

**SPECIAL COURT FOR SIERRA LEONE  
OUTREACH AND PUBLIC AFFAIRS OFFICE**



The Registrar at yesterday's outreach activity at Murray Town Military barracks.

**PRESS CLIPPINGS**

**Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office as at:**

Tuesday, 13 September 2011

Press clips are produced Monday through Friday.  
Any omission, comment or suggestion, please contact  
Martin Royston-Wright  
Ext 7217

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## UN News Service (New York)

Monday, 12 September 2011

### **Sierra Leone: UN Envoy Praises Stability and Urges Calm Ahead of Polls Next Year**

Sierra Leone remains on track to become a stable democracy with a viable economy, but recent violent incidents between rival political groups have highlighted the potential for unrest, the United Nations envoy for the West African country told the Security Council today.

"I feel that [this] is an occasion to commend in this Council the people of Sierra Leone for what has been achieved during the last nine years in consolidating peace and building a democratic society," said Michael von der Schulenburg, the Secretary-General's Executive Representative for Sierra Leone, when he presented the UN chief's latest report on the country to the Council.

On the recent clashes between supporters of the two main political parties, Mr. Schulenburg, urged Sierra Leonean politicians not to forget what the country has achieved, build on those accomplishments and conduct their affairs responsibly.

"Elections are still one and a half years away and this must not start to embitter the social and political climate in Sierra Leone," said Mr. Schulenburg, who is also the head of the UN Integrated Peacebuilding Office in Sierra Leone (UNIPSIL).

He called for resolving of outstanding issues ahead of the next year's general elections, including reaching agreement on the polls' legal framework and an electoral code of conduct. Mr. Schulenburg voiced support for the idea of an inclusive and non-partisan national conference floated by President Ernest Bai Koroma to discuss the country's future.

He told the Security Council that Sierra Leone's economy continues to grow and that the Government was implementing infrastructure projects and pursuing a policy of privatization. Iron mining is expected to generate considerable revenues for the country in the coming years, he said, cautioning that transparent management of new resources could pose challenges.

Widespread poverty, youth unemployment and limited capacity for the delivery of social services, however, continue to put a damper on the country's development potential, Mr. Schulenburg said.

"Notwithstanding the creation of the Youth Commission and concerted efforts by development partners, no substantive success has been made in fighting Sierra Leone's rampant youth unemployment," he said.

He called for the better targeting of development programmes implemented through better cooperation between the Government, its development partners and the private sector.

Sierra Leone is one of five countries - along with Burundi, the Central African Republic (CAR), Guinea-Bissau and Liberia - on the agenda of the UN Peacebuilding Commission, which was set up in 2005 to help post-conflict countries avoid slipping back into war.

Cocorioko

Tuesday, 13 September 2011

**Statement by H.E. Mr. J.B. Dauda -Minister of Foreign Affairs -at the U.N Security Council on the Seventh Report of the Secretary-General on UNIPSIL (Excerpts)**

...I would like to draw Council's attention to the increase in mercenary activities in the MANO River basin, which require our collective effort and support to address before it eventually gets out of hand and undermine the peace and stability of the sub-region. We welcome the support by the United Nations towards the trial of Mr. Charles Taylor by the Special Court for Sierra Leone.

Before concluding this statement, I would, like with the leave of council to brief Council on recent outbreak of violence in Bo in the Southern Province of Sierra Leone. (Refer to attached brief on Bo incident

Mr. President;

Finally, allow me once again to reaffirm our deep appreciation to the United Nations, the PBC, the Chair and members of the Sierra Leone Configuration and development partners for their continued support towards peacebuilding and peace consolidation in Sierra Leone.

I thank you all for your attention.

## **Liberia: In the cause of human right, democracy, and justice...**

By Bernard Gbayee Goah

Feature Article



*Mr. Bernard Gbayee Goah President,  
Operation We Care for Liberia*

“ Courage is the power to drive fear away, and embrace your new found self and freedom.  
By: *Lily Boodeme Wilkins*

”

### **ICC should implement TRC final report ...**

Liberia's Truth and Reconciliation Commission (TRC) was agreed upon in the August 2003 peace agreement and created by the TRC Act of 2005. It was established to “promote nation peace, security, unity and reconciliation,” and at the same time make it possible to hold perpetrators accountable for gross human rights violations and violations of international humanitarian law that occurred in Liberia between January 1979 and October 2003.

