only for the terrible war crimes committed during two consecutive civil wars, but also for subsequent crimes and corruption. Impunity is corrosive; when it is allowed to flourish in one sector, it will undermine the foundations of peace and the rule of law across an entire society.

The overwhelming message we heard on our visit was a call for those with the power to do so to implement the important recommendations of the 2009 Truth and Reconciliation Commission of Liberia (TRC). These recommendations reflect the wisdom of Liberian leaders and experts in law, human rights, theology, and journalism. The TRC commissioners were tasked with the awesome responsibility for generating a framework to prevent a return to mass violence in Liberia, answer the call of victims and survivors for justice, and hold accountable those most responsible for war crimes and other atrocities.

Notwithstanding the recommendation of the TRC to establish an Extraordinary Criminal Court for Liberia, with a mandate to investigate war crimes and economic crimes, the only justice Liberians have enjoyed to date has occurred in foreign courts. This includes the recent verdict in France against Kunti Kamara, who was sentenced to life imprisonment for complicity in crimes against humanity, torture, and acts of barbarism. Currently, two cases are proceeding in U.S. courts against former rebel general Laye Sekou Camara and former Armed Forces of Liberia commander Moses Wright for charges related to misrepresenting their wartime conduct on immigration forms in attempts to evade accountability. My visit followed on the heels of a civil judgment in Pennsylvania against Moses Thomas, establishing his liability for the Lutheran Church massacre and resulting in an \$84 million damages award to victims. Because he absconded from the United States, this judgment has never been paid. And just before my delegation and I arrived in Liberia, a suit was filed in the ECOWAS Community Court of Justice on behalf of the survivors of the massacre at St. Peter's Lutheran Church. The basic claim: that Liberia has failed to provide victims justice.

These cases would not be possible without the amazing work of the Global Justice and Research Project (GJRP) and other Liberian and international civil society actors who have rigorously, reliably, and with unwavering integrity worked to keep the dream of justice alive. Liberians can be proud of the work of their compatriots in the GJRP who are working hard to support war crimes accountability. They should also be concerned, as am I, that the GJRP's work has resulted in threats and intimidation against their staff members.

It was inspiring to hear such a sustained desire for justice from Liberians, and I thank those who shared their thoughts and hopes with me. It is my hope that these aspirations, and expectations, will be met by those entrusted with the power to fulfil them, in service of the lasting and just peace the people of Liberia deserve.

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# A Defense Lawyer on the Prosecution Bench



François Canonica  
Lawyer

Ten years of struggle by a small group of men and women driven by the high ideal that impunity for certain crimes against humanity is itself a crime against life which must no longer be tolerated.

Ten years of struggle. A small group of men and women working towards a single ideal. The Civitas Maxima team firmly believes that impunity for crimes against humanity is itself a crime against life – and that it must no longer be tolerated.

Ideals carry, but they can sometimes run out of steam and erode in the face of so many obstacles, so many battles. Battles that must be fought not only in Liberia and Sierra Leone, but globally, so that these crimes against men, women, children, never go unpunished.

Noble ideals such as this are too often cynically abandoned. In order to be sustained, a champion was needed, someone with a truly insatiable appetite for justice.

Civitas Maxima found him... unless it was the other way around!

I remember perfectly my first “professional” meeting with Alain Werner. Asking me to join Civitas Maxima’s Board, he had come to convince me of the impossible: to join the “prosecution bench”, I who, until then, had only defended.

“LITTLE BY LITTLE, IT  
BECAME CLEAR TO ME  
THAT HIS FIGHT WAS  
NOT ONLY JUST, BUT  
INDISPENSABLE.”

I spoke of the nobility of the defense, the courage to be the ultimate bulwark against authority, on the side of the accused. He spoke of the fate reserved for the victims, they who had not had the right to a fair trial before succumbing to their destiny, the ignominious silence of impunity.

This should have ended in a stalemate, convictions against convictions, yet Alain Werner, the immutable lawyer, was eternally enthusiastic too. He used all the right words to show that the victims, their families, their memory, needed lawyers too - and that Civitas Maxima served their cause.

In a word, Alain Werner told me: “*our fight is as good as yours - we fight it to the same standards as you, respecting the rights of the defense and the presumption of innocence*”.

Little by little, it became clear to me that his fight, that of Civitas Maxima, its Board, and its team was not only just, but indispensable. Participating – even modestly – was the only choice, it would have been cowardly for me not to, especially as I have always fought for justice.

I salute here the intelligence, the good will, the enthusiasm and - needless to say - the commitment of all those who work alongside Alain Werner, whether on the Board or as part of the team. I am convinced that their cause is so just and so noble that it will be sustainable.

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*François Canonica is one of the most renowned criminal defense lawyers of the Geneva Bar, Switzerland. He was President (Bâtonnier) of the Geneva Bar Association (2012-2014), a member of its executive committee (2008-2018) and currently sits on the Criminal Law Commission of the Geneva Bar. François Canonica is also a member of the Executive Board of Civitas Maxima.*



German defense lawyer Robert Servatius during the trial of Adolf Eichmann in 1961. He also represented in the Nuremberg trials Fritz Sauckel, Karl Brandt and Paul Pleiger, and exemplified with many other great defense lawyers "the nobility of the defense."  
© National Photo Collection of Israel

## Now Our Children Do Know



Antonya Tioulong

Former Director of the Documentation at the Newspaper "L'Express" in Paris

My father was an aristocrat and one of King Sihanouk's closest associates. He had dedicated his life to his country. Among other functions, he was an ambassador for Cambodia and a former Prime Minister.

In 1970, the monarchy was overthrown, and a republic was declared. My father, who had retired in Paris a few months before that, and his family were banned from entering Cambodia by the new government.

However, one family member remained in Phnom Penh: my older sister Raingsi, with whom I was very close. She had taken her husband's name and was not subject to the decree of exile. She was 31, worked for the national radio and for the German laboratory Merck Sharp & Dohme. Her husband was in upper management in a bank. They had three children, aged 9 to 12. They were a perfectly normal, peaceful family.

As the civil war intensified, my sister sent her children to live with us in Paris. In April 1975 the Khmer Rouge took power, put the country on lockdown, and we heard nothing more from her. Our worry grew over the next four years. We only learned about her fate in 1979 from cousins who had survived.

When the Khmer Rouge came to power, my sister and cousins were all deported 50 kilometres outside of the capital and forced to work in the fields. My sister, singled out by the guards because she spoke French so that they couldn't understand her and because she was clumsy for manual labour, was forced to do the hardest tasks. They survived about six months in a village in miserable conditions.

One day in November 1975, they were called and interrogated one by one and forced to give up their identities. My sister, who normally always modestly introduced herself using her married name, said she was called Tioulong, a name that represented the power of the past. That was her downfall.

A few days later, she was brought back to Phnom Penh and locked up in the S-21 Prison. This was a torture and extermination centre from which no one was to ever get out alive, run by a man named Duch. The news was devastating for us. But what could we do other than lament our own powerlessness? Cambodia as a country had been torn apart and was still closed off from the outside world.

Fifteen years after learning of my sister's murder, in 1994, I went back to Cambodia for the first time to see the evidence of her case for myself. I found a photo of her as a prisoner posted on a wall, among hundreds of other photos of victims, and the file on her imprisonment. This file mentioned that she had been eliminated five months after she was locked up. Her husband died several weeks after her.

Here too, after the pain, the anger, the indignation, and revulsion, what could we do? What could we do except demand justice for my sister and her husband? Who could we demand justice from? The Khmer government, which included former Khmer Rouge members, was doing nothing.

After five years of waiting, in 1999, taking as example the case against Chilean dictator Pinochet who had been arrested in London for legal proceedings undertaken in Spain, I tried to bring a case in the French legal system against three Khmer Rouge leaders, particularly against Duch, who ran the S-21 Prison. My claim was rejected two years later because the victims were not French.

There was no sign of an international tribunal either. I wondered: were the two million victims of the Khmer genocide so unimportant in the eyes of the world that the criminals did not need to be judged?

We waited another nine years. Finally, in 2008, after tough negotiations between the UN and the Khmer government, an international tribunal was formed in Phnom Penh. The first person to be judged was Duch, the director of S-21, thought to be responsible for the elimination of at least 12,272 people – men, women, and children.

My family and myself, represented by an association of pro bono French lawyers, were recognized as civil parties and were allowed to speak before both the Khmer and international magistrates. This was a first in an international

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**"HERE IS THE FAMILY TRAGEDY, I LAY IT BEFORE YOU AND IT IS UP TO YOU TO RENDER JUSTICE, TO HAND DOWN A SENTENCE THAT MATCHES THE GRAVITY OF THE CRIMES COMMITTED."**

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criminal court. What were we asking for? The truth, but even more importantly, for the victims to be recognized, and for the criminals be punished at last.

The hearings began in 2009 and after waiting for 34 years, I was finally allowed to address the tribunal: I wanted to be my sister's voice, represent her, establish the real course of her life and that of her husband –whom their jailers had accused of being spies for the CIA and the KGB – and also to describe her shining personality, how important she was for me as my older sister, highlight the plight of her orphaned children. And through that, to highlight the incredible injustice and the horror of the fate she never should have suffered.

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**“MY DAUGHTER, WHO STOOD BY ME FOR THE THREE YEARS OF HEARINGS, REALIZED THE SCOPE OF THE TRAGEDY AND HELPED TO MAKE IT MORE WIDELY KNOWN TO THOSE AROUND HER.”**

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I wanted to repeat before the magistrates – here is the family tragedy, I lay it before you and it is up to you to render justice, to hand down a sentence that matches the gravity of the crimes committed. If that were not the case, the elimination of the 12,272 victims of S-21 did not mean much after all.

The court of appeals in 2012 found Duch guilty of crimes against humanity, of inhumane acts, of torture and enslavement. He was sentenced to life imprisonment. We felt that this decision was exemplary.

My family and I have therefore received justice after a long, long wait and a long, long quest for it. What was and still is, for us and for all Khmer people, the impact of this trial?

I see it on two levels. Firstly, on a family level. There was obviously a relief for my sister Raingsi's children, who relied on me to represent them, when they received justice for their parents.

Also, because of the nature of the tragedy, the family had, up until then, kept it quiet in a way. We only talked about it in veiled terms, and we only brought up my sister in happy memories as a way to include her in our daily lives.

The trial was a way to bring up the tragedy publicly and formally, reveal it to all, even to the young people in our family. My sister's children have children of their own now. One of them, who was present at my deposition, told me that she now knew a huge part of her grandmother's story, which she had not until then. My daughter, who stood by me for the three years of hearings, realized the scope of the tragedy and helped to make it more widely known to those around her.

More generally, for Khmer society, the trial also made it possible for the truth, voluntarily hidden by the government up until then, to be known and for people to speak freely.

In this trial, the involvement of Western attorneys and jurists working pro bono to defend the interests of the victims and their families was pivotal. The Khmer lawyers relied on them to be able to fulfil their role, and without them, they would never have been able to do their job fully. I understand how fortunate I have been to enjoy this absolutely necessary support, not only on the legal issues but also on a human level.

For several years now, I have been a member of Civitas Maxima's governance. Indeed, I believe that quests for justice like the one my family pursued for 34 years, should multiply. Impunity for international crimes must be seriously tackled. And this is exactly what Civitas Maxima is working on, efficiently and relentlessly.

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*Antonya Tioulong is the former Director of Documentation at the newspaper “L'Express” in Paris. Antonya Tioulong and her family were plaintiffs in several cases against former members the Khmer Rouge regime before the Extraordinary Chambers in the Courts of Cambodia (ECCC) in Phnom Penh. She is also a member of the Executive Board of Civitas Maxima.*





Inside the Security Prison 21 (S-21) of the  
Khmer Rouge in Phnom Penh.  
© Allie Caulfield / Flickr

## On the Significance of Being Small and Nimble



Christian Wenaweser

Ambassador of Liechtenstein at the United Nations in New York

My country - 160 Km<sup>2</sup> with a population of 40,000 - is one of the ten smallest countries in the world. And yet our diplomacy on issues of international law, especially regarding international criminal law, is probably one of the most active, at least in relation to its size.

Liechtenstein has thus always played – and continues to play – a very active role vis-à-vis the only permanent international criminal court, the ICC, and we have always maintained an intense relationship with it. This relationship with the ICC already started during the negotiations on its Statute in 1998 in Rome, notably by coordinating the discussion of issues surrounding crimes against humanity. Having ratified the Rome Statute in 2001, we have developed and revised the system for the election of judges over time. From 2008 to 2011, I myself had the honor to preside the Assembly of States Parties to the ICC and my country also formed the basis of an informal ministerial network of about 30 states that it coordinates to strengthen the court and to form a united front against its detractors.

**“MY COUNTRY IS ONE OF THE SMALLEST COUNTRY IN THE WORLD, AND YET OUR DIPLOMACY REGARDING INTERNATIONAL CRIMINAL LAW IS PROBABLY ONE OF THE MOST ACTIVE.”**

While no final agreement on the concept of the crime of aggression could be reached when the Rome Statute was adopted in 1998, Liechtenstein worked tirelessly on this topic. Finally, under my ASP presidency, an agreement on the definition of this crime was reached at the Kampala conference in 2010 in the form of a number of amendments to the Rome Statute. Liechtenstein was the first state to ratify this amendment and we spearheaded a project to facilitate the 30 ratifications needed for the activation of these amendments in July 2018 thereafter. Now, out of the in total four ever adopted amendments to the Rome Statute, the Kampala Amendments, with a number of 45 states, are the mostly ratified ones, making them the most successful amendments to the Rome Statute.

Liechtenstein advocates that the ICC is indispensable in the global fight against impunity, but we also understand that its work alone will not be sufficient to try all international crimes committed in the world. At the UN, where all 193 member states convene to solve international problems, it is first and foremost the UNSC that is in charge of maintaining peace and security in the world. But today, where the UNSC is blocked due to seemingly insurmountable fault lines between its permanent members, equipped with a so-called veto power, solutions beyond this primarily responsible body must be found to ensure accountability for atrocity crimes and to bring justice to the most vulnerable and victimized people.

In this light, Liechtenstein continues to engage within the UN to try to make its system more effective, for example with the adoption of a resolution on the so-called veto initiative we introduced in April 2022. According to this resolution, the UNGA will hold a debate every time a permanent member of the UNSC has casted a veto, thereby compelling that state to justify its use of the veto in front of the international community.

But in order to find solutions for today’s problems, we also need to act on substance. Thus, the UNGA is asked to jump in and fill the void created by the permanent members of the UNSC. For instance, with a view to crimes committed during the conflict in Syria as well as during the repression against the Rohingya in Myanmar, Liechtenstein has been a driving force in finding solutions and obtaining two important resolutions from the UNGA, in 2016 and 2018 respectively. These resolutions created investigative mechanisms, the IIIM for Syria and IIMM for Myanmar, both based in Geneva, that collect evidence and then assist in the investigation and prosecution of crimes, notably by national prosecutors and courts, not rarely on the basis of the principle of universal jurisdiction.

In this regard, the IIIM for instance has already facilitated a collaboration with German authorities for trials on international crimes committed in Syria, which notably resulted in in the historic trial of Anwar R. in Koblenz in 2022. The former state official was ultimately convicted for having committed crimes against humanity in the form of torture, murder and sexual violence within the Syrian security apparatus and was sentenced to life imprisonment. In another case in Germany, a war criminal has been convicted to life imprisonment as well. And in a case in Sweden, two perpetrators have been convicted for war crimes after the court had relied on material provided by the IIIM. These are just some illustrations of the successful cooperation of the mechanism with national judiciaries.

However, it is obvious that national investigators have limited means and capacities, too and that they do not have

access to all places to be able to collect every existing information. Involvement of non-governmental organizations is therefore crucial as well for the principle universal jurisdiction to be an effective tool.

Against this backdrop, Civitas Maxima's work on universal jurisdiction with its partners in Liberia is to be highly commended. Not only does it contribute to obtaining justice for Liberian victims in a context where they cannot obtain it in their home country, it also considerably strengthens the work of courts in Europe seized of these international cases.

For example, the first conviction for war crimes against a Liberian national obtained in Switzerland in 2021 was the first decision on war crimes rendered by the FCC in Switzerland. And the first conviction for crimes against humanity against a Liberian national in France was also the first judgment in that country for a case not involving the Rwandan genocide.

Civitas Maxima and its sister Liberian organization have rendered these historic court decisions possible. The international community needs NGOs like this one to make justice a reality. On the long avenue to ultimately ensure accountability, it is always the small steps that – taken together – at some point will mark a true milestone. My 30 years of diplomatic experience in the service of the Principality of Liechtenstein, has taught me that such very small but nimble structures can be remarkably effective.

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**“THE INTERNATIONAL  
COMMUNITY NEEDS  
NGOS LIKE THIS CIVITAS  
MAXIMA AND ITS SISTER  
ORGANIZATION TO MAKE  
JUSTICE A REALITY.”**

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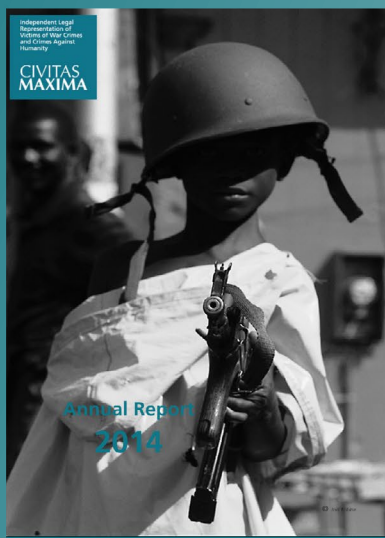
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*Christian Wenaweser has served in his current position of Permanent Representative of Liechtenstein to the UN since 2002. From 2009 to 2011, he served as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC). From 2004 to 2009, he was Chairman of the Special Working Group on the Crime of Aggression. Ambassador Wenaweser studied literature, languages, history and philosophy at Zurich University and diplomacy at the Institut Universitaire de Hautes Etudes Internationales in Geneva.*

# Annual Reports Through the Years

10<sup>TH</sup> ANNIVERSARY

26 pages

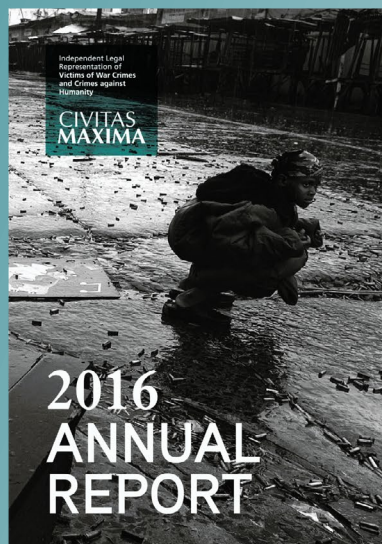


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34 pages

1 internal contributor

3 external contributors

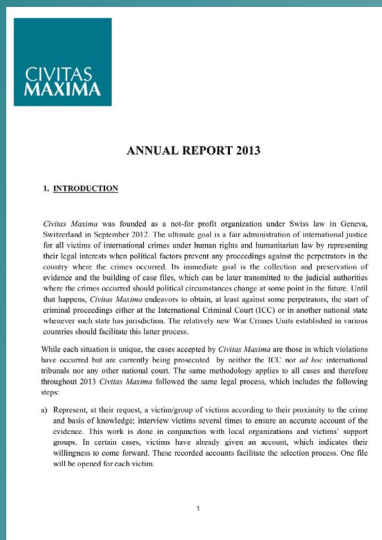


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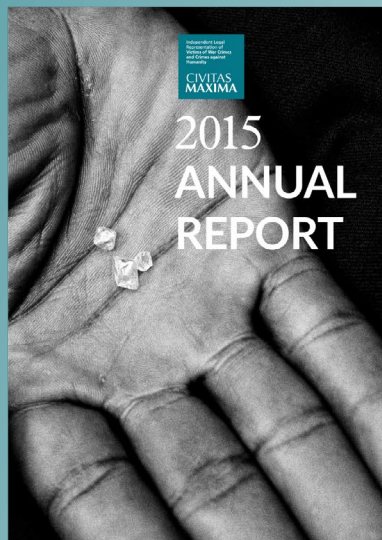
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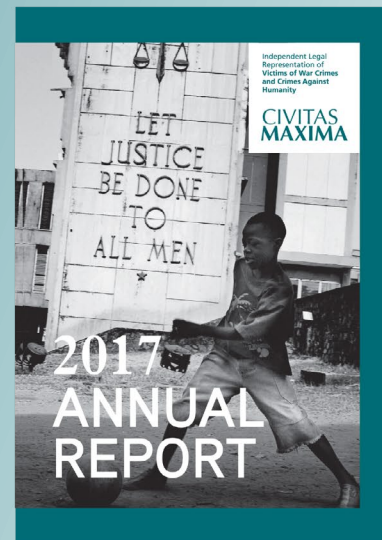
2017



12 pages



42 pages



46 pages

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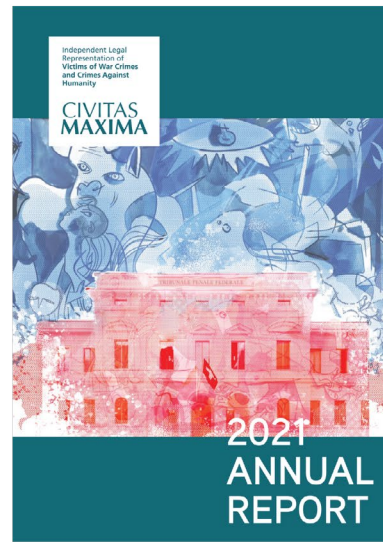
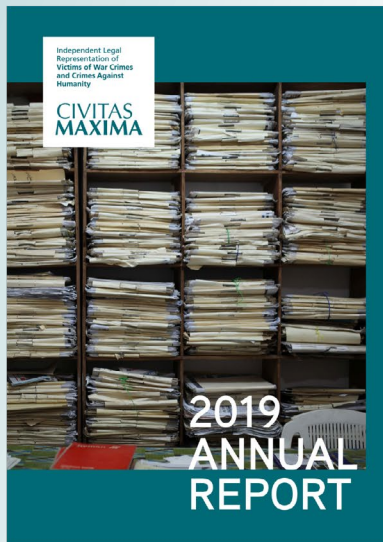
3 external contributors

*Civitas Maxima's journey is reflected in the progress of our Annual Reports across the years. When we first began, these reports consisted of only the basics - establishing our organization, presenting our cases, relaying press releases. As we have progressed, people internal and external to our organization have come to contribute to them. Every year, we are lucky to have contributors discuss important issues which relate to our work and shape the field of international criminal law. To read our reports, click [here](#).*

*Alain Werner,  
Director of Civitas Maxima*

**60** pages  
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**80** pages  
**6** internal contributors  
**13** external contributors



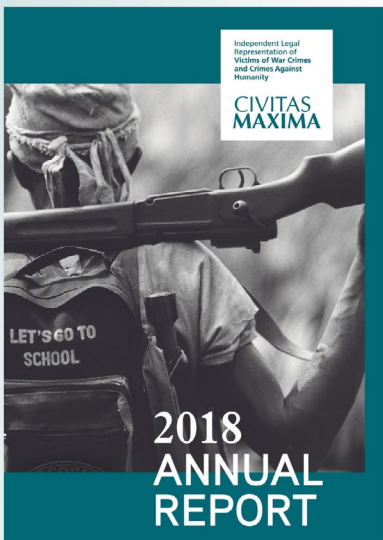
**2019**

**2021**

**2018**

**2020**

**2022**



**58** pages  
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**66** pages  
**3** internal contributors  
**11** external contributors

**107** pages  
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South-facing side of the Palais de Justice, Paris. © Guilhem Vellut



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United States  
Attorney's Office  
Eastern District of Pennsylvania

## Former Liberian Rebel General Charged With Immigration Fraud

Thursday, May 5, 2022

**For Immediate Release**

U.S. Attorney's Office, Eastern District of Pennsylvania

PHILADELPHIA – United States Attorney Jennifer Arbittier Williams announced that Laye Sekou Camara, a/k/a “K-1,” a/k/a “Dragon Master,” 43, of Mays Landing, NJ, was arrested and charged by Criminal Complaint and subsequent Indictment on the charge of use of an immigration document obtained by fraud.

In 1997, after a civil war and years of political upheaval, Charles Taylor was elected president of the West African nation of Liberia. In 1999, Liberia's second civil war began. Primarily, two rebel groups, Liberians United for Reconciliation and Democracy (LURD), and the Movement for Democracy in Liberia (MODEL), waged war against Taylor's government. LURD's stated objective was to remove Taylor from the presidency of Liberia. Liberia's second civil war, much like its first, was characterized by brutality, war crimes, and atrocities, many of which were perpetrated by LURD rebels. Furthermore, in waging its war against Taylor's government, LURD recruited and used child soldiers. According to the Indictment, Camara was a LURD general.

The Indictment alleges that in June 2011, Camara submitted an application for a non-immigrant visa to the United States. In that application Camara falsely contended, among other things, that he: 1) was not a member of a tribe; 2) had never served in or been a member of a rebel group or insurgent organization; and 3) had never committed, ordered, incited, assisted or otherwise participated in political killings or other acts of violence. Camara's application was approved and he was issued a non-immigrant visa which he used to enter the United States.

The Indictment further alleges that in June 2012, United States immigration authorities reviewed an application that Camara submitted for a United States immigrant visa. In this application, Camara falsely contended, among other things, that he: 1) was not seeking and had not sought a visa, entry into the United States, or any immigration benefit by fraud or misrepresentation; and 2) had never engaged in the recruitment or use of child soldiers. Camara's application was approved and he was issued an immigrant visa which he used to enter the United States. Upon his entering and being admitted to the United States pursuant to his immigrant visa, Camara became entitled to, and did, receive a Green Card, evidencing his authorized permanent residence in the United States.

Finally, as alleged in the Indictment, in June 2017, in seeking a Pennsylvania state identification card, Camara presented his fraudulently obtained Green Card to PennDOT officials as evidence of his immigration status, that is, his lawful permanent residence in the United States.

“As alleged in the Indictment, this defendant attempted to evade accountability for his horrific involvement in Liberia's brutal civil wars by fraudulently obtaining U.S. immigration documents,” said U.S. Attorney Williams. “Due to the hard work and perseverance of our prosecutors and law enforcement partners, he can no longer run and hide from justice.”

“HSI is committed to upholding the law, both within the United States and abroad,” said William S. Walker, Special Agent in Charge of the Homeland Security Investigations (HSI) Philadelphia Field Office. “The defendant in this case, Mr. Camara, is alleged to have served as a high-ranking general for a rebel group that fought in the Second Liberian Civil War, all the while employing tactics of unimaginable brutality, including the recruitment of child soldiers. This indictment alleges Mr. Camara then attempted to shield his violent past when he came to the United States by failing to disclose his affiliation with the rebel group. Investigations like this one are a chief priority of the No Safe Haven mission, and HSI will continue to work tirelessly to investigate those who attempt to evade justice for crimes they committed overseas. We will not allow the United States to be a safe haven for those attempting to hide from their past.”

If convicted, the defendant faces a maximum possible sentence of 10 years in prison and a \$250,000 fine.

The case was investigated by Homeland Security Investigations with assistance from the Pennsylvania Attorney General's Office, the Diplomatic Security Service (DSS) at the U.S. Embassy in Monrovia and is being prosecuted by Assistant United States Attorney Linwood C. Wright, Jr. and Kelly M. Harrell, with assistance from Trial Attorney Chelsea Schinnour and Historian Christopher Hayden from the United States Department of Justice, Criminal Division's, Human Rights and Special Prosecutions Section.

Members of the public who have information about foreign nationals suspected of engaging in human rights abuses or war crimes are urged to call the HSI tip line at: 1-866-DHS-2423 (1-866-347-2423). Callers may remain anonymous.

An indictment, information, or criminal complaint is an accusation. A defendant is presumed innocent unless and until proven guilty.

# Seeking Justice for the Forgotten



Christopher Santora

Senior Legal Officer with the United Nations

It was March 26, 2022, and Mr. Sekou Kamara was about to board a flight from JFK International Airport to return to his native Liberia. Nearly 20 years had passed since the end of the Liberian civil war, yet the scars of the brutal conflict run deep. In all that time the victims of the wars' atrocities lamented as the Liberian government continually failed to deliver accountability and justice for the crimes they had suffered.

However, according to the US Department of Justice, Mr. Kamara was no victim. Quite the opposite in fact, as according to them, Mr. Kamara was one of the commanders of an armed faction that had participated in the conflict. Yet nearly 20 years later as he made his way through the JFK airport, Mr. Kamara must have thought that his alleged past would never catch up to him. He, like many of the commanders from the country's brutal civil wars, was a direct beneficiary to Liberia's inaction. To the victims, it seemed that Mr. Kamara, like so many others, had "gotten away with murder."

Yet on that day at the JFK airport, Mr. Kamara's past was about to catch up with him. Despite the failure of the Liberian government and the UN to address the crimes from Liberia's civil wars, not everyone had given up just yet. In 2012, a little-known organization called Civitas Maxima was constituted alongside its sister organization, the GJRP. Their mission was simple – to facilitate and advocate for justice in any and all possible courts for Liberian victims and for victims of conflicts that the world had largely ignored.

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**"TO THE VICTIMS,  
IT SEEMED THAT M.  
KAMARA, LIKE SO MANY  
OTHERS, HAD 'GOTTEN  
AWAY WITH MURDER'."**

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And since their inception, Civitas Maxima and the GJRP have documented crimes, facilitated investigations, and advocated for the prosecution of 10 alleged perpetrators in 6 different countries.

Civitas Maxima was conceived by its director Alain Werner, a Swiss attorney who had himself experienced the process of accountability in Sierra Leone working as a prosecutor for the SCSL. The history of Sierra Leone's brutal conflict is intertwined with neighboring Liberia to such an extent that one of the most notorious convictions of its Special Court is that of former Liberian President Charles Taylor. In 2012, Charles Taylor was convicted of aiding and abetting war crimes and crimes against humanity committed by a Sierra Leonean rebel group known as the RUF.

But bringing a criminal case in the US was somewhat more difficult, for the country at the time did not recognize "universal jurisdiction" for atrocity crimes. In fact, establishing jurisdiction for crimes committed abroad was incredibly difficult as US law usually required victims to be US citizens. For some time, alleged former commanders like Mr. Kamara could largely escape criminal prosecution, even for the most brutal of crimes, as long as they were committed abroad and did not involve any of its citizens.

However, this did not deter Civitas Maxima and the GJRP from advocating for the accountability of alleged criminal perpetrators. Assisting certain US government officials also dedicated to seeking justice, an alternate route of criminal prosecution was found through US immigration laws. Mr. Kamara was about to find this out first-hand – and his alleged past was finally going to catch up with him.

Rather than boarding a plane that day, he was arrested and indicted on the charge of the use of immigration documents obtained by fraud. Mr. Kamara is suspected of having lied to the US immigration authorities concerning his involvement in the war twenty years prior. Allegedly, these lies weren't simply trivial misrepresentations on an immigration form. They were an attempt at massive deception, a deception to cover membership in an armed group that was responsible for an extensive catalogue of atrocities against the people of Liberia.

As US Attorney Jennifer Arbittier Williams put it, "[a]s alleged in the Indictment, this defendant attempted to evade accountability for his horrific involvement in Liberia's brutal civil wars by fraudulently obtaining U.S. immigration documents." For the victims of the Liberian civil wars, Mr. Kamara's arrest and upcoming prosecution counts as one more step toward accountability.

Twenty years later, while the government of Liberia continues to try to forget and ignore the brutality of the past, and

the international community has not acted with clarity and decisiveness to deliver accountability to this small corner of the world, Civitas Maxima and the GJRP have given and continue to give a voice to the voiceless.

Civitas Maxima and GJRP's efforts have also paid off in a larger sense. In 2023, the United States Congress passed the Justice for Victims of War Crimes Act. This change in US law is significant as it will open up avenues of jurisdiction for US prosecutors. The cases that Civitas Maxima and GJRP have brought over the last 10 years through the immigration statutes were critical in demonstrating this need for change in US law. To this end, their work has not only brought justice to the victims in these particular cases, but it has also helped open the door for future accountability for victims that up until now have not had the chance to get justice.

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**“CIVITAS MAXIMA AND  
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OFF IN A LARGER SENSE.  
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NOW HAVE NOT HAD THE  
CHANCE TO GET JUSTICE.”**

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*Christopher Santora is a senior legal officer with the United Nations. Back in 2002 until 2010, Mr. Santora was a trial attorney for the United Nations sponsored “Special Court for Sierra Leone” working at both the trials in Freetown, Sierra Leone and the trial of former Liberian President Charles Taylor in The Hague, Netherlands. Mr. Santora also worked in the United States as Assistant District Attorney for the New York District Attorney’s Office, and Assistant Chief Counsel for the US Department of Homeland Security. He is a graduate of George Washington University Law school and was admitted to the New York state bar in February 2002.*



A member of LURD walks past destroyed houses holding up a rocket-launcher.  
September 2002  
© ISSOUF SANOGO/Getty Images



# Beyond Impunity Documentary

*Portrait of a play for justice in Liberia*



Nicolás Braguinsky Cascini

Film maker and documentarist

I.

West Point was hot. Very hot. The sun beat down relentlessly. The dusty field was full of players, and the ball was having fun. The colors were bright and the smells intense. Earlier, I had passed the large piles of roasted fish, vegetables, and clothes on offer. The market was on the side of the road. Cars and people were mixed, indistinguishable, as one. More than 75,000 people living in the biggest slum in West Africa, in the most difficult of conditions.

It was neither the first time I was about to film something related to human rights nor my first time in Liberia. However, on this occasion, the idea was to film a play that I had not seen, in villages that I had never heard of.

So, there I was, melting in the heat of the football field. A white van pulled up and parked. More than 10 people with equipment, costumes, drums, microphones, and loudspeakers got out. It was the Flomo Theater Company.

Suddenly, they started playing the drums. As the drums became louder, people came closer, feeling invited, and children danced. In five minutes, Flomo had gathered a crowd and made the football pitch in the background seem like a foggy dream drawn by the sun.

The participatory theater play had begun.

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**“ALL OF THE PEOPLE THAT WE TALKED TO HAD TOLD US HOW THEY SUFFERED OR WITNESSED UNIMAGINABLE LEVELS OF VIOLENCE.”**

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II.

Musu’s Diary, originally a comic book, was a joint venture play between Civitas Maxima and Flomo Theater Company. It was part of outreach efforts to disseminate information about the trial held in the United States against Mohammed Jabbateh, aka Jungle Jabbah, former ULIMO commander who was convicted for immigration fraud, as he had lied about his involvement in international crimes.

The play presented the story of Musu, a girl who asks questions about the history of wars in her country. She cannot understand why those responsible for terrible actions do not face justice and instead go free.

III.

My first day in West Point, Monrovia, was followed by many others in places such as Duport Road, Nimba, Lofa, Montserrado, and Gbarpolu. In each village, we encountered a crowd hooked by the artists. After the drums and acrobatics segment, the characters of the play jumped onto the stage - normally an open space, often a football pitch. Jokes and music helped move the story forward.

At the end of the performance, a segment was dedicated to the audience. Many people had the opportunity to talk about their stories and their deep need for justice. They picked up the microphone and shared their fears and their allegations with incredible courage. In many of these communities, the alleged criminals still live and/or hold positions of power.

I tried to capture everything that I possibly could: interviews with the actors, soundbites of the play, reactions from the audience, the broader historical context, the town chiefs’ testimonies, the vans on the road, among other things.

IV.

The week for filming was over and I returned to Geneva. My window framed a silent snowfall that caressed the curves of the city.

The crying of my newborn and the glow of the computer screen at night was a reminder to finish editing the documentary. I was not alone; it was a great effort made together with Civitas Maxima’s team. We knew that these Liberian stories could not remain untold.