Operation We Care for Liberia (OWCL) believe that a step toward ensuring Liberia's upcoming election is credible would be by implementing the TRC final recommendations. Again as in our previous publication, we call on the International Criminal court (ICC) to take over the implementation of Liberia's TRC final report due to the fact that there are evidence of international crimes been committed by certain individuals in Liberia, also because President Sirleaf is suspected of committing war crime in Liberia, her administration is unwilling to implement said report.

A peaceful Liberia demands accountability, justice, and then reconciliation. Those bearing the greatest responsibility for atrocities in Liberia must be held accountable. They must not be allowed to walk freely or hold any positions in the next Liberian government! This is necessary in order to begin genuine reconciliation.

Madam Sirleaf must demonstrate leadership by either complying with the TRC recommendation that she not hold public office for 30 years, or invite the International Criminal Court to Liberia to investigate crimes committed in Liberia during the course of the civil war. After all, she vigorously supported and promoted the truth telling approach to national healing. Her acceptance of the TRC recommendations or inviting of the ICC to Liberia will compel other former warlords to cooperate. This will also serve as a deterrent to those who believe in the use of arms to obtain state power.

The country's Rule of Law and the justice system is in shambles. It is commonplace for persons who have committed serious crimes, such as rape, torture, murder and other crimes against humanity, to move about freely in Liberia without fear or concern. The people are powerless. Injustice in Liberia is reported regularly not only in Liberian media but in the international media as well, however, nothing is done. Power, cupidity for personal wealth; lack of accountability; difficulty in bringing perpetrators of violent crimes to justice; impunity; and exemption from penalty and or legal sanction has categorized Liberia as one of the most volatile nations today. The

need for the presence of an international justice system capable enough of bringing perpetrators of war crimes to book until Liberia's justice system is revamped cannot be over emphasized at this point. And there is no such justice system than the International Criminal Court (ICC).

Things have fallen apart in Liberia to such an extent that the obligation or willingness to accept responsibility, or account for one's actions in the public sector is nonexistent; thus giving rise to the spread of immense unstoppable embezzlement even in the private sector, and religious settings across the country. Liberia is about to again be destroyed due to the behaviour of a select few who are only bent on driving the country into an abyss of total isolation from the comity of nations. These are the people who either financed the killing of thousands of defenseless men, women and children, including a number of Liberia's guests, or were themselves directly involved in the taking of human lives. Shamelessly living under the dark cloud of guilt and suspicion, they have vehemently rejected the Liberian Truth and Reconciliation Commission's (TRC) recommendations, even though it is one of the best remedies for sustainable peace.

Liberia's 2011 election results will not be considered credible ...

While allegations of War Crimes remain unaddressed, and those suspected of committing them are the judges in charge of running the affairs of the country, elections in Liberia cannot be considered credible. Liberia's 2011 election results will not be considered credible because there are major war crime suspects among candidates vying for public offices. Former warlords and their financiers have rejected the way forward to peace and are doing everything in their power to prevent justice from taking its course!

### **National Referendum ...**

In one of our past publications we condemned attempts made by the Sirleaf government to influence the outcome of the just ended national referendum. We still believe that President Sirleaf and her group intended to place her on a safe political ride as regards the 10 years residency clause for persons seeking the presidency of Liberia. We publicly declared at that time that such manipulation was unacceptable and not in the interest of the country especially during these critical moments when Liberians look forward to lasting solutions and durable peace. Our first suggestions was either the president does not meet the residency clause requirement as stipulated in the constitution of Liberia or such clause be abolished to accommodate all Presidential aspirants in the 2011 elections at all. Our reason at that time stem from the fact that we did not see the 2011 elections as being any different from the 2005 elections, giving the situation in Liberia where it is more scaring for Liberians to return home because of the presence of Madam Ellen Johnson-Sirleaf, Prince Johnson and other warlords who continue to move freely without question. We said elections that are held under such circumstances are considered special meaning they cannot be considered normal under a full constitutional protection. The Ellen Johnson-Sirleaf government did not give credence to our publication. We suggested that those recommended to be banned by the TRC should not run for public office until they answer questions for alleged crimes committed during the Liberian civil war. We also thought that reducing the residency clause from 10 to 5 years to make President Sirleaf qualify for the 2011 elections was a complete insanity on the part of whoever chose to do so. Such idea would not serve the interest of the Liberian people.