The intensity of that period was not only related to the hard work but also to the rawness of the testimonies. All of the people that we talked to had told us how they suffered or witnessed unimaginable levels of violence.

In that regard, we kept the story of Manjo, one of the founders of Flomo and the actor who played Musu's father. He told us his personal sufferings. During the war, as a way of punishing him for his comedy programs, troops killed his son. In front of him, they cut open his son's chest with an axe, ripped out his heart and ate it in pieces.

V.

What can be said after that? Everything seems insufficient. My only thought - also in Manjo's words - is that through art and justice, it might be possible to avoid repetition and find ways to forgive, but not to forget.

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**"THROUGH ART AND JUSTICE, IT MIGHT BE POSSIBLE TO AVOID REPETITION AND FIND WAYS TO FORGIVE, BUT NOT TO FORGET."**

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Despite the harshness of Manjo's story (which is, unfortunately, only but one example), it is worth underlining that impunity is not just an abstract concept - it concretely affects real people.

So how do you portray, in the most honest way possible, a participatory play, performed in various communities, with many people sharing their stories, highlighting the example of the Liberian people in their proactivity, resilience and encouraging the pursuit of justice?

We found the answer in *Beyond Impunity*, our short documentary.

VI.

The intense days of filming and editing were behind us and we faced the challenge of screening and disseminating the movie. We had the opportunity to present it at a side event at FIFDH, 2022. We were also selected to show the documentary in more than 15 festivals in Latin America, Africa and Europe, as well as in various educational spaces.

It is worth mentioning that, although *Beyond Impunity* was screened in these places, one film will rarely change the situation in a country. However, it is no less true that trials and convictions of those responsible raise many challenges that can be addressed in different ways, including through art. That is why we will keep screening *Beyond Impunity* as much as we can, including in Liberia itself.

VII.

Now, I still vividly remember the sun setting on the torrid horizon after hearing all these testimonies. I can feel on my skin the breeze timidly blowing fresh air. I cannot forget the music, the dancing, and the lyrics sung at the end of the performance "*Liberia needs this and nothing less: Justice that is fair to all those accused, justice that is fair for the victims too.*"

*Beyond Impunity* connects me to my own story of exile during the Argentine dictatorship. It confirmed to me that the whim of geography should not distract us. This documentary is for Liberia, but is also for me, for us, and for the ones to come, because impunity for crimes against humanity affect us all.

I can recall the magical feeling of being there with the emotions of the play that had just taken place in front of my lens. My hands held the camera. I turned it off and was inspired.

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**Nicolás Braguinsky Cascini** is an audiovisual director based in Geneva with a BA in Literature from the University of Buenos Aires (UBA) and more than 15 years of experience. Director of five documentary films: "*Institute de Droit International*" (to be launched in 2023), "*Para volverte a ver*" (2022), "*Beyond Impunity*" (2020), "*Solidarity Crime* and "*The borders of democracy*" (2019). He has worked with various renowned organisations and his films have been screened in Europe, South America and Africa. To learn more about his work, click [here](#) and [here](#).

[Watch "Beyond Impunity"](#)



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# BEYOND IMPUNITY

A DOCUMENTARY ABOUT ACCESS TO JUSTICE  
THROUGH PARTICIPATORY THEATRE IN LIBERIA.

DIRECTED BY NICOLÁS BRAGUINSKY CASCINI  
GRAPHIC DESIGN AND ILLUSTRATION BY MAGDA CASTRÍA  
SOUND POSTPRODUCTION BY WILMER IBAGUE LOPEZ

CIVITAS  
MAXIMAIndependent Legal Representation of Victims of  
War Crimes and Crimes against Humanity

GJRP

Global Justice and  
Research ProjectApril 29, 2022  
Press Release

## Reasonable Doubt: Gibril Massaquoi Acquitted

*Finnish District Court dismissed all charges against former RUF spokesman and commander*

Today April 29th, 2022 the Pirkanmaa District Court in Tampere, Finland, issued its judgement in the trial of Gibril Massaquoi. Mr Massaquoi, former Revolutionary United Front (RUF) commander and spokesman, was charged with murder, aggravated rape, aggravated war crimes and violation of human rights in exceptional circumstances in Liberia between 1999-2003, during the country's second civil war.

The District Court dismissed all charges, and found that there was reasonable doubt that the defendant committed the offences he was charged with.

Mr Massaquoi, a Sierra Leonean national, had been in detention since March 10, 2020. He was released from custody on February 16, 2022.

Irrespective of this verdict, the trial of Gibril Massaquoi by the Finnish judicial authorities is, in itself, an historic milestone for international criminal justice.

The trial, which initially started on February 2021, has lasted almost a year. In an unprecedented first, the Finnish Court travelled twice to Liberia and once to Sierra Leone in order to facilitate the hearing of the over 100 witnesses. The collaboration between Liberia and the Finnish authorities allowed for the first war crimes trial's hearings to be set on Liberian soil; this was a major step towards the country's dealing with its past.

Any acquittal is also the reflection of a fair and functional criminal justice system that ensures that everyone may defend themselves in a court of law, through impartial, objective, and transparent proceedings. For this trial, the judges deemed that the evidence was insufficient to condemn Mr Massaquoi and that the defense presented a plausible scenario of Mr Massaquoi being not guilty.

The case against Gibril Massaquoi was challenging. Aside from the passage of time – 20 years – the proceedings themselves were impacted by the earlier mandate of the Special Court for Sierra Leone (SCSL), the UN war crimes tribunal that was set up to address the conflict in Sierra Leone. M. Massaquoi had been a witness in proceedings at the Special Court. He indeed testified against members of Sierra Leone's former Armed Forces Revolutionary Council (AFRC) – a rebel group that allied itself with the RUF rebels in the late 1990s.

Whilst the SCSL granted him relocation in 2008, Mr Massaquoi did not enjoy immunity for the crimes allegedly committed both in Sierra Leone and in Liberia.

Two decades later, Liberia is still grappling with impunity. Former warlords still hold powerful positions in the country. Some witnesses still fear testifying. When the trial traveled to Liberia, concerns about witness protection required that hearings take place in an undisclosed location, with only handful of local and international journalists in attendance. It is remarkable that, despite concerns for their own safety, so many witnesses had the courage to recount what they lived and saw.

Civitas Maxima and the Global Justice and Research Project (GJRP) believe the testimonies of the victims.

This has been a peculiar trial for both organisations: Hassan Bility, director of GJRP, had already given evidence during the Charles Taylor trial in January 2009 implicating Gibril Massaquoi in the acts of torture he suffered in 2002. He testified again about those events at the Gibril Massaquoi trial. Both Civitas Maxima and the GJRP firmly support Hassan Bility, who for years has tirelessly worked towards justice and accountability.

Today, the world watches with horror as atrocities are committed in Ukraine and as international and national entities are grappling with the challenges of bringing to accountability those responsible for grievous crimes. The Gibril Massaquoi trial reminds us that national jurisdictions play a critical role in ensuring that war crimes and crimes against humanity are prosecuted, regardless of the nationality of the victims, and the time since these were allegedly committed.

A complex case of intertwined conflicts with a former insider witness of an international court, the Massaquoi trial will surely become an important reference on the concrete challenges of universal jurisdiction. And the Finnish experience will be an important case study for other countries who are committed to the principle.



*Finnish broadcasting & media production company*

## **Finnish court acquits Sierra Leonean man of war crimes charges**

*In an exceptional case, the Tampere resident faced charges related to crimes allegedly committed during the Sierra Leonean and Liberian civil wars between 1999 and 2003.*

29.04.2022

Pirkanmaa District Court has acquitted Gibril Massaquoi of charges including murder, aggravated rape and aggravated war crimes in a verdict handed down on Friday afternoon. In its ruling, the court said that while there was reason to suspect Massaquoi had committed the crimes he was charged with, the prosecution in the case had not proved beyond reasonable doubt that he was guilty.

The court further noted that the defendant has never been prosecuted in Liberia — where the alleged offences were believed to have taken place — and that an exceptionally long period of 20 years has elapsed since the crimes were allegedly carried out.

According to the criminal indictment, Massaquoi — who has lived in Finland for more than 10 years — ordered the murder, torture and mutilation of civilians when he was one of the leaders of a Sierra Leonean rebel group which took part in both the Sierra Leonean and Liberian civil wars between 1999 and 2003. He has consistently denied all of the charges.

He was arrested by the National Bureau of Investigation (NBI) in March 2020 following the completion of an investigation that began in 2018. The prosecutor in the case had initially demanded a life sentence as the charges were considered to be exceptionally brutal.

Massaquoi had been held in pre-trial detention for around two years until February this year, when the court released him pending the verdict in the case. As he has now been acquitted, Massaquoi can submit a claim for compensation from the Finnish state for his long pre-trial detention.

Speaking to Yle, Massaquoi's defence lawyer Kaarle Gummerus said that the matter of compensation was a side issue pending the outcome of the trial but will be reviewed at a later date. The trial was unique in Finnish legal history, as the alleged crimes had not been committed in Finland, and members of the district court travelled to Liberia multiple times to hear testimony from dozens of witnesses.

### **Civil Wars in Liberia, Sierra Leone 20 years ago**

According to the prosecutor in the case, Massaquoi held a senior position in the Revolutionary United Front (RUF) during the civil wars fought in Liberia and Sierra Leone in the late 1990s and early 2000s. The group received support from Liberia's former president and convicted war criminal Charles Taylor, who is currently in prison after he was convicted by the UN-backed Special Court for Sierra Leone.

Massaquoi's leadership role within the organisation changed however, and in 2002 he agreed to testify against members of the RUF following the end of the civil war in Sierra Leone. He was placed in a witness protection programme and moved to Finland in 2007 or 2008, eventually settling in Tampere. Allegations about his actions in Liberia began to surface, and authorities in Finland began investigating Massaquoi in about 2018 — which eventually led to his arrest.

The district court's verdict in the case is not final and therefore can be appealed to a higher court. The prosecutor in the case has not yet indicated if an appeal will be launched.

[Access the original article](#)

A government militia soldier screams after firing at rebel troops at a key bridge in Monrovia, Liberia, July 2003.  
© Photo by Chris Hondros/Getty Images



# The Acquittal of Gibril Massaquoi – A Perspective



Alain Werner | Rebecca-Paris Senior

Director, Civitas Maxima | Comms, Civitas Maxima

On April 29, 2022, Gibril Massaquoi was acquitted of all charges by the Finnish District Court of Tampere. This was the first case that Civitas Maxima has facilitated to end in an acquittal.

Notwithstanding the verdict – as we wrote in our 2020 Annual Report – we firmly stand by our decision to have transmitted the initial information on Gibril Massaquoi to the Finnish authorities.

This acquittal is not final. As we are writing this, the appeal process is going on in earnest in Liberia and in Finland, with a decision expected towards the end of 2023. For this stage, the Finnish legal system requires the Appeal Judges to carry out a full re-assessment of the evidence of the facts – largely made up of witness testimony – as well as the law. Like with the Alieu Kosiah case in the Swiss system, this is a full second trial. It will be fascinating to see whether – and on what counts – the Appeal Judges agree or disagree with the conclusions of the Judges from the District Court. The prosecutors could have decided not to appeal the decision of the District Court – or to only appeal some of the charges. They could have decided to make the acquittal of Mr. Massaquoi final. Instead, the prosecutors chose to appeal the acquittal on all the charges, with full awareness of everything that this would entail.

In the months following the rendition of the judgment, we could only read the words of the judges, and learn from the process. Every case and every jurisdiction is different: our work, by nature, entails confronting ourselves with different countries, different cultures, and the different role that the organization is to occupy each time. However, something remains immutable across all these variables: our firm stance alongside the victims.

The Finnish authorities set themselves a gargantuan task. We cannot think of another domestic court that has launched itself in such an ambitious process. In early 2021, when the trial began, none of us would have expected how long it would have lasted, and how many people would have been heard. More than two million euros spent, more than 100 witnesses, more than 60 days of trial, spanning almost a year. And whilst the acquittal decision made by the District Court was not the outcome that we or the alleged victims of Gibril Massaquoi would have hoped for, this case is nonetheless an incredible milestone for international justice.

Firstly, and this is by no means a small feat, the fact that the Finnish authorities were able to hold the hearings of witnesses in Liberia is an immeasurable achievement. This West African country has not yet legally dealt with war crimes committed by and against its citizens. Surely, the fact that Mr. Massaquoi is from Sierra Leone may have offered Liberian authorities a comfortable distance to allow this trial to happen on its soil. Nevertheless, it is a huge step towards witnessing a Liberian-driven process for accountability. Not only did Liberia welcome Finnish proceedings in 2021, but it has also hosted them again for the appeal trial in 2023 – as we are writing this, the Court is hearing witnesses in Monrovia for the second time this year.

**“THE FACT THAT THE FINNISH AUTHORITIES WERE ABLE TO HOLD THE HEARINGS OF WITNESSES IN LIBERIA IS AN IMMEASURABLE ACHIEVEMENT.”**

By bringing the case to Liberia, Finnish authorities also reduced the distance which so often can be a downfall of universal jurisdiction cases: it made the trial more accessible to the communities affected the most by the alleged crimes. The first instance proceedings were only open to a handful of Liberian and international journalists, but in the current appeal proceedings, the location for the trial is public and anyone is invited to attend.

Secondly, the Massaquoi trial was inevitably impacted by the earlier mandate of the SCSL, before which Mr Massaquoi testified, and for which he was granted relocation to Finland. This sparked some often-misguided debates around whether the immunity that Massaquoi was given for crimes that he may have committed in Sierra Leone, could protect him from the prosecution of crimes that he had allegedly committed in Liberia. Beyond this debate, though, the trial sent the clear message that nobody, even those protected by immunity, is beyond prosecution if suspected of international crimes committed outside the scope of their immunity agreement.

This second judicial assessment will address the important question of how to evaluate certain inconsistencies in victims’ stories about events that took place over 20 years ago.

One element of the District Court decision was its reliance on an expert report called by the defense, Dr. Korkman. Before the Court of Appeal, a second expert was called by the prosecution, Dr. Häkkänen. Both forensic psychologists’ were invited to speak in front of the Court. Dr. Häkkänen criticized the statement used during the first instance

proceedings. When Dr. Korkman, who was not actually heard at the District Court, spoke before the Appeals Court, she agreed on many of the points that her colleague had made. Nevertheless, the two expert witnesses still disagreed on some points. The expert evidence, made up of both supporting and conflicting conclusions, is one of the many things the appeal judges will have to take into consideration before rendering their judgment.

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**“THAT GIBRIL MASSAQUOI  
WAS FIRSTLY ACQUITTED  
ONLY DEMONSTRATES THE  
DEMANDING NATURE OF  
FAIR AND FUNCTIONAL  
CRIMINAL JUSTICE.”**

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Before the District Court, Mr. Massaquoi’s defense team called four witnesses accusing Hassan Bility, the Director of our sister organization, the GJRP, of trying to corrupt and bribe witnesses. This was categorically contested by Hassan Bility. Even though the District Court decided to acquit Gibril Massaquoi, they did not rely on this alleged corruption for any of their findings. The integrity of Mr. Bility and the GJRP remains untarnished. Whilst it is often common for defense counsels to criticize the process through which witnesses are found – as defendants often imply that they are victims of conspiracy – this was the first time these allegations had left the courtroom. These were plastered on Liberian tabloids: the scale of the smear campaign endured by both the GJRP and CM was immense, and never seen before. The accusations, which appeared almost weekly on Liberian press, were always misguided and fictional, and often personal. One of us was called a ‘mass murderer’ multiple times. Despite the obvious falsity of these accusations, they were surely aimed to disconcert us and the team. It did not work.

Finally, that Gibril Massaquoi was firstly acquitted only demonstrates the demanding nature of a fair and functional criminal justice system, and the high standards that are imposed on prosecutors. The presumption of innocence is, first and foremost, a fundamental human right. And whilst we may hope for a different decision from the Appeals Court in 2023, what matters most is to see fair trial, due process, and functional justice guaranteed for any person brought before any court of law.

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*Alain Werner, registered at the Geneva Bar with a LL.M from Columbia University, is one of the very few lawyers in the world who has appeared in war crimes trials both in front of several international courts as well as in front of a national court, including trials of former heads of state. He was awarded in 2019 the Bâtonnier Michel Halpérin Prize for Excellence by the Geneva Bar, and he received in 2020 a life fellowship from Ashoka, the world’s oldest and largest network of social entrepreneurs.*

*Rebecca-Paris Senior, B.A. in International Relations and Peace and Conflict Studies (London Metropolitan University) and M.A in Communications for Development (Malmö University), designs and leads Civitas Maxima’s communication strategy, relating to legal cases and other activities. Rebecca develops both national and international outreach projects, liaising with various media and artistic consultants.*



## US Arrests Top AFL Commander on Charges Related to Liberian Civil

June 24, 2022

Anthony Stephens with New Narratives

United States authorities have charged Moses Wright, one of the most important figures in the turmoil that engulfed Liberia in the late 1980s and 90s, with immigration fraud and perjury related to his actions during the Liberian civil war. The indictment alleges Wright, 69, a cousin of late Liberian President Samuel Doe and former head of the 1st Battalion of the Liberian army, committed fraud against the American government when he applied for asylum, residency and US citizenship. US immigration procedures require applicants to confess if they have participated in the attempted overthrow of a government or committed war crimes.

Jaqueline Romero, US Attorney for the Eastern District of Pennsylvania, alleged that Wright withheld information that he “personally committed, or ordered Armed Forces of Liberia troops under his command to commit numerous atrocities,” including persecution of Gio and Mano civilians, murder, assault and false imprisonment of civilians. If convicted, Wright faces a maximum possible sentence of 165 years in prison and a \$7,000,000 fine – by far the largest faced by any of the five Liberians charged in relation to wartime atrocities in the United States. “Wright sought to escape to the United States and start anew, where he lied about his appalling wartime conduct on federal immigration forms and to the faces of U.S. officials. The United States will not be a safe haven for human rights violators and war criminals,” said Romero in a statement.

Liberia’s Truth and Reconciliation Commission found Wright, Moses Thomas, James Chelly and George Dweh had killed “27 Gio and Mano family members in a massacre in June 1990 on Doe’s orders.” In 2021 A Philadelphia civil court found Moses, a top commander of Doe’s Special Anti-terrorist Unit (SATU), liable for the 1990 St. Peters’ Lutheran Church massacre where 600 men, women and children sheltering in a church were slaughtered. Shocking images from the killings brought the world’s attention to the Liberian conflict. Doe praised Wright for “crushing” a coup attempt by Thomas Quiwonkpa in November 1985. That came five years after Doe successfully overthrew the election government of William R. Tolbert. Wright was granted asylum in the US in 2000 and permanent residency in 2008. In May 2013 he applied for US citizenship. Prosecutors allege he lied repeatedly in all these proceedings.

Wright is the fourth criminal public prosecution in Philadelphia in relation to Liberia’s civil wars. Mohammed Jabateh, commonly known as “Jungle Jabbah” was found guilty in 2017 and is serving a 30-year jail sentence. Thomas Woewiyu, former NPFL number two was convicted in 2018 and died of Covid while awaiting sentencing. In March this year Sekou Kamara, allegedly a former LURD commander, was arrested in New York and charged with lying to immigration authorities about his involvement with the group.

Liberia’s human rights community has been celebrating Wright’s arrest. Hassan Bility, whose organization Global Justice and Research Project, has been key in those trials by providing information and witnesses to the prosecutors, also assisted the US Homeland Security Investigations Philadelphia office during the investigation. He said Wright’s arrest was an important victory for their advocacy of prosecuting alleged perpetrators of Liberia’s civil wars. “Today’s arrest in the US marks another milestone in the struggle for justice and accountability in Liberia”, Bility said in a text message. “Nobody can outrun the reach of the long arms of justice. About three decades ago, as the Liberian civil war raged, little did the architects and engineers of murder and torture expect that this day would come.”

Wright’s arrest comes at a time Liberia has yet to take a definitive position on establishing a war crimes court, with the Legislature, which has the constitutional power to establish courts not clear on the matter. Last year, the House of Representatives voted to cancel out a 2019 resolution by more than two thirds of the body approving the court. The House asked its members to consult their constituents on the court. The Senate has asked President Weah to set up a transitional justice commission to review recommendations of the TRC—a move justice advocates claimed was designed to delay a vote to establish a court.

Bility reiterated the importance for the Legislature to make a clear decision on the matter. “I therefore call on the Liberian Government, specifically, the Legislature, to take actions aimed at realizing the the recommendations of the TRC,” he said. “Mr. President, this is your call now- more than it is jurisdictional authorities overseas. Your people, living and dead, are crying out for justice”.

[Access the original article](#)

# Holding State Actors Accountable for International Crimes



Nakil Ak'abal Biéri

Institutional Fundraising Manager

On June 23, 2022, US Attorney Jacqueline C. Romero announced the unsealing of an indictment charging former Commanding General of the AFL Moses Wright. The indictment, which followed an investigation by HSI Philadelphia, charged him with fraudulently attempting to obtain citizenship, fraud in immigration documents, false statements in relation to naturalization, and perjury.

“Wright sought to escape to the United States and start anew, where he lied about his appalling wartime conduct on federal immigration forms and to the faces of U.S. officials. The United States will not be a safe haven for human rights violators and war criminals” stated US Attorney Romero.

Originally a Master Sergeant in the AFL, Moses Wright rose through the ranks of the Liberian military during the decade-long authoritarian rule of his cousin, the late Liberian President Samuel Doe, who rose to power after leading a military coup in 1980. By 1989, he had been promoted to Commanding General. The same year, rebel forces headed by Charles Taylor crossed the Ivorian border into Liberia, igniting the First Liberian Civil War. Crucially, Charles Taylor’s recruitment campaign among Liberian refugees abroad had been sustained by grievances over an earlier insurrection, thwarted by the intervention of Moses Wright’s elite “Battalion Number One”.

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**“AT THE INTERNATIONAL LEVEL, ACCOUNTABILITY EFFORTS ARE DISPROPORTIONALLY SUCCESSFUL WHEN TARGETING NON-STATE ACTORS. ALL THE SUCCESSFUL CONVICTIONS FOR INTERNATIONAL CRIMES EVER HANDED DOWN BY THE ICC CONCERN NON-STATE ACTORS.”**

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Four years earlier, in 1985, AFL Commanding General Thomas Quiwonkpa had attempted a coup against the Doe regime. General Quiwonkpa was killed and dismembered, and his body was publicly exhibited on the grounds of the Executive Mansion in Monrovia. In a campaign of retribution against the coup plotters and their alleged supporters, the AFL launched a purge against the Gio and Mano ethnic groups in Quiwonkpa’s native Nimba County. This created deep-seated ethnic resentment, one of the elements that fueled Liberia’s two bloody civil wars.

As Charles Taylor’s NPFL took control of much of the country in 1989 and 1990, the retreating AFL committed some of the largest massacres seen in the war. These included the St Peter’s Lutheran Church Massacre, in which approximately 600 mostly Gio and Mano civilians were slaughtered while sheltering in a church, and the JFK Hospital Massacre in which approximately 250 Gios and Manos were killed.

In 2009, the AFL was listed as one of “significant violator groups” by the Liberian TRC. In this report, General Moses Wright was specifically named as being responsible for the massacre of the families of 27 Mano and Gio recruits at the Barclay Training Centre barracks in Monrovia, in June 1990.

The indictment of Moses Wright is of great historical significance. These early atrocities triggered a brutal cycle of reprisal killings over 20 years of war. They mobilized segments of the Liberian population behind Charles Taylor and ultimately enabled the NPFL’s brutal ethnic cleansing campaigns against communities belonging to the Krahn and Mandingo ethnic groups.

Most importantly, these crimes tie the violence of the Liberian civil wars to the inequality and instability caused by 130 years of Americo-Liberian rule and the 19th century efforts to settle formerly enslaved African-Americans in Liberia. The ethnic politics of the Samuel Doe regime were, at least in part, a byproduct of divide-and rule policies implemented under the rule of the Americo-Liberian elite over more than a century.

From a historical perspective, the alleged crimes upon which Moses Wright’s immigration fraud indictment rests are also consequential. They highlight the responsibility of the Liberian state in the systematic persecution of entire ethnic

groups. Events like the 1990 Barclay barracks massacre reveal a pattern of ethnically-targeted massacres within the very institutions of the Liberian state. The ethnically-motivated killing of the families of AFL servicemen by their own commanding officers may seem outlandishly cruel to contemporary observers. It is, however, reminiscent of similar atrocities committed in Europe, such as the deportation of Crimean Tatars serving in the Soviet military or the persecution of Romani soldiers drafted in the Romanian army during the Second World War.

Moses Wright's case in the US is groundbreaking because it concerns crimes committed by a Liberian state actor in an official capacity. At the international level, accountability efforts are disproportionately successful when targeting non-state actors. All of the successful convictions for international crimes ever handed down by the ICC concern non-state actors, namely a member of the Ansar Dine jihadist group in Mali, a commander of the LRA in Uganda and three rebel commanders that participated in the DRC's Ituri and North-Kivu conflicts. This is perhaps the most glaring example of the impunity from which state officials continue to benefit long after leaving office. In that context, the indictment of Moses Wright demonstrates that mechanisms in national jurisdictions could be a powerful tool to bring state actors to justice in circumstances where they cannot be judged in the countries where the crimes were committed.

Understandably, governments across the world are sometimes hesitant to apply criminal justice to former government officials of other countries, as demonstrated for example by the challenging proceedings against former Algerian Minister of Defense Khaled Nezzar in Switzerland. Judicial authorities may believe that proceedings against state actors will contribute to turmoil in already unstable countries, or fear the diplomatic repercussions of such trials on their own governments. Nevertheless, recent trends signal that prosecutors across a wide range of jurisdictions may be growing bolder.

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**“MOSES WRIGHT’S CRIMINAL CASE IN THE US IS GROUNDBREAKING BECAUSE IT CONCERNS ALLEGED CRIMES COMMITTED BY A LIBERIAN STATE ACTOR IN AN OFFICIAL CAPACITY.”**

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Significant developments took place in 2022, with former Afghan and Ethiopian officials accused of having supervised torture, arbitrary detention, and extrajudicial executions being tried and convicted in Sweden and the Netherlands, respectively. In Germany, a former official of Syrian President Bashar al-Assad's security apparatus was convicted in 2022 on similar grounds. The year 2022 also saw the trial and conviction of Hamid Nouri, a former assistant prosecutor of the Islamic Republic of Iran traveling to Sweden. The case of Hamid Nouri, who was accused of being implicated in the 1988 mass hangings of left-wing opponents deemed to have renounced their Islamic faith, is of particular significance as it drew sharp condemnations and protests from the Iranian government.

In Switzerland itself, the case of Ousman Sonko, the Former Minister of the Interior of Gambia, which was facilitated by our friends and colleagues of TRIAL International, is likely to go to trial soon. Put against the backdrop of these landmark cases, the case of Moses Wright in the US appears as another essential milestone on the road to bridge the impunity gap for war crimes.

However, in Moses Wright's case, US authorities can only prosecute him, three decades after the crimes were committed, on charges of immigration fraud as opposed to international crimes. This demonstrates the fact that, until recently, the US government lacked the adequate legislation and political will to effectively prosecute such cases. Although many governments have created dedicated war crime units within their respective law enforcement agencies over the last decade, these units are often desperately under-staffed and under-financed. The work of Civitas Maxima aims to address this lack of resources invested in the prosecution of international crimes.

In the US, efforts to pass robust laws allowing for the prosecution of alleged war criminals for international crimes have long fallen prey to the increasing polarization of American political life. Such efforts would get caught between a Republican Party wary of international human rights law, and a Democratic Party increasingly receptive to calls to abolish ICE, the agency which is largely responsible for investigating and prosecuting many of these cases.

However, real legislative progress in this regard was achieved very recently, as stakeholders and lawmakers on both sides of the political aisle breached the partisan divide and worked together to pass the Justice for Victims of War Crimes Act. Momentum for the passing of this landmark piece of legislation was catalyzed by the visit of Ukrainian president Volodymyr Zelenskyy to Washington in December 2022. The Senate passed the bill hours before President Zelenskyy addressed a joint session of Congress, and the House passed the bill the following day. Now, thanks to this new piece of legislation, US prosecutors can initiate proceedings for war crimes whenever the alleged perpetrator is on US soil, irrespective of where the crimes were committed or the nationality of the victims or alleged perpetrators.

Human-rights advocates had long been advocating for this legislative change, to ensure that US courts are equipped to support accountability for atrocity crimes committed globally. Government officials in the Department of Defense, State Department and other government agencies had also long supported this change, as it brings US legislation in line with its obligations under the four Geneva Conventions.

There are, however, some important caveats. The law introduces a new requirement that any war crimes prosecution be approved by an official within the Department of Justice. For crimes where the perpetrator or victim is a U.S. citizen or member of the U.S. Armed Forces, the certifying official must be the Attorney General, his or her Deputy, or an Assistant Attorney General. For perpetrators merely present in the U.S., it must be Attorney General AG or his Deputy. To make this determination, the certifying official must consider the potential adverse consequences to U.S. citizens, servicemembers or U.S. government employees and whether another venue is available for prosecution. This certification requirement cannot be delegated. Although some states, such as Sweden, have a similar requirement, this adds a political element to determining whether to pursue war crimes, as it removes the decision as to whether to pursue a case from prosecutors. Unlike other criminal cases, the merits of a war crimes case will not be determined solely upon the available evidence and substantive law. In addition, the law is not retroactive, meaning war crimes committed prior to the signing of the law in 2023 cannot be prosecuted under the statute.

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**“HUMAN-RIGHTS ADVOCATES  
HAD LONG BEEN ADVOCATING  
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ACCOUNTABILITY FOR ATROCITY  
CRIMES COMMITTED GLOBALLY.”**

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Previously, US federal law allowed prosecutions for war crimes only if the offense was committed in the country, or if the victim or perpetrator was a U.S. national or service member. Non-Americans who committed war crimes against other non-Americans overseas and then entered the US were thus generally outside the law’s reach. In consequence, until now, advocates for accountability who fought for the US not to become a haven for human rights abusers had to facilitate cases based on immigration law.

Of course, such creative legal strategies were not always successful, with defendants sometimes deported from the US or voluntarily returning abroad before the end of the proceedings. This was the case with former AFL commander Moses Thomas, found liable by a court in Pennsylvania for the 1990 massacre of 600 civilians at St. Peter’s Lutheran Church in Monrovia. The civil suit which launched the proceedings against him in Philadelphia had been led by the California-based CJA and facilitated by facilitated by the work of CM’s sister-organization, the GJRP. Since the return of Moses Thomas to Liberia, no action has been taken against him by the Liberian government.

However, the protagonists of Liberia’s bold quest for justice and their allies did not let this obstacle hold them back. In October 2022, survivors of the Lutheran Church massacre, represented by the CJA filed a landmark Human Rights complaint against Liberia, in partnership with the Institute for IHRDA and the law firm Debevoise & Plimpton LLP. The case was filed in the Court of Justice of the ECOWAS and seeks to address Liberia’s failure to investigate and prosecute the perpetrators of the St. Peter’s Lutheran Church attack and to provide redress to the victims and their families. CM has worked to support CJA throughout the proceedings, while the GJRP is officially a plaintiff in this lawsuit.

This will be the first time that an international court examines Liberia’s failure to investigate human rights and humanitarian law violations committed during the two civil wars that ravaged the country between 1989 and 2003. Our friends and colleagues of CJA provide further detail on this historical development in this report (see pp. 83).

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A government loyalist soldier fires his rifle into the air to motivate troops during fighting near front line positions in Monrovia, Liberia. August, 2003 © Chris Hondros/Getty Images



Independent Legal  
Representation of  
Victims of War Crimes  
and Crimes Against  
Humanity

CIVITAS  
MAXIMA

August 18, 2022  
Press Release

## Switzerland: Denunciation filed on the attack of a Swiss Journalist by Russian Forces

On August 17, 2022, the Ukrainian NGO Truth Hounds – assisted by Civitas Maxima – filed a denunciation with the Attorney General of Switzerland.

Since 2014, Truth Hounds has documented international crimes committed in Ukraine. Truth Hounds' team has carried out over 200 fact-finding missions to document war crimes, crimes against humanity, genocide and crime of aggression in Eastern Ukraine and Crimea as well as recording testimonies from more than 3000 witnesses. Since the first weeks of the new wave of armed aggression against Ukraine in February 2022, Truth Hounds has documented attacks against reporters, photojournalists, politicians, activists, religious leaders and regular citizens.

Through its Knowledge and Training Center (KTC), Civitas Maxima had provided training to the Ukrainian organization in 2021, and continued to provide assistance throughout 2022 in relation to this filing.

On March 6, 2022, press photographer Guillaume Briquet was ambushed by a Russian commando. He was driving from Kropyvnytsky to Mykolaïv when his vehicle – which had Geneva license plates and had "PRESS" written on both sides – was shot twice on the drivers' side, and twice on the passenger's side. Mr. Briquet was injured on his arms and his head by broken glass as a result of the attack. Mr. Briquet believes that the reason the press is being targeted is to intimidate journalists not to report on the conflict.

Earlier this year, the Office of the Attorney General of Switzerland created a working group tasked with the preservation of evidence related to potential crimes committed in Ukraine. Swiss authorities are competent to deal with crimes committed in Ukraine through the principle of universal jurisdiction. Moreover, Mr. Briquet's Swiss nationality creates an additional link on the basis of the passive personality principle.

Dmytro Koval, Legal director of Truth Hounds stated: "No country is capable of dealing with such a large number of war crimes that are currently suspected in Ukraine. Therefore, it is extremely important to involve in the investigations those states that have a jurisdictional connection with such crimes, or can prompt the principle of universal jurisdiction over them."



Associated Press photographer Evgeniy Maloletka points at the smoke rising after an airstrike on a maternity hospital, in Mariupol, Ukraine, March 9, 2022. © AP Photo/Mstyslav Chernov

# The Passive Personality Principle in Swiss Law

## *Its Revival Amidst the Ukrainian Conflict*



Nora Wolf

Jurist

In August 2022, the Ukrainian organization Truth Hounds, assisted by Civitas Maxima, filed a criminal denunciation on an account of the armed assault of a civilian committed in the context of the war in Ukraine.

The presumed injured party – Swiss journalist Guillaume Briquet – did not lodge a formal complaint. Rather, the facts pertaining to his case were denounced by 2023 Sakharov prize-winning organization Truth Hounds. Indeed, under Swiss law, the opening of criminal proceedings can be initiated with neither the consent nor the participation of any alleged injured party.

The aim of this complaint was to trigger the opening of a criminal investigation by Swiss authorities into acts committed against a Swiss national. In March 2023, following this denunciation, the Office of the Swiss Attorney General confirmed the initiation of related proceedings. Against the backdrop of the Russia-Ukraine war, raging since February 2022, there is no doubt that these efforts serve a greater purpose and are enshrined in a larger fight against impunity.

**“THE AIM OF THIS DENUNCIATION WAS TO TRIGGER THE OPENING OF A CRIMINAL INVESTIGATION BY SWISS AUTHORITIES INTO ACTS COMMITTED AGAINST A SWISS NATIONAL.”**

Of particular significance in Truth Hounds’ submission are the grounds laid out for the establishment of the Swiss judge’s competence in this case. Under Swiss law, several jurisdictional bases can be used to establish the competence of tribunals over matters such as war crimes. Among these is the universal jurisdiction, established in cases where the most severe and internationally condemned crimes – war crimes, crimes against humanity and genocide, also referred to as “core crimes” – occur abroad, by and against foreigners. This type of jurisdiction is difficult to establish because, as a matter of policy, states can be reluctant to pursue matters that have little seeming link to their territory or to their nationals.