The referendum has ended and according to the Election Commission report, all four proposition including proposition one (52c) which talks about the reduction from 10 to five years in the residency requirement for the presidency or vice presidency did not meet the required number of votes for ratification. All four propositions were not ratified.

Again, we have heard that President Sirleaf and her group are about to manipulate the systems by means of court process. They are about to find a way of avoiding the residency clause restrictions imposed by the constitution without "actually violating it" unbeknown to the citizens contra positively against their interest and will. The very citizens most of whom may not even see a single copy of the constitution in their life time are about to be manipulated. We take such information very seriously and are watching events in Liberia with an eagle-eyed as they unfold. It will be against democracy for the Supreme Court of Liberia to disregard the will of the Liberian people and breach the constitution only to accommodate Ellen Johnson-Sirleaf who is suspected of committing war crime in Liberia in the first place.

### **Charles Taylor and the TRC ...**

On November 28, 2008, Liberia's Truth and Reconciliation Commission (TRC) published a list of "Persons of interest" who to date have not appeared at the Commission but are considered persons who have particular knowledge and information about past events deemed expedient to the inquiry process of the commission, given their roles, positions in government or privy to public policy issues over the period 1979 to 2003. Ellen Johnson-Sirleaf appeared before Liberia's TRC ... Charles Taylor did not appear. Interestingly, even in the absence of Charles Taylor's testimony at Liberia's TRC, after reviewing all the evidence, the Truth Commission felt it necessary to recommend that Madam Ellen Johnson-Sirleaf be banned from public office for no less than 30 years. This is a clear indication of the extent of her involvement in the carnage.

Ellen Johnson-Sirleaf's incredulity in the face of mounting evidence is incomprehensible. Without legal exoneration from allegation of war crime, the presence of Madam Sirleaf in government at any time makes it impossible for Liberia's 2011 elections results to be considered credible. And again Madam Sirleaf has presented herself as a presidential aspirant whereas she should be answering questions in a court of law.

### **Ellen may have contributed more than \$10, 000 to NPFL Rebels ...**

We believe besides the \$10,000 (ten-thousand United States dollars) financial contribution made by Ellen Johnson-Sirleaf to the NPFL rebels as was explained by her at the TRC hearing, Mr. Charles Taylor may have in-depth information on other monies such as the alleged \$75, 000 (seventy-five thousand United States dollars) contribution made in France as well as other roles Madam Ellen Johnson-Sirleaf may have played during his NPFL revolution especially so her connection with the former Libyan Leader Col. Gadhafi.

We call upon President Johnson Sirleaf to create a supportive atmosphere that will buttress the TRC efforts already made by opening doors to the ICC.

Put simple, Madam President, do not pay death ears to allegations of war crime that are brought up against you. Do something about it!!! Don't just sit there!!! YOU ARE A PRESIDENT OF A NATION!! THE LIBERIAN PEOPLE ARE SAYING "YOU GAVE MONEY TO CHARLES TAYLOR'S NPFL REBELS TO KILL OUR PEOPLE!" DON'T TRY TO HIDE UNDER THE PROTECTION OF THE PRESIDENCY! YOU WON'T BE PRESIDENT ALL OF THE TIME OR MAYBE NOT THIS TIME!! Again, because Liberia lacks Rule of Law and the justice system is in shambles we call upon the ICC to take over the implementation of the final reports of the TRC. With the ICC at the zenith of implementing justice in Liberia, such forum would heal the wounds of thousands of Liberia war victim. Also, the ICC taking charge of the TRC final recommendations will permit Charles Taylor to give his side of the story about his role played as former rebel leader, and former President of Liberia. In this way, the Liberian people would get another picture of the actual roles Ellen Johnson-Sirleaf and Charles Taylor played during the Liberian civil war. Genuine reconciliation in Liberia will require the participation of all Liberians including Charles Taylor. Excluding him from the process without getting his side of the story is an injustice not only to Mr. Taylor but to the Liberian people as well.