However, in this case, it may not be necessary to go so far – indeed another jurisdictional ground deserving of increased attention was invoked by Truth Hounds: that of the “passive personality”. Anchored in article 7 paragraph 1, letter b of the Swiss Criminal Code, the passive personality principle provides, for the Swiss authorities’ competence where an infraction of a certain gravity has been committed against a Swiss national. Thus, in contrast to jurisdiction based on the Swiss nationality of the alleged perpetrator committing the crime abroad, here the nationality of the presumed victim of the crime acts as the link instead. Nevertheless, for such jurisdictional ground to hold up in court, several conditions need to be fulfilled, as rightfully highlighted by Truth Hounds in their denunciation. In that context, the requirement for the perpetrator to be located on Swiss territory or, alternatively, to have been surrendered to the Swiss authorities is central.

Given that in this case, the alleged Russian perpetrators are most likely not currently on Swiss soil, focusing on their surrender to Swiss authorities appears the best course of action. This raises the question of the possibility for such an extradition to occur and, leading up to that, of state cooperation. This is why Truth Hounds submitted, in the denunciation, that engaging in judicial cooperation with Ukrainian authorities would be the next logical step after opening the investigation.

Yet, one still might ask why passive personality would even be of interest. Historically, the passive personality principle has very rarely been used in the context of core crimes being committed abroad. This is partly due to the fact that passive extraterritorial competence was not originally devised to serve the international fight against impunity for the most serious crimes in accordance with the Rome Statute governing the ICC. Thus, triggering the opening of this case by relying on this concept of the nationality of the victim represents an exciting development for the range of tools available to eradicate impunity for the most serious offences committed around the world.

Additionally, making use of the passive personality ground contributes to the circumvention of one of the most common challenges in the quest of justice for victims of core crimes. That is, credibly demonstrating that a link exists to the country establishing jurisdiction, i.e. here, Switzerland.

Such linkage is equally necessary under Swiss law to make use of universal jurisdiction for core crimes, such as war crimes, in the form of the requirement of the perpetrator's presence on Swiss soil. For universal jurisdiction, the immediate absence of the perpetrator can allow the public prosecutor's office to order preliminary acts of investigation, but this remains under their discretion.

By contrast, the passive personality ground foresees that the prosecutor *can* and *shall* formally open an investigation regardless of the alleged perpetrator's presence on Swiss soil. And this investigation would explicitly include initiating acts of legal assistance with a view of ensuring, ultimately, the surrender of the alleged perpetrator(s) to Switzerland.

Furthermore, Marc Henzelin, a Swiss lawyer and expert in international criminal law, provides some encouraging insights into the intricacies of the alternative condition of the perpetrator's surrender to Switzerland. According to him, this condition could be fulfilled not only via extradition, but also through other legal means, such as refoulement or expulsion towards Switzerland. And, the door is even left open for additional extra legem means resulting in the surrender, as long as the said means did not originate with the Swiss authorities themselves.

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**“THE PASSIVE PERSONALITY GROUND FORESEES THAT THE PROSECUTOR CAN AND SHALL FORMALLY OPEN AN INVESTIGATION REGARDLESS OF THE ALLEGED PERPETRATOR'S PRESENCE ON SWISS SOIL.”**

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Where one can sometimes wonder about the willingness and capacity of national authorities – whether from the country of origin of a perpetrator, or where a crime was committed – to carry out legal assistance, this case would leave little room for doubt. Indeed, the willingness or ability of foreign authorities to fulfill requests of assistance may very well depend on political considerations. However, as laid out by Truth Hounds in their denunciation, such inter-state assistance would be in this case directed at Ukraine, being the place of commission of the crime against M. Briquet.

And what better country to ask for assistance than one yearning for justice itself?

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Days after Russian forces were pushed out of Irpin, a fiercely contested suburb of the capital, Kyiv. © Daniel Berehulak/Flickr

# The Challenges and Progress of War Crimes Investigations in Ukraine



Yuriy Belousov | Mykola Pashkovskyi | Dmytro Koval

For several months, events in Ukraine after February 24, 2022 overshadowed the pandemic, elections around the world and many other events that would otherwise have made the world's headlines. This has given the impression that the armed conflict between Russia and Ukraine dates back to February 24 and that it is only since late winter that the Ukrainian criminal justice system has had reason to investigate war crimes and crimes of aggression.

**“THE TRUTH IS THAT THE ARMED CONFLICT IN UKRAINE HAS BEEN GOING ON SINCE AT LEAST FEBRUARY 2014.”**

The truth is that the armed conflict in Ukraine has been going on since at least February 2014, from the moment that Russia occupied Crimea and then launched a proxy war in eastern Ukraine. From then on, the Ukrainian armed forces, law enforcement agencies, courts and the prosecutor's office have directly faced problems of the domestic implementation of international humanitarian law and the use of criminal law instruments to prosecute Grave Breaches of international humanitarian law (IHL).

The capacity of Ukrainian prosecutors and investigators to respond to potential war crimes has continuously improved since 2014, thanks to institutional and jurisdictional changes within the Ukrainian prosecutor's office and investigative bodies. Separate departments have been created at the central level to focus on war crimes and a system of regional bodies competent to investigate such crimes has been established. Hundreds of training and mentoring sessions and meetings with experts in international humanitarian and criminal law have been held. In total, approximately 1,700 war crimes proceedings have been registered in Ukraine since 2014. In comparison, information on 16,479 war crimes was registered in the first three months following February 24, 2022, 111 people were reported as suspects, 8 indictments were sent to court, and 6 people have been convicted. And the updated figures as of May 2023 are a total number of 104 511 cases, 84 739 being war crimes cases registered in Ukraine since the invasion of Russia, with 325 indictments issued and 46 convictions.

## The shortcomings of Ukrainian criminal law

Ukrainian criminal law is very concise regarding war crimes. Until recently, the law was limited to a general reference article on violations of the laws and customs of war and several other “dead” provisions of the Criminal Code on the criminalization of mercenarism, the use of weapons of mass destruction, etc. This reference article does not set clear guidelines for the list of violations of international humanitarian law that are to be criminalized. However, the Prosecutor's Office understood that an over-application of the article could violate the requirements of the European Court of Human Rights (ECHR). Thus, the Rome Statute has been used in practice as a reference point for the taxonomy of war crimes.

The new wave of Russian aggression against Ukraine was marked by an abundance of reports of war crimes. In response, the Ukrainian prosecutor's office and investigative bodies mobilized forces composed of staff that were trained in the field, as well as others who were forced to quickly familiarize themselves with the complicated reality of IHL. However, due to the unprecedented volume of war crimes, the complexity of their investigation and the possible immunity of some of the accused, the efforts of the Ukrainian authorities will be insufficient. For this reason, Ukraine is counting on the support of the International Criminal Court (ICC) and foreign countries to combat impunity.

On 2 March 2022, the prosecutor of the International Criminal Court opened his investigation. Later, Lithuania, Poland and Ukraine signed an agreement to establish a joint team to investigate international crimes in Ukraine. This was later signed by the prosecutor of the ICC, as well as Estonia, Latvia and Slovakia. To meet the needs of such investigations, the European Parliament and the EU Council extended the mandate of Eurojust.

It is not yet clear how Ukraine and the ICC will divide up the cases they will investigate. The Prosecutor General's

Office of Ukraine has repeatedly stated that it is aware of the functional immunity of Russian officials. This creates room for ICC intervention. Furthermore, it can be assumed that the Ukrainian authorities will refrain from transferring high-profile cases (due to the profile of the accused or the type of crimes) to national courts when the trial would likely be held in the absence of the accused.

Despite the importance of international assistance, the Ukrainian Prosecutor's Office and its partners within the country were convinced that the first war crimes proceedings should take place in Ukraine. This conviction is linked, among other reasons, to one of the principles of transitional justice: to ensure the closest possible geographic, legal and historical link between the criminal proceedings and the communities most affected by the war crimes. Moreover, investigations and trials in Ukraine are the most logical response to the ongoing mass atrocities in the country, both legally (principle of territoriality) and practically (access to evidence and witnesses).

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**“ANY WAR CRIME SHOULD  
BE INVESTIGATED AND ANY  
PERPETRATOR SHOULD BE  
BROUGHT TO JUSTICE.”**

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To an outside observer, the examination of criminal cases by Ukrainian courts concerning war crimes committed by representatives of the Russian Federation may cast doubt on their impartiality. However, the very essence of the legal profession, and especially of the magistracy, is the ability to put aside one's own emotions and sympathies in order to ensure an impartial examination of the matter, based on a predictable reading of the law. In this sense, the task facing Ukrainian courts today is not very different in nature from that which they perform on a daily basis - to consider only the proven facts and relevant evidence, and to decide the case on the basis of an existing law that is accessible to any accused.

### **The reasons for a speedy first trial**

In any case, there is no real alternative to trying war crimes cases outside Ukrainian jurisdiction. After any war, even in situations where international tribunals such as the Nuremberg Tribunal, ICTY (International Criminal Tribunal for the former Yugoslavia), ICTR (International Criminal Tribunal for Rwanda) or ICC were involved in the administration of justice, the main burden of dealing with cases of alleged war criminals falls on national courts. Ukraine is no exception.

The first war crimes conviction in Ukraine was pronounced rather quickly. There were several reasons for this: a huge expectation of justice from the part of Ukrainian society; priority given to cases where the accused are present on the territory of Ukraine; the procedural pressure of victims of crimes who demand rapid investigations and prosecutions; the decision to bring cases where the provision of evidence of guilt is relatively simple to court; the hope of a preventive effect of criminal procedure.

It is clear that the speed of the process can affect the quality of legal arguments and the completeness of the description of the crime at trial. Therefore, the Ukrainian prosecutor's office and investigative bodies must maintain a balance between the demand for justice within a reasonable time and the careful preparation of cases to be brought to court. In no case should speed justify the violation of the rights of the accused or infringe on the equality of arms in the courtroom for the defense lawyer. However, the mere fact of a relatively fast procedure does not constitute an automatic derogation from Ukrainian and international standards of criminal procedure. In fact, efficiency of criminal proceedings is one of the requirements of Article 103 of the 1949 Geneva Convention relative to the Treatment of Prisoners of War.

The first war crime trial was that of Russian soldier Vadim Chichimarine, and was broadcast on YouTube and in the media along with the sentencing hearing. Experts drew attention to the possible excessive severity of the sentence - the court sentenced him to life imprisonment. In addition, they pointed to the lack of argument from the court, which ignored the defense's claim that the accused had lawfully carried out the order to kill a civilian for fear that the victim would report the position of the military. How this criticism will be taken into account in the preparation of future cases will reveal the extent to which the Ukrainian law enforcement system and the prosecutor's office are prepared to properly investigate and prepare complex cases involving possible war crimes.

### **To also judge Ukrainian crimes**

The inconvenient truth in any war is that grave breaches of IHL are committed by both parties to the conflict. This, however, does not go to say that both sides would be responsible to the same extent. Often, the crimes committed by one side outnumber the crimes committed by the other by a hundred or even a thousand. However, regardless of such proportions, any war crime should be investigated and any perpetrator should be brought to justice.

Since the start of the armed conflict with the Russian Federation in 2014, many Ukrainian military personnel have

been prosecuted in Ukraine for violations of the laws and customs of war. However, their convictions were based on general criminal law. In most cases, this did not mean a lighter sentence, but signaled a former reluctance of the Ukrainian legal system to incorporate the concept of war crimes.

The process of the past eight years demonstrates Ukraine's willingness to impose symmetrical conditions on its own armed forces and enemy armed forces. Of course, criminal prosecution of their own citizens is not so easy for Ukrainian law enforcement. But the very fact that these cases exist and that they are not isolated testifies to the willingness of the state to comply with its international obligations. It is a pity that Ukraine cannot count on reciprocity from the Russian Federation in this sense.

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**“OF COURSE CRIMINAL PROSECUTION OF THEIR OWN CITIZENS IS NOT SO EASY FOR UKRAINIAN LAW ENFORCEMENT. BUT THE VERY FACT THAT THESE CASES EXIST TESTIFIES TO THE WILLINGNESS OF THE STATE TO COMPLY WITH ITS INTERNATIONAL OBLIGATIONS”**

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*Yuriy Belousov is head of the Department for Combating Crimes Committed in Armed Conflict at the Prosecutor General's Office of Ukraine. Dmytro Koval is a lecturer at the National University Mohyla Academy in Kiev, and an expert for the NGO Truth Hounds, which received the Sakharov Freedom Award in 2023. He has a PhD in International law from the National University of Kyiv-Mohyla Academy. Mykola Pashkovskyi is a lawyer and researcher in criminal studies.*

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[Access the original article](#)



Russian Sgt. Vadim Shishimarin stands in court during a hearing in Kyiv, Ukraine, May 19, 2022.

© AP Photo/Roman Hrytsyna





# From Russia with Hate

*The great need for justice in the war in Ukraine*



Nataliya Sekretareva

Lawyer and Board Member of the Memorial Human Rights Center

*When I remind my little daughter*

*That the Germans are a tribe of brigands*

*She is glad with me that they are not loved*

*And we laugh together*

*Bertolt Brecht (1940)*

As a Russian lawyer and member of a human rights group, I was asked to write this article about the war crimes trials in the Russian-Ukrainian armed conflict. I found this task incredibly difficult. I delayed it as much as possible. As I was struggling doing it, I despaired. I kept asking myself: can I speak about this as a citizen of an aggressor state? Is it possible to express myself without prejudice from where I stand?

As I write this, my country is bringing destruction and horror to the Ukrainian people. It has committed other injustices before: the war crimes in Chechnya, Georgia and Syria, enforced disappearances, tortures, kidnappings, sham trials, political persecutions and the destruction of the civil society. But perhaps because I was born out of a tribe of brigands, I can bear witness to our misdeeds and peculiarities.

The war began when Russia occupied Crimea in 2014. Soon after, Russian-backed separatists in the Ukrainian provinces of Lugansk and Donetsk took up arms against the government. There is evidence that Russia supplied weapons to the separatists and that Russian soldiers participated in the armed conflict, which the Russian government denies. Then, on February 24, 2022, Russia launched a full-scale armed invasion of Ukraine.

Every war creates black holes of dehumanization and violence. No side is immune to this, whether its cause is just or not. That said, there is no doubt that the Russian army is committing more crimes than the Ukrainian army. There is growing suspicion that Russia is committing genocide and crimes against humanity. The Russian government's allegations accusing Ukraine of committing a genocide against its own population cannot withstand any serious scrutiny.

The ICC has jurisdiction over crimes committed on Ukrainian territory after November 21, 2013. On March 25, 2022, Ukraine, Poland and Lithuania established a joint investigation team and from that, there's been word of the creation of some kind of international court. But the main burden of prosecuting the crimes committed in the conflict lies with the states involved - Russia and Ukraine. It is they who have the greatest interest in bringing the perpetrators of these crimes to justice (at least in theory) and have the best access to the evidence and perpetrators of these crimes.

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**“CAN I SPEAK ABOUT THIS AS A  
CITIZEN OF AN AGGRESSOR STATE?  
IS IT POSSIBLE TO EXPRESS  
MYSELF WITHOUT PREJUDICE  
FROM WHERE I STAND?”**

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There are three things I would say about the pursuit of war crimes by Russia. First, there is no fair trial in Russia. The judiciary is not independent and lost the will to be so (if it had any!) long ago. This is how our judicial system earned its nickname: “telephone justice”. Our clients have been tortured in the basements of police stations until they confessed to everything the police wanted and the courts did not lift a finger. Our clients have been convicted based on secret witness statements. We don't even know if these witnesses exist. One of our colleagues was sentenced to ten years in prison while his lawyer was absent because of the Covid-19 quarantine.

Many of our clients and colleagues have been convicted for non-criminal reasons. It may be because of their religion, their peaceful protest, or their work in human rights. If the trial [in Kiev] of a Russian tank driver seems too rushed, think of a young Chechen man who was convicted on made-up charges in a 12-hour trial that had been scheduled the day before. The court based its judgment on confessions that it had obtained under torture a year earlier.

If Russia does not offer justice to its own people, how can anyone believe that trials for war crimes allegedly committed by Ukrainians would be any different? As if to prove this point, at the time the members of the Azov Battalion gave themselves up in Mariupol, the Office of the Prosecutor General asked the Supreme Court to classify Azov as a terrorist organization. This would allow Russia to prosecute members of the Ukrainian armed forces simply for their participation in the armed conflict. Such prosecutions would actually constitute a separate war crime.

At the same time, if some Ukrainian prisoners of war have committed war crimes, their convictions, even if fair on the merits, would have no legitimacy. In fact, such convictions could even lead to impunity in the long run. It will be difficult to see the prisoners of war as anything other than victims of Putin's regime.

Secondly, Russia does not seem very interested in the truth. It dismisses any allegation of crime as "fake news" made up by the West. The government and the media that it controls produce alternative (and often contradictory) versions of every event. In this parallel universe, the Ukrainian army occupies civilian buildings, and then bombs them. Civilians don't go to hospitals or shopping centers. The streets are staged with corpses. Ukraine is the aggressor and Russia is defending itself. This is not a war but a "special military operation". All independent media has been shut down for contradicting this official version. People risk long prison sentences for simply saying that the Russian army is committing crimes in Ukraine.

Thirdly, it appears that the Russian authorities are investigating Ukrainian war crimes for the sole purpose of supporting the Russian version of the conflict. Several officials have joyfully announced that prisoners of the Azov Battalion will be tried for "all the crimes committed against the people of the Lugansk and Donetsk republics." The investigative committee is collecting evidence in these occupied territories and is interviewing civilians coming from the East of Ukraine. I fear that the authorities are even trying to blame Ukrainian prisoners of war for as many of the atrocities allegedly committed by the Russian side as possible. If the USSR could try this method with the Katyn massacre, why couldn't Russia do the same?

A few more words about the criminal proceedings in Ukraine. The ICC, although we may dream of sending all the world's war criminals to The Hague, is not able to conduct mass or speedy trials. It is therefore only fair that justice be done in Ukraine. The work done by the Ukrainian authorities since 2014 is astonishing. I hope it will continue. That said, the victim does not have to be perfect to be a victim. Before the war, Ukraine was struggling with corruption and the absence of the rule of law. There were serious concerns about the lack of independence of the judiciary. Impartiality also seems like an impossible mission: how can one not be prejudiced against a member of the army that ruthlessly invaded one's own country? I don't think any human being could do that. I know I couldn't.

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**"THESE TRIALS WILL NOT CHANGE PUBLIC OPINION IN RUSSIA. PEOPLE WILL ONLY HEAR THE OFFICIAL VERSION, AND EVEN IF SOMEONE FROM THE OUTSIDE TOLD THEM THE TRUTH, THEY WOULD NOT BELIEVE IT."**

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Tank driver Vadim Chichimarine is the first Russian prisoner of war convicted of war crimes since the beginning of the conflict. The trial consisted of three hearings. The soldier was held in a glass "box" (a common practice in Russian courts as well) and had to communicate with his lawyer and interpreter through a glass window. The European Court of Human Rights has found that this practice violates the right to a fair trial.

The accused confessed to killing a civilian by obeying (illegal) orders and expressed remorse. The judges considered that the remorse was not sincere since Chichimarine repeated that he did not mean to kill the man. He was sentenced to life imprisonment. In 2019, the European Court of Human Rights concluded that «the existing regime for prisoners with life sentences in Ukraine is incompatible with the objective of rehabilitation» and violates the prohibition of inhumane or degrading punishment.

The sentence also raises questions of proportionality. If the 21-year-old soldier who surrendered and confessed to killing a civilian in the early days of the war is sentenced to life in prison, how will those who committed even more serious crimes - and there are many - be treated? Locking up as many Russian war criminals as possible for life in solitary confinement may seem like a fair measure at the moment. But will it serve any purpose other than vengeance?

It could be argued that the judgment could also discourage Russian soldiers from laying down their arms. Why do so if Russia considers it treason and Ukraine sentences you to the harshest possible punishment?

Even worse, these trials will not change public opinion in Russia. People will only hear the official version, and even if someone from the outside told them the truth, they would not believe it, just as Germans brought to concentration camps after World War II could still not believe the reality of the Holocaust.

The question is also whether the Ukrainian authorities will treat potential Ukrainian war crimes with the same vigor. Ukrainian Prosecutor General Iryna Venediktova confirmed that her office is investigating all alleged crimes, but stressed that possible prosecutions of Ukrainian war crimes should only take place once the war is over. "Our prosecutors and investigators are still experiencing the violence of the aggressor," she explained.

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**"THE QUESTION IS ALSO WHETHER THE UKRAINIAN AUTHORITIES WILL TREAT POTENTIAL UKRAINIAN WAR CRIMES WITH THE SAME VIGOR."**

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The Ukrainian-ICC cooperation law, adopted on May 3, 2022, does not make things any clearer. The introductory note states that it "*applies exclusively to cooperation with the International Criminal Court, in order to extend its jurisdiction to persons (Ukrainian citizens, foreign nationals and stateless persons) who, at the time of the commission of the crime, were subject to and/or acted with the aim of carrying out armed aggression against Ukraine.*" Ukraine has assumed the obligation to cooperate with the Court in respect of all crimes committed by all parties. Selective cooperation could undermine justice efforts that are otherwise vital and legitimate.

The war will leave deep scars in Ukrainian society. It is also the cross that Russians will have to carry for the rest of their lives. But, for reasons that I cannot explain, there are still Ukrainians who support Russia. Therefore, I fear that if Ukraine fails to deal with possible Ukrainian war crimes as effectively and zealously as it does with the Russian ones, the Russian state will benefit more than the Ukrainian citizens. People may feel alienated and pushed towards Russia – as their voices and the injustices they have suffered have less weight than those of the other side.

As a Russian war journalist, Yelena Kostyuchenko, once said, war is like a cancer. It spreads easily, but nobody knows how to end it. I only hope that Russia will not destroy the free and democratic future of Ukraine as it destroys its cities. I wish for a better future for all of us.

*The above statements are made by Ms. Nataliya Sekretareva in her personal capacity and not by the Memorial organization.*

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*Nataliya Sekretareva is Russian lawyer and board member of the Memorial Human Rights Center, which was co-awarded the Nobel Peace Prize in 2022.*

*This article was first published on July 12, 2022 as part of the special Op Ed section of the newspaper Le Temps dedicated to international justice with Alain Werner, Director of Civitas Maxima, serving as guest editor.*

[Access the original article](#)



October 6, 2022  
Press Release

## Landmark Human Rights Complaint Filed against Liberia in West African Court for Failure to Provide Justice for Massacre of six hundred Civilians

ABUJA, Nigeria, October 4, 2022 – The Center for Justice and Accountability, along with its partners the Institute for Human Rights and Development in Africa (IHRDA) and Debevoise & Plimpton LLP, have filed suit against the government of Liberia on behalf of survivors of a brutal 1990 massacre at St. Peter’s Lutheran Church in Monrovia and a Liberian NGO. The case, filed in the Court of Justice of the Economic Community of West African States (ECOWAS), seeks justice after Liberia’s failure to investigate and prosecute the perpetrators of the attack, and to provide redress to the victims and their families. This will be the first time that a court will examine Liberia’s failure to investigate human rights and humanitarian law violations committed during two civil wars that ravaged the country between 1989 and 2003.

The Global Justice & Research Project (GJRP) and three siblings who lost approximately 16 family members in the Lutheran Church Massacre are the plaintiffs in this suit. GJRP is a Liberia-based nongovernmental organization that has worked for decades to advance the interests of justice and accountability for the nearly 2,000 survivors and victims of the Lutheran Church Massacre, the single deadliest attack on civilians during Liberia’s First Civil War.

At the time of the attack, St. Peter’s Lutheran Church operated as a Red Cross shelter, housing close to 2,000 civilians seeking refuge from rising violence in the country. In the submission to the ECOWAS Court, one plaintiff describes the chaos in the church and the horror he experienced as government soldiers killed his mother and brother in front of him. Since the Massacre, he has dedicated his life to advocating for justice for the victims and survivors of Liberia’s civil wars because, as he testifies to the Court, no one has been held accountable for the atrocities he witnessed during the massacre. As he explained in his statement to the Court, “[B]ecause there’s been no justice, I sometimes feel that a dog on the streets of Monrovia has greater value than my mother and other victims of the Lutheran Church Massacre.”

In September 2021, a U.S. court found that soldiers from the Armed Forces of Liberia (AFL) under the command of Colonel Moses Thomas stormed the church on July 29, 1990, and shot and hacked to death approximately 600 unarmed civilians. The U.S. court found that the attack amounted to war crimes, torture, and crimes against humanity, and awarded the four survivors \$84 million in damages. “Despite the U.S. court’s findings, Moses Thomas lives freely in Liberia because the government has taken no steps to ensure justice for him or many other known and alleged perpetrators of civil wars era atrocities, and none of the victims have received a cent of reparations,” said Ela Matthews, senior staff attorney at CJA. “With alleged perpetrators on its soil, Liberia has an obligation under international law to investigate their alleged civil wars era crimes and bring them to justice.”

Even though Liberia’s Truth and Reconciliation Commission (TRC), concluded that investigating the Lutheran Church massacre was of interest to the entire country given the scale of the atrocities that occurred, Liberia has not done any investigation of the massacre. “Twelve years ago, the TRC directed Liberia to establish an extraordinary criminal tribunal to investigate and prosecute these violations, but Liberia has taken no action to bring perpetrators to account or provide justice for survivors and victims,” said Oludayo Fagbemi, Senior Legal Officer at IHRDA. “It’s high time that Liberia finally conduct effective investigations and prosecute civil wars era human rights violations and atrocities.”

Catherine Amirfar, co-chair of Debevoise’s Public International Law and International Dispute Resolution Groups, said: “Today’s court filing is a historic step forward in pursuing justice for survivors of the Lutheran Church Massacre. The ECOWAS Court of Justice has the power and the opportunity to hold Liberia accountable for its more than three decades of inaction regarding one of the worst atrocities of Liberia’s civil wars.”

This case builds on longstanding efforts by Liberians to end impunity for civil war atrocities, as Hassan Bility, a human rights activist and the director of GJRP, stated, “For decades, victims of the Liberian civil wars have tirelessly advocated for criminal accountability for civil war era atrocity crimes. Still, today, known and alleged warlords live freely and among the people they terrorized. This culture of impunity cannot continue. We hope that this case will amplify the voices of victims who are shouting for the justice they deserve.”

[Access the press release](#)

# ECOWAS Case Seeks to Bring Justice Home to Liberia



Sarah Gamble

Legal Fellow, CJA

In the middle of the night on July 29, 1990, as Charles Taylor’s NPFL approached the outskirts of Monrovia, a group of government soldiers led by Lieutenant Colonel Moses Thomas surrounded St. Peter’s Lutheran Church. At the time, St. Peter’s, like other churches in Monrovia, was serving as a Red Cross shelter for civilians fleeing the violence in the city. Once the church was surrounded, Thomas fired his pistol into the air and ordered his troops to attack the 2000 unarmed civilians sheltering in the church and adjacent school building. Men, women, and children were gunned down and hacked to death with machetes. Lt. Col. Thomas moved through the compound overseeing the slaughter, eventually yelling “*everyone is dead, all soldiers out.*” The most reliable sources estimate that over 600 civilians, mostly Manos and Gios, died over the course of the attack—making this brutal massacre one of the single deadliest attacks on civilians during the Liberian Civil Wars.

In 2009, Liberia’s TRC concluded that the Massacre should be investigated, and the perpetrators prosecuted. Despite this, and even in the face of survivor-led calls for justice, the Liberian government has refused to hold anyone accountable.

Faced with the Liberian government’s intransigence, survivors looked abroad for justice. With assistance from Civitas Maxima and the GJRP, CJA investigated the attack and uncovered key documentation and evidence regarding the perpetrators, including Lt. Col. Moses Thomas. Following years of investigation, four survivors and their families, represented by CJA and their co-counsel Debevoise & Plimpton LLP, filed a civil suit in U.S. federal court. On September 15, 2021, after reviewing the 2000-page record CJA had developed, the court issued a landmark judgment holding Moses Thomas responsible for his role in the massacre. In a detailed 51-page decision, the court recognized that the attack was a war crime and a crime against humanity. In making its ruling, the court observed that “[e]ach avenue of potential accountability for the Massacre, from the military to civilian justice systems and a Truth and Reconciliation Commission, failed to punish perpetrators” of the Massacre.

Following this ruling, the court issued a historic damages award on August 16, 2022. Totaling \$84 million USD, the damages award recognized the brutality of the Massacre and that, despite international condemnation, Liberia had failed to hold anyone accountable for the atrocity. The court also noted that “*although no amount of damages will provide adequate redress [...] a substantial award could have some deterrent effect on future would-be human rights abusers.*”

**“THE LIBERIAN  
GOVERNMENT HAS  
REFUSED TO HOLD ANYONE  
ACCOUNTABLE.”**

This judgment was a true victory for the plaintiffs and provided recognition for the victims and survivors of the AFL’s most brutal attack during the civil wars, despite the fact that Liberia still denies responsibility. It is also the first time a member of the AFL has been held accountable for abuses committed during the first Liberian Civil War. However, while the suit was pending, Thomas fled back to Liberia. Since his return, Thomas has not been subject to any criminal investigations in Liberia.

Given this, and seeking to finally bring justice home, GJRP and three sibling survivors of the Massacre sued Liberia in October 2022 for its failure to investigate and prosecute those responsible for the Massacre before a regional West African court. The plaintiffs allege that the Government’s failure to investigate and prosecute those responsible is a breach of Liberia’s obligations under international law, including the African Charter on Human and Peoples’ Rights. The plaintiffs are asking the court to order Liberia to fulfill its legal obligations to investigate and prosecute those responsible for Civil War-era crimes, compensate victims of the Massacre and their families, and take steps to memorialize the attack.

CJA, the Institute for Human Rights & Development in Africa, and pro bono co-counsel Debevoise & Plimpton LLP represent the plaintiffs in this case before the Court of Justice of the ECOWAS, a regional court with jurisdiction over

allegations of human rights violations committed by ECOWAS member states, including Liberia.

This case marks the first time a court will examine Liberia's failure to investigate violations committed during its two civil wars. While it remains to be seen how the court will respond, this case seeks to remedy the ongoing harm to survivors, victims, and victims' families that stems from Liberia's ongoing failure to investigate and prosecute perpetrators of atrocity crimes committed during the Civil Wars. As one plaintiff describes in the submission to the ECOWAS court, "*I want the ECOWAS Court to hear this case because this case can begin to recenter the human rights of Liberian victims...I want this not for myself, but for the country, so that Liberians can finally begin to heal and move forward.*"

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**"THIS CASE MARKS THE  
FIRST TIME A COURT WILL  
EXAMINE LIBERIA'S FAILURE  
TO INVESTIGATE VIOLATIONS  
COMMITTED DURING ITS  
TWO CIVIL WARS."**

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**Sarah Gamble** is a Legal Fellow at the Center for Justice and Accountability (CJA) where she works with communities impacted by atrocity crimes in Liberia, Colombia, Asia, and the Middle East to carve a path toward justice through investigations, strategic litigation, and transitional justice projects.

# French court convicts former Liberian rebel commander over atrocities

## Kunti Kamara given life sentence for complicity in crimes against humanity

**Kim Willsher**

**Wed 2 November 2022**

A Paris court has made history in convicting a former Liberian rebel commander for complicity in crimes against humanity under the principle of “universal jurisdiction”.

Kunti Kamara was also found guilty [of] acts of barbarity, including torture, cannibalism and forced labour during the country’s first civil war more than 25 years ago. He was given a life sentence.

The three-week trial was the first in France of a non-Rwandan suspect accused of wartime atrocities since the special crimes against humanity tribunal was set up in Paris in 2012. After the verdict, which came late on Wednesday after the judges deliberated for 10 hours, Alain Werner, a human rights lawyer and the director of Civitas Maxima, said the trial showed there was a legal recourse for victims of atrocities – even those committed in long forgotten conflicts.

“It is an unbelievable milestone and a huge achievement for the victims and witnesses, one of whom was so traumatised even today that she collapsed giving evidence,” Werner told the Guardian.

“Liberia is one of the poorest countries in the world and still the people concerned were able to get organised and get justice. They were forgotten by their own government, they were forgotten by the international community and it took them 10 years, but they were still able to get justice.”

“This is a message of hope for all the forgotten victims of conflicts and a particularly important message right now in these dark time with the war on Ukraine. This is a trial to bring hope for every single victim of war crimes.”

Kamara, 47, admitted being a local commander in the United Liberation Movement of Liberia for Democracy (Ulimo), one of three rebel militias ranged against Charles Taylor’s National Patriotic Front of Liberia (NPFL) during the first Liberian civil war between 1989 and 1996 in which an estimated 200,000 people died. Taylor became president in 1997 and remained in office until 2003. He was given a 50-year sentence for war crimes in 2012.

Kamara, a naturalised Dutch citizen, was arrested in France in 2018 after another Liberian rebel commander called him as a defence witness in his own trial in Switzerland.

He was accused of war crimes that took place in the village of Foya in Lofa county, a strategic region in north-western Liberia, where Ulimo troops led by Kamara were said to have carried out “particularly atrocious acts of torture”.

During the trial, one witness, a teacher named only as Jasper C, told how Kamara’s forces killed a local man who was labelled a traitor after he was seen in a vehicle with a humanitarian organisation. After tying his arms behind his back and dragging him across the village, one of the rebels cut open the man’s chest with an axe and removed his heart, which was then cut up and eaten.

Kamara rejected all the accusations against him.

“Nothing bothers me more than to be accused of cannibalism,” Kamara said. “Each time I hear this I want to vomit. Why would I have done that?” He said the trial was a “conspiracy” against him.

The state prosecutor, Aurélie Belliot, said Kamara’s crimes were “the most serious there could be”.

“They destroyed lives and their seriousness was an attack on the whole of humanity,” Belliot told the court.

While there was no physical evidence against Kamara, his conviction rested on the testimony of witnesses whose evidence, albeit contradictory, was powerful.

Lawyer Sabrina Delattre for Civitas Maxima, which documents international crimes and was a civil party in the trial, said: "This trial is happening thanks to the evidence of the victims. That is at the heart of the trial. Nobody has exaggerated the facts," she said.

Of Kamara, she added: "I don't know more about him at the end of this trial because he has denied everything that happened at Foya ad nauseam."

Marilyne Secci, representing Kamara, said: "This trial has looked kindly on the victims but not on my client. You want him to admit, but not explain."

She said there was no evidence against Kamara. "There's been no death certificate nor body. Why has nobody thought to dig to find the body (of the murdered Foya man)? I can well believe the Liberian justice system is poor, but surely it has a spade."

She added the prosecution had "put the witnesses on a pedestal because they are all it has. Witnesses contradicted each other and they want us to believe that it makes their statements believable," she said.

The case was brought in France under the principle of universal jurisdiction, which allows certain countries to claim criminal jurisdiction over an accused in the case of globally recognised crimes, regardless of where they were committed, the accused's nationality or country of residence.

Article 689 of the French penal procedural code states that alleged crimes - namely torture, terrorism, nuclear smuggling, naval piracy and aircraft hijacking - can be judged in France even if they were committed outside French territory by foreigners.

## Court Sketches and Quotes

*From the trial of Kunti Kamara in the “Cour d’Assises” of Paris, October 10, to November 2, 2022*

The following quotes are extracts from the trial monitoring. To have full access to the statements and the pleadings, visit our [website](#).