Charles Taylor is charged with war crimes in Sierra Leone Not Liberia ...

Charles Taylor is charged with 11 counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law committed in Sierra Leone from November 30, 1996, to January 18, 2002 not Liberia. The Prosecutor alleges that Mr. Taylor is responsible for crimes which include murdering and mutilating civilians, including cutting off their limbs; using women and girls as sex slaves; and abducting children adults and forcing them to perform forced labor or become fighters during the conflict in Sierra Leone. Mr. Taylor is charged on the basis that he allegedly backed Revolutionary United Front (RUF) rebels fighting in Sierra Leone; that he had links with senior leaders in the RUF—such as Foday Sankoh, Sam Bockarie (a.k.a. Mosquito), Issa Sesay, and others—in addition to a second warring faction, the Armed Forces Revolutionary Council (AFRC); and that he was responsible for Liberian forces fighting in support of the Sierra Leonean rebels.

# The Standard

Monday, 12 September 2011

## Lawyer seeks access to confidential evidence

By Evelyne Kwamboka

A lawyer representing 233 post-election violence victims now wants the International Criminal Court to allow him access confidential material filed by suspects and the prosecution.

Morris Anyah says he is prepared to be bound by any orders or conditions for the receipt of the confidential material as may be deemed fit by the Pre-Trial Chamber II.

Denial of access to the materials, Anyah claims, would render his clients' participation at the hearing ineffective.

"Much like with access to prosecution material, the legal representative undertakes not to disclose any confidential defence material to the public and, if deemed necessary by the Pre-Trial Chamber, to his clients," he argues.

The application comes as lawyers representing Finance minister Uhuru Kenyatta, Head of Public Service Francis Muthaura and Postmaster General Hussein Ali make final touches to their defence, ahead of their confirmation of charges hearing.

Anyah, who also represents former Liberian President Charles Taylor at the Sierra Leone Special Tribunal, says disclosure of the material will in no way prejudice the rights of the suspects, and will only enhance the proper, fair and expeditious conduct of the confirmation of charges hearings. ICC Prosecutor Luis Moreno-Ocampo and lawyers representing Uhuru, Muthaura and Ali filed classified evidential material ahead of the confirmation of charges hearing starting September 21.

Ocampo has also redacted part of his evidence in order to withhold the most sensitive material from the three suspects.

The redactions have been made to information that could pose a risk to the safety of victims and witnesses, their families or jeopardise ongoing investigations.

Muthaura, Uhuru and Ali have also filed their evidence, lists of evidence and analysis charts confidentially, thus withholding any disclosure to Anyah.

### Important disclosure

Anyah claims he does not know what will be presented in court by the suspects at the confirmation of charges hearing, and does not have a basis for identifying individual documents whose disclosure might particularly be important.

In another application on his observations on the confirmation of charges hearing against the second batch of suspects, Anyah has also requested the court to allow him 30 minutes to give an opening statement and another 45 minutes for closing at the hearing.

CNN

Friday, 9 September 2011

## Truth commission begins hearing testimonies of Togo's violent decades

Erick Kaglan

- The West African nation of Togo has experienced decades of violence
- A commission is hearing from victims of political violence and human rights violations
- "Some of the testimonies are so hard to take," says the commission chairman
- The goal of the hearings, he says, is "to promote peace and forgiveness in our country"

**Lome, Togo (CNN)** -- After culling through 20,000 depositions from alleged victims of politically motivated torture and human rights violations in Togo, a special commission has begun hearing testimony from a select group of some 250 of those alleged victims, whose stories cover nearly half a century of turmoil in this West African nation.

Just as public hearings were conducted in South Africa following apartheid, victims have been parading before Togo's Truth, Justice and Reconciliation Commission, telling their painful personal stories of events that occurred between 1958 and 2005.