18 October 2022

“My sister was ill for a long time, and she lost her baby (...) Apparently, someone had told Kunti that my sister was a witch and Kunti made a judgement according to his own criteria since he had the power. (...) Kunti killed my sister and ordered civilians to dig a grave.” - **FC**, *plaintiff*



31 October 2022

“My client did not receive a fair trial in several aspects (...) Everyone was annoyed whenever M. Kamara opened his mouth, no matter what he had to say. When he answered questions, nobody wanted him to explain himself, but to confess.” - **Marilyne Secci**, *lawyer for Kunti Kamara, final pleadings*



17 October 2022

“I do not know these witnesses who appeared in court accusing me. It is the first time I hear about acts of cannibalism, and I felt like vomiting (...) If I was guilty of anything, I would prefer to tell the truth so as not to be guilty before God.” - **Kunti Kamara**

11 October 2022

“There is a discrepancy between the horror of the alleged acts and the ordinary personality of Kunti Kamara, which evokes the idea of historical parenthesis. Crime becomes easy to commit in certain circumstances (...) Ordinary people who do not have a propensity for such acts can commit such atrocities.” - **Dr. Daniel Zagury**, *psychiatrist*

14 October 2022

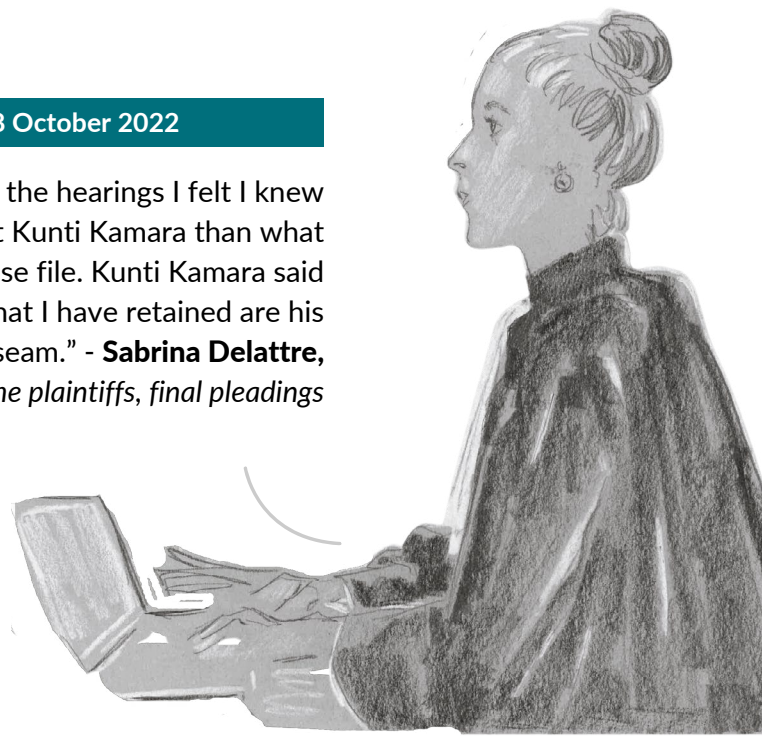
“In Foya, people were cut into pieces and thrown into boiling water. Villagers were forced to watch people being beheaded. The only thing that can help Liberian people is justice. I do not want anyone to go through what I went through.” - **AN**, *plaintiff*





28 October 2022

“When I came out of the hearings I felt I knew nothing more about Kunti Kamara than what was already in the case file. Kunti Kamara said little in this trial. What I have retained are his denials ad nauseam.” - **Sabrina Delattre**, lawyer of the plaintiffs, final pleadings



31 October 2022

“This trial in France is not about substituting for the justice of another country, but instead compensating for the absence of judicial response of that country.” - **Public Prosecutor**, final pleadings

25 October 2022

“Two of Kunti’s men grabbed me and raped me in front of him. I begged Kunti to save me. (...) He laughed and spoke in his dialect. His men then took me away, beat me with their guns and raped me.” - **RSK**, plaintiff



31 October 2022

“Because Kunti Kamara was a member of one of the worst rebel factions does not mean all the abuses in Liberia should be pinned on him (...) You are not the avengers of the Liberian people, but French jurors with all what that entails.” - **Tarek Koraitem**, lawyer for Kunti Kamara, final pleadings

12 October 2022

“The culture of impunity and the climate of terror created by some politicians turned warlords are the reason why Liberian war criminals have been prosecuted in other countries, not in Liberia. Crimes against Humanity have no borders.” - **John Stewart**, former commissioner of the Liberian TRC

# Kunti Kamara Trial: Final Pleadings

*For the defense: Marilyn Secci – lawyer at the Versailles Bar*

My personal feeling is that in this case, during this investigation, and during this hearing, our client did not really benefit from a fair trial. This is on several levels.

First, because the French judicial system, which wants to do international justice, does not have the means to do so. As I have already briefly mentioned, the only exceptional element of this case is that one of the charges is not subject to any statute of limitations.

As for the rest, it is business as usual - by which I mean business as usual in a criminal case before a criminal court in France. Business as usual to such an extent that the defense is only given as much means as that for ordinary crimes. In other words, it means that we, his lawyers, have to intervene on behalf of our client as if he were only accused of an armed robbery or a rape committed in France.

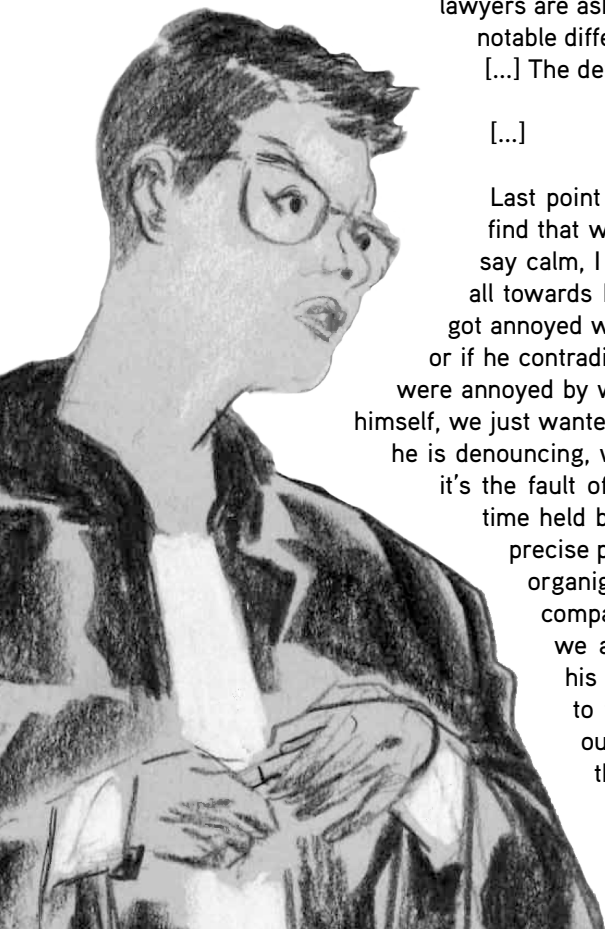
In fact, we can, and have, been able to make requests to the investigating judge for acts, as in a "classic" investigation for acts committed in France. But that is all! This is despite the facts being old, and having been committed thousands of kilometers from here. We had no financial means (Mr. Kamara had and has none) and no logistical means to go and conduct investigations ourselves. I'll give you a simple example: to get contacts with family or acquaintances on the spot to collect evidence to produce during the investigation. No financial or logistic means despite the good-will of the Mandingo community in France. No means compared to the civil party who has the relay of the Global Justice on the spot [...]. None of these means, while the Prosecutor's office has the French justice system to cover its expenses and its security costs during its trips to Liberia. [...]

The immediate consequence of this is that you were only presented with a case on the prosecution's side, therefore with only the people implicating him. Therefore, you will automatically look at Mr. Kamara as guilty, since no one has come to state the opposite for him or to corroborate his statements.

This lack of means of the defense has also been before you for more than 3 weeks. There are 2 of us lawyers intervening, having to share the legal aid for this case. I asked for it, and they explained to me that even though the facts are serious, even though the hearing was scheduled over several weeks, there would only be compensation for ONE lawyer. What does this cover? All the advance preparation for this trial and more than 3 weeks of hearings on a full-time basis, knowing that neither of us have an assistant [...] and the defense lawyers are asked to share the legal aid, again just as for an ordinary crime case. With the notable difference - that in these common law cases, clients do not face life sentences. [...] The defense is not given the means in a trial that wants to be painted as historic.

[...]

Last point on fair trial: the way in which Mr. Kamara was treated during this trial. I find that we have seen rather calm debates in relation to the issues at stake. When I say calm, I mean benevolent towards the victims. And only towards them. But not at all towards Mr Kamara. When he took the stand, each person in the room tensed up, got annoyed with his responses, got angry if he didn't understand or if he was imprecise or if he contradicted himself with regards to his other statements during the trial. Yes, we were annoyed by what he said because when he responded, we did not want him to explain himself, we just wanted him to confess! [...] A witness who does not know the date of the events he is denouncing, who is not able to precisely say where the events took place, it's all right, it's the fault of emotion, the time passed since the events, the different relationship to time held by Liberians. But from Mr. Kamara, we demand precise dates, we demand precise places, we demand his detailed schedule for 1993-94, we demand an ULIMO organigramme. Everything he said was considered suspicious [...]. We mock his comparisons when he tries to make himself understood, we raise our eyes when we ask him to explain himself [...]. In reality, no one has put themselves on his level to listen to him, the way of asking questions has not been modified to facilitate his understanding. [...] No, we wanted, at all costs, to keep him outside of the discussion and make sure that he was not the actor, but only the object of this trial.



## *For the plaintiffs: Sabrina Delattre – lawyer at the Paris Bar*

### **On universal jurisdiction**

For its critics, universal jurisdiction evokes the idea that a State claims for itself the right to judge crimes that have no connection to its territory... And it is true that the links between France and Liberia are very limited. But universal jurisdiction is in fact something else - it does not require historical or cultural links between the country where the acts are committed and the country where they are judged. It is about giving French courts the possibility, when the perpetrator is found in France, to judge "the most serious crimes that affect the entire international community".

In reality, it does not matter if France has or does not have historical ties with the country in question. Universal jurisdiction is much more than that: it allows us to prevent the perpetrators of crimes that are universally considered as the most serious from being free to come and go with impunity in our territory. It allows us to judge the Hutus for the genocide of the Tutsis, today a criminal who committed atrocities during the Liberian civil war, tomorrow Syrian torturers, and perhaps to prosecute mercenaries involved in what is taking place before our eyes in Ukraine. And for Liberia, it is not only a question of working towards universality, of fighting against impunity on French territory. It is also about bringing a response which bears immense hope for Liberians in the face of the total impunity that reigns for the crimes committed during two civil wars that devastated the country.

### **On the victims' word**

At the heart of the trial, the victims' word. The facts date back. 1993, 1994. It is true that the passage of time makes one dizzy. The time passed since these events, as we shall see, does not diminish their atrocious nature, and has not appeased the victims of the Liberian civil war. These victims have their word, and only their word, because in the fury of war, other evidence is rare. We have seen the images: the bodies rotting in the open air, the thousands of displaced persons, forced to flee in haste and to leave everything, the systematic and large-scale looting of all public facilities...

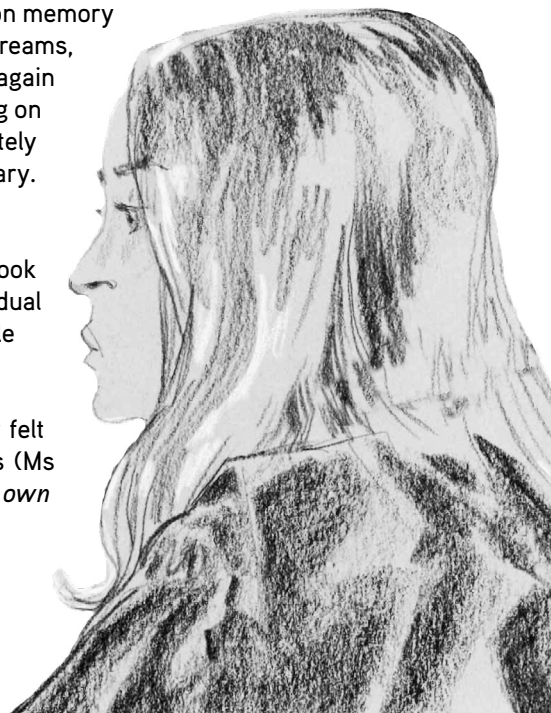
This testimonial evidence will disappear. Life expectancy in Liberia in 1993 was 46 years, and painstakingly increased thereafter to reach 51 years in 2000 and 64 years in 2020. Here is the importance of the work carried out by the GJRP and Civitas Maxima: to collect this word and document the facts. This is also what motivates certain civil parties like Mr X. He feels invested with a real duty to testify. More on the victims' word. A fundamental thing that has been verified day after day: none of them has exaggerated the facts. The victims are not motivated by any inkling of vengeance. They say what they have to say. The civil parties have all used measured terms and introduced some nuances in their testimonies. They were even able to say that certain members of ULIMO could act with restraint towards civilians.

Yes, there are contradictions and differences. Well, fortunately.

The differences in the testimonies are proof that the stories are not being remotely controlled. One should not at all worry about contradictions. Memory is imperfect. We are in a context of a bloody war, of trauma. An expert told you: there is no contradiction between confusion and focus. Trauma has an impact on memory and cognitive faculties. We remember the facts, not the dates. We remember the screams, the noises, a scene we were forced to watch. Repeating things over and over again constitutes a new trauma each time. We don't remember the same things. Depending on the questions asked, memory does not pull the same threads. One cannot immediately deduce that these contradictions are equivalent to a lack of credibility. On the contrary. They are proof of the authenticity of their stories.

All the victims and witnesses have told of only a small part of the horror that took place in Foya between 1993 and 1994. No one on the stand exaggerated their individual stories. But when you put it all together, you get a glimpse of that great, abominable mural that was the civil war and the occupation of Lofa.

For the civil parties, this trial, in itself, is already a step, it gives them hope. They felt listened to, believed. One witness said it: fear has jumped sides. Another witness (Ms Y) "*this trial gives hope to Liberia. We hope that one day there will be justice in our own country. Until then, we are grateful.*"



## Mass Crimes and One-Day Judges



Alain Werner

Director, Civitas Maxima

Appearing before a French “Cour d’assises” is a fascinating dive into the principle of orality, with a court that includes both a layman’s jury and professional judges. This set-up had also been the case in courts in Geneva, until a popular vote abolished the 18th century institution in May 2009. Last month in Paris, I awaited, with a certain curiosity, the trial of Kunti Kamara, former commander of the Liberian Ulimo rebels, now 47 years old. This rebel faction, like all the other actors in the conflict, has been accused of diving the population of Lofa into terror during a civil war that left at least 250,000 dead. I know the case well. Kunti Kamara fought in the same armed faction, at the same time and in the same part of Liberia as another commander, Alieu Kosiah. Alieu Kosiah was convicted in Switzerland for war crimes by the Federal Criminal Court (TPF) in 2021 – the appeal trial is scheduled for January 2023 in Bellinzona. The organization I lead, Civitas Maxima, which celebrated its 10th anniversary this year, is a direct actor in both: in the trial of Alieu Kosiah in Switzerland, and that of Kunti Kamara in France.

In Bellinzona, as a lawyer and Director of Civitas Maxima, I represent, together with other colleagues, victims of the crimes allegedly committed by Mr. Kosiah, who are plaintiffs in the proceedings. In Paris, Civitas Maxima was itself a plaintiff alongside Liberian victims, and was heard as such through me.

In Switzerland in 2021, victims and witnesses called by both the defense and prosecutor came from Liberia to testify before federal judges. The prosecutor also had access to dozens of federal files containing hearings and documents accumulated across the years of investigation of the case in Bern.

In Paris, on the contrary, the jurors and judges must know nothing about the facts of the case before hearing the first witnesses. The only information that is available to them is that which is given orally by witnesses, experts, or victims called to the stand, or from the reading of the investigation file by lawyers or prosecutors during the hearing.

The challenge was therefore formidable: in such a system of pure orality where absolutely everything must be said or read in court, how could it be possible, in less than four weeks, to help jurors – ordinary citizens who, without any prior knowledge of either the case or of the country, had become judges for a day – understand facts committed during a civil war that took place almost 30 years ago, 5,000 kilometers from their home?

The oath of French jurors is governed by the Code of Criminal Procedure, which requires them to: “(...) *betray neither the interests of the accused, nor those of the society accusing them, nor those of the victim (...) remember that the accused is presumed innocent and that doubt must benefit them; decide on the basis of the charges and the means of defense, according to their conscience and intimate conviction, with the impartiality and firmness befitting a person of probity and freedom (...).*”

Twenty-seven Liberian and French witnesses and experts, made up of historians, journalists, doctors, psychologists, psychiatrists, social workers, investigators and ten plaintiffs – including Civitas Maxima – appeared to relay their experience and truth to the judges and jurors, facing each other eye to eye.

In France, this overriding principle of the orality of proceedings is embodied in the configuration of the physical space of the courtroom. When testifying in a French “Cour d’assises”, judges and jurors sit less than 2 meters in front of the speaker. The speaker must not read from a script, the statement must be spontaneous, and questions are only asked after this statement, during which no one may interrupt the speaker.

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**“TO DELIBERATE AND MAKE THEIR DECISION, JUDGES AND JURORS IN FRANCE ONLY USE THE NOTES THEY HAVE TAKEN DURING THE DEBATES, WITHOUT ANY OTHER PART OF THE CASE FILE, TO WHICH THEY NEVER HAD ACCESS, APART FROM THE PRESIDENT.”**

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To deliberate and make their decision, judges and jurors only use the notes they have taken during the debates, without any other part of the file, to which they have never had access. The written record is left in the hands of the clerk by the presiding judge during deliberations, with the jurors and judges entering the jury room “without delay” after the last words of the accused. They leave only after they have made a decision to acquit or convict on each charge.

Some of the charges of torture and crimes against humanity alleged in the Kunti Kamara trial were witnessed directly by only one person, without the possibility, due to the context and the passage of time, of digging up the bodies or conducting DNA analysis. Through this, the defense forcefully argued for the acquittal of their client.

In this scenario, a conviction is formed by listening to and evaluating two irreconcilable versions of the facts presented on the stand: Mr. Kunti Kamara’s version on the one hand, and that of the alleged victims on the other. In order to decide where they thought the truth lies, the judges and jurors were also provided with background information, including newspaper articles from the time, videos and the testimony of witnesses and experts. Given the number of questions asked during these hearings, particularly by the jurors, there was undoubtedly a real desire on their part to understand the dynamics of the civil war in Liberia, but also those of the mass crimes allegedly committed.

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**“GIVEN THE NUMBER OF QUESTIONS ASKED DURING THESE HEARINGS, PARTICULARLY BY THE JURORS, THERE WAS UNDOUBTEDLY A REAL DESIRE ON THEIR PART TO UNDERSTAND THE DYNAMICS OF THE CIVIL WAR IN LIBERIA.”**

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One will recall the dumbstruck look of some of these jurors when Daniel Zagury, a renowned psychiatrist who has testified in multiple criminal trials, including those of Rwandan genocidaires, spoke of a “historical parenthesis”. He explained that, in theory, an ordinary person could commit atrocities in a certain historical context, and then no longer present any dangerous behavior if they lived in a different context somewhere else.

The expert psychologist Amal Hachet seemed to attract just as much attention when she stated that, according to her, a victim in a post-traumatic state could remember very precise events that took place even a long time ago (“hypermnnesia”) whilst not remembering at all, for example, at what time of the year these same events occurred (“amnesia”).

After sixteen days of intense hearings, the judges and jurors withdrew from the courtroom with only their notebooks and their thoughts.

More than eight hours of deliberation later, they rendered a guilty verdict on all counts and the judges sentenced Kunti Kamara to life imprisonment.

The defense immediately appealed this conviction, and judges and jury will in turn hear their own conclusions in Paris on these same facts, probably in 2024. The same question of how to deal with such events will arise once again, especially for the new “one-day judges”.

---

*Alain Werner, registered at the Geneva Bar with a LL.M from Columbia University, is one of the very few lawyers in the world who has appeared in war crimes trials both in front of several international courts as well as in front of a national court, including trials of former heads of state. He was awarded in 2019 the Bâtonnier Michel Halpérin Prize for Excellence by the Geneva Bar, and he received in 2020 a life fellowship from Ashoka, the world’s oldest and largest network of social entrepreneurs.*

*The article first appeared in French in Le Temps as part of a Civitas Maxima/Le Temps collaboration, on December 11, 2022.*

## Justice for Liberia's Forgotten War

**Clair MacDougall**  
**Winter 2023**

*Alain Werner and Hassan Bility have teamed up to pursue expat Liberians accused of horrific war crimes. They have succeeded in winning justice abroad, but can they secure justice in Liberia itself?*

Hassan Bility sat behind his desk with bleary eyes and a cigarette between his fingers as a generator hummed, lighting up his lime-green office in the Liberian capital city of Monrovia. Dressed in a bright pink shirt, Bility, a former journalist and newspaper editor, spoke with me in hushed tones about the recent arrest of Sekou Kamara at New York City's John F. Kennedy International Airport at the end of March.

Kamara is a Liberian national accused of being a rebel commander named "K-1" who fought for the faction Liberians United for Reconciliation and Democracy (LURD) during the nation's bloody 14-year civil war that ended in 2003. He is the fourth Liberian to have been arrested by US Immigration and Customs Enforcement (ICE) for allegedly lying on immigration forms when asked about his involvement in a "paramilitary unit, vigilante group, rebel group, guerrilla or insurgent organization."

Bility is initially coy about his tipping off US authorities about Kamara's whereabouts. He is the director of the Global Justice and Research Project (GJRP), an organization documenting war crimes in Liberia. Their Swiss-based partner organization Civitas Maxima later confirms their joint role in Kamara's arrest. For the past decade, GJRP and Civitas have helped prosecutors in the United States and Europe gather evidence against Liberians accused of crimes committed during the civil war that claimed at least 250,000 lives. Bility's work has won him public support but also made him enemies in a country where successive governments have yet to hold those accused of war crimes accountable in the nearly two decades that have passed since a peace agreement was signed.

Bility's office is located at the end of a muddy road, behind unfinished buildings and banana trees, in a part of Monrovia that was littered with bodies and at the heart of some of the most brutal fighting in the early 1990s. The suburb fell under the control of a rebel leader named Prince Yormie Johnson, who ordered the torture of the late president Samuel Doe on camera before publicly displaying his dead body in open air on a metal hospital bed. Johnson, who has served as a senator for the past 16 years, is a stark reminder of Liberia's political status quo, in which former warlords are still elected to positions of power.

But Bility is more concerned about members of his own Mandingo ethnic group, who have condemned him for going after alleged perpetrators who served in ethnically aligned factions. He's received threats from ex-combatants when he crossed paths with them while offering condolences after a death and regularly receives menacing phone calls. "As I speak to you now, I have threats hanging over my head," Bility says. "I don't go out at night — absolutely not — unless there is a medical emergency or something like that."

A decade ago, Bility teamed up with Alain Werner, a Swiss lawyer who had worked on international trials, including the landmark case against former Liberian President Charles Taylor for war crimes committed in neighboring Sierra Leone, which saw him sentenced to 50 years in a prison in the United Kingdom. Taylor was the first head of state to have been convicted for war crimes since Nuremberg.

Since then, Bility and his team of seven GJRP investigators, along with Werner's Civitas Maxima, whose legal team is made up of Werner and seven women lawyers, have provided legal representation to victims, filed criminal complaints on their behalf, and provided evidence and assistance to international investigators. Their work has led to the arrest of eight Liberians, a Sierra Leonean, and a US-Belgian dual citizen accused of committing war crimes in five European countries and the United States. Thus far, three of the accused have been convicted; two have been acquitted, with one on appeal; and four cases, including that of the recently arrested Sekou Kamara, are pending. The US-Belgian dual citizen accused of involvement in war crimes as well as diamond smuggling died in a Brussels prison while awaiting trial.

GJRP and Civitas Maxima's work is part of a small grassroots or bottom-up international justice movement that has emerged in recent decades in which local, victim-centered, and sometimes victim-led organizations are teaming up with international lawyers to build cases that would otherwise be neglected by large international justice institutions like the International Criminal Court (ICC) and United Nations-backed tribunals. Among these cases are those that concern heads of state and government officials such as the Chilean General Augusto Pinochet, who was tried in Spain; Hissène Habré, a former Chadian dictator who was tried in Senegal; and Anwar Raslan, a Syrian colonel who was tried in Germany for crimes against humanity. Most of the crimes committed during Liberia's civil war don't fall under the ICC's Rome Statute, which mandates it to prosecute crimes committed only after July 2002. Liberia's conflict ended in August 2003, and it incorporated the statute into its own law in 2004, a year after the conflict's end.

Using the concept of "universal jurisdiction" in largely European countries and immigration law in the United States, organizations like Civitas Maxima and GJRP are pursuing those accused of committing war crimes in the world's forgotten conflicts from Syria to Liberia. Melinda Rankin, a research fellow at the University of Queensland and author of *De Facto International Prosecutors in a Global Era: With My Own Eyes*, has described these actors as "de facto international prosecutors"—victims and witnesses who are working outside their states and the dominant international justice institutions to gather evidence and initiate cases in third countries. These "prosecutors," she writes, are working "to close the accountability gap when local authorities in the respective jurisdiction fail to investigate and prosecute those suspected of core international crimes," such as genocide, crimes against humanity, war crimes, and crimes of aggression.

### **Wars That Shocked the World**

Liberia's civil war divides into two bloody conflicts with a short intermission in between. The first civil war spanned from 1989 to 1997, before elections saw Taylor rise to power. The second civil war ignited in 1999 and ended in August 2003. The wars were fought largely along ethnic lines, with each group holding grievances against the state and other factions. While their histories and complaints varied, the groups all used euphemistic acronyms containing words like "liberation," "peace," and "democracy" that masked the rapes, torture, massacres, and recruitment of child soldiers that shocked the world.

On one side were the Gio and Mano people of northeastern Liberia, who were led by Charles Taylor's National Patriotic Front of Liberia (NPFL). Taylor is an American-educated Liberian whose roots lay in the settler class of freed slaves who migrated from America in 1822. He fought alongside Prince Yormie Johnson, a Gio soldier who later broke away to form his own faction, the Independent National Patriotic Front of Liberia (INPFL). The NPFL and INPFL formed in response to massacres led by military forces loyal to President Samuel Doe, an uneducated soldier and ally of then-US president Ronald Reagan. Doe was an ethnic Krahn, who seized power in a coup and put his kinsmen into key military positions. He attacked the Gio and Mano people after a failed coup attempt by Thomas Quiwonkpa, who was a Gio soldier and had overthrown the government with Doe in 1980.

Beginning on Christmas Eve, 1989, the war soon spiraled into a bitter ethnic conflict, with the NPFL and INPFL forces murdering Krahns as well as the Mandingo people, who they saw as aligned with Doe's regime. Early in the war, Doe was tortured on camera and later murdered by Johnson's INPFL forces. Soon after, both ethnic groups went on to form their own militias: The Krahn and Mandingo were represented by United Liberation Movement of Liberia for Democracy (ULIMO), which later went on to split along ethnic lines into ULIMO-K, for Mandingo, and ULIMO-J, for Krahn, before the Liberia Peace Council (LPC), a Krahn-based group, was formed.

In the 1997-99 interregnum, Charles Taylor was elected president with the informal campaign slogan "You killed my ma, you killed my pa, I'll vote for you." His government was soon destabilized by Krahn and Mandingo factions entering from the north and southeast, looking to overthrow his government. A Krahn-affiliated faction, Movement for Democracy in Liberia (MODEL), marched from Ivory Coast through the southeast, and Liberians United for Reconciliation and Democracy (LURD), a Mandingo affiliated group, crossed the border from Guinea and fought its way to Monrovia. On August 11, 2003, Taylor resigned and went into exile, and a peace agreement was soon after signed by all sides in Accra, Ghana.

But before the war was over, the Special Court for Sierra Leone — a judicial body set up by the United Nations and Sierra Leone — had indicted Taylor for war crimes and crimes against humanity. He nevertheless managed to live lavishly in Calabar, Nigeria, under an agreement between Liberia's peace coalition and the Nigerian government.

[...]





A teenage soldier loyal to the government fires off a volley of automatic fire near a key bridge in Monrovia, Liberia. July, 2003.  
© Chris Hondros/Getty Images

**PART IV**

**FINANCIALS, DONORS & PARTNERS**

*Financials, key donors, partners, and our staff for 2022.*

**100 FINANCIALS**

We believe in transparency.  
Access our 2022 financials.

**101 DONORS AND PARTNERS**

A list of institutions, partners,  
and private donors that make our  
work possible.

**102 DONATE**

Help us to continue our mission,  
donate to Civitas Maxima.



## 105 IN MEMORIAM

A tribute to Fayah Williams,  
Deputy Director of the Global  
Justice and Research Project.

## 106 CIVITAS MAXIMA IN 2022

A list of the members of our  
governance, as well as everyone  
who work one way or another  
with us in 2022.

## 107 ACRONYMS

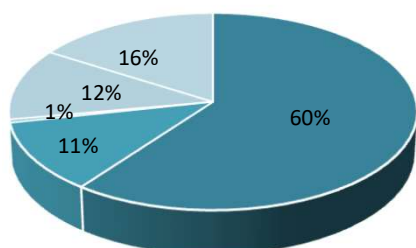
All acronyms used in this Annual  
Report.

# Financials

## Operating statement for the year ended December 31, 2022\*

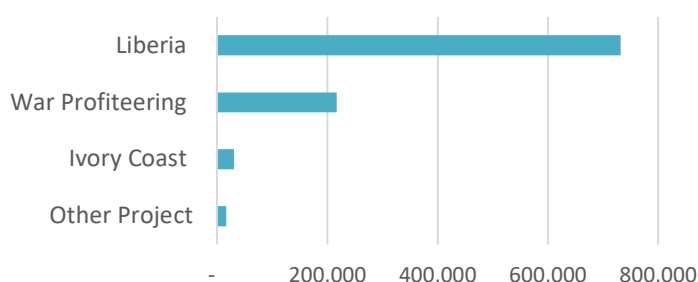
	<b>2022</b> CHF	<b>2021</b> CHF
<b>INCOME</b>		
Grants & donations**	1,565,072	1,296,295
Other income	168,862	4,218
<b>TOTAL INCOME</b>	<b>1,733,933</b>	<b>1,300,513</b>
<b>EXPENSE</b>		
Programme	-995,485	-730,611
Outreach & Communication	-189,852	-145,748
Knowledge & Training Centre	-8,207	-26,500
Fundraising	-196,119	-156,497
Management & General	-264,965	-219,467
<b>TOTAL EXPENSE</b>	<b>-1,654,628</b>	<b>-1,278,823</b>
<b>EARNINGS BEFORE FINANCIAL RESULT</b>	<b>79,305</b>	<b>21,690</b>
Financial expense	-37,686	-13,505
Financial income	12,705	18,015
<b>RESULT FOR THE FINANCIAL YEAR</b>	<b>54,324</b>	<b>26,200</b>

### EXPENSE



- Programme
- Outreach & Communication
- Knowledge & Training Centre
- Fundraising
- Management & General

### PROGRAMME



\*Provisional results

\*\*This figure includes allocation to and use of the restricted funds.

# Donors & Partners

**Civitas Maxima is extremely grateful for the support received from the following donors and partners who have contributed towards the advancement of our vision and mission:**

Our sister organization, the Global Justice and Research Project, Liberia

Akin Gump Strauss Hauer & Feld LLP, U.S.

Ashoka, International

Bijl Advocaat, The Netherlands

Courrégé Foreman, France

Dehtho Law Firm, Liberia

Garcés y Prada abogados, Spain

Geneva Academy of International Humanitarian Law and Human Rights, Switzerland

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Swiss Incorp, Switzerland, Switzerland

Swiss Philanthropy Foundation, Switzerland

The Advocates for Human Rights, U.S.

The Centre for Accountability and Rule of Law (CARL), Sierra Leone

The Center for Justice and Accountability (CJA), U.S.

The Civil Society Human Rights Advocacy Platform, Liberia

The Institute for International Criminal Investigations (IICI), The Netherlands

The Karl Popper Foundation, Switzerland

The Sigrid Rausing Trust, UK

The United Nations Voluntary Fund for Victims of Torture (UNVFVT), Switzerland

The University of Nottingham Human Rights Law Centre, UK

TRIAL International, Switzerland

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# Donate to Civitas Maxima

In the 10 years since it was founded, Civitas Maxima has legally represented and achieved concrete results for victims of war crimes and crimes against humanity throughout the world.

Without any state funding, this work has been made possible by the support and trust of world-renowned private grant institutions as well as by generous donations from both loyal and new donors.

Your donations make our work possible, gives hope to victims and ensures that Civitas Maxima's quest for justice can be pursued for many years to come.

All donations are tax deductible. Regular donations can be made by adhering to our Patrons' Club.

For more information, please visit our website.

We thank you for your essential support.

[Donations can be made online.](#)





Arial view of Monrovia, from a helicopter of the United Nations Mission in Liberia (UNMIL). December, 2008. ©United Nations



# In Memoriam

*Laughs still echo in these corridors,*

*jokes and inside jokes,*

*names, lists, life, work.*

*Your kindness,*

*your commitment,*

*your fighting 'because we have to fight',*

*your encouragement, your warmth.*

*The void left,*

*and the memory of you, filling up everything.*

Fayah Williams, Deputy Director of GJRP, passed away on April 12, 2022.

Fayah had been part of GJRP since its creation in 2012, and was an integral part of the organization.

One always felt seen by Fayah. His care and concern for the victims was unparalleled, and his commitment to justice and truth exemplary. He was an anchor to friends and colleagues who orbited around his love for life, his generous and respectful nature, his kindness, and empathy.

An important part of us left us in 2022, but we still carry on, for him as well.



Lagoon at Libassa eco-lodge, Liberia. March 2014. © Erik Cleves Kristensen/Flickr

Independent Legal  
Representation of  
Victims of War Crimes  
and Crimes Against  
Humanity

**CIVITAS  
MAXIMA**

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**Interns and Volunteers:** Adam Azzi, Geneva Academy Intern | Sarah Dupuoy, Intern The Hague | Clara Guldemann, Volunteer | Ilana Halperin, Volunteer | Leah Olasehinde, Geneva Academy Intern | Marie-Aimée Pfyffer, Volunteer | Adele de Saab, Volunteer | Iona Steger, Volunteer.

**Special Thanks for this Annual Report to:** Philippe Halban, Kristina Hon, Leah Olasehinde, Julia Rosso, Amanda Seilern, India Tamari.

**Concept, content, and design:** Rebecca-Paris Senior, Alain Werner.

# Acronyms

- **AFRC: Armed Forces Revolutionary Council**
- **AFL: Armed Forces of Liberia**
- **AU: African Union**
- **CARL: Center for Accountability and Rule of Law**
- **CIA: Central Intelligence Agency**
- **CJA: Center for Justice and Accountability**
- **DRC: Democratic Republic of Congo**
- **ECOWAS: Economic Community of West African States**
- **FCC: Federal Criminal Court**
- **FIFDH: International Film Festival and Forum on Human Rights**
- **FRG: Federal Republic of Germany**
- **GJRP: Global Justice and Research Project**
- **HIS: Homeland Security Investigations**
- **ICC: International Criminal Court**
- **ICE: Immigration and Customs Enforcement**
- **ICJ: International Court of Justice**
- **IHL: International Humanitarian Law**
- **IHRDA: Human Rights and Development in Africa**
- **IICI: International Institute of Criminal Investigation**
- **IIM: International, Impartial and Independent Mechanism**
- **IIMM: Independent Investigative Mechanism for Myanmar**
- **ISIL: Islamic State of Iraq and the Levant**
- **KGB: *Komitet gosudarstvennoy bezopasnosti* (Committee for State Security)**
- **KTC: Knowledge and Training Center**
- **LRA: Lord's Resistance Army**
- **LURD: Liberians United for Reconciliation and Democracy**
- **NPFL: National Patriotic Front of Liberia**
- **RUF: Revolutionary United Front**
- **SCSL: Special Court of Sierra Leone**
- **SS: *Schutzstaffel* (Protection Squads)**
- **TRC: Truth and Reconciliation Commission**
- **ULIMO: United Liberation Movement of Liberia for Democracy**
- **UN: United Nations**
- **UNGA: United Nations General Assembly**
- **UNSC: United Nations Security Council**
- **UNOG: United Nations Office at Geneva**
- **WHO: World Health Organization**

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