"My children and I witnessed their father being sliced up like a cake by armed men after being gunned down at point-blank range just because of his political ties," said one woman who, like others testifying, spoke with the commission requesting that she not be publicly identified.

Another elderly woman told the commission she was raped by unidentified men who later shot her husband. The testimonies are some times specific, some times vague, and not providing any hard evidence. But the stories speak to tumultuous years under two presidents -- Sylvanus Olympio, who was prime minister and then president from 1958 until he was assassinated in 1963 during a military coup; and his successor, Eyadema Gnassingbe was said to have launched the coup against Olympio and later became president himself, ruling for 38 years from 1967 until his death in 2005.

Gnassingbe's son, Faure Gnassingbe, succeeded his father amid ongoing turmoil -- a United Nations report pointed out that violence in Togo was at its peak in 2005, claiming at least 500 lives as power was passed from father to son.

Over the next two months, the commission -- headed by Catholic Bishop Nicodeme Barrigah and made up of 10 other members ranging from a Muslim cleric to four university professors to a tribal chief -- will listen to the stories. The commission's mission is to search for the truth of what really happened in Togo from 1958 to 2005, in terms of politically motivated crimes without regard to which political group the alleged perpetrators or alleged victims were from.

The commission, set up in 2009 under the younger Gnassingbe's administration and with extensive background work by the United Nations Human Rights Bureau in Togo, spent nearly two years with training sessions for its members and staff, and then set about gathering depositions. For three months, the depositions were taken. And now, for at least two months, the commission will listen to the stories.

In the first two days of testimony, no one presented evidence. They just described what they went through.

Two elderly sisters told their late father's tale of how he was arrested and tortured following the assassination of Olympio in 1963, with the torture leaving him blind for the rest of his life. Both women said their father -- a friend to the assassinated president -- was made to lie down and stare at the sun. A 70-year-old man claimed that militiamen loyal to Olympio subjected him to torture and degrading treatment because he belonged to a rival party.

"Some of the testimonies are so hard to take -- based on the preliminary hearings we conducted months ago -- that we cannot afford to make all of them public," Barrigah told CNN, adding that he was "personally moved by the story about a man who had nails knocked into his head during an election just because he belonged to an opposition political party."

"That is why some of the hearings will be made behind closed doors," Barrigah said. "But we will make sure that the testimonies are recorded by our own team -- not journalists -- and only their key elements will be made public because people would be wondering what was said behind closed doors."

Barrigah said that members of the commission believe that transitional justice does not need to take people to court for judgment. Those behind the commission, he said, were particularly inspired by the transitional justice process in South Africa, where the people who assumed power after the apartheid period set up a truth commission that eventually granted pardon to the perpetrators.

The commission has no authority to judge or convict, but Barrigah emphasized that if a witness does not feel satisfied by merely testifying, he or she can sue the alleged perpetrators of crimes against them. The commission's goal, the chairman emphasized, is to work toward pardon.

"Our role is not to judge the people but to make sure that transitional justice is effective in Togo through truth-finding. By (having) victims testify, we expect to heal their sorrows in order to promote peace and forgiveness in our country," Barrigah said.

Once the testimonies conclude, the commission will propose ways of compensating the victims, including money. And if the alleged victims name their purported assailants, Barrigah said the commission "will invite the accused -- if still alive -- to come and testify."

# The Hague Justice Portal

Wednesday, 7 September 2011

## First trial at the ICC comes to an end.

The trial phase of the case against Thomas Lubanga Dyilo at the International Criminal Court has concluded.

The first trial at the International Criminal Court concluded on Friday, after closing statements by the prosecution, victims and defence were delivered in the case against Thomas Lubanga. The three judges - Presiding Judge Fulford of the United Kingdom, Judge Odio Benito of Costa Rica, and Judge René Blattman of Bolivia - will now commence deliberations, with a view to delivering their judgment in early 2012.



Thomas Lubanga faces war crimes charges for recruiting child soldiers and, during her closing statement, Deputy Prosecutor Fatou Bensouda showed the court video footage of Mr Lubanga dressed in military uniform addressing children at a training camp, encouraging them to fight. Ms Bensouda described this footage as a “taped confession” that demonstrated the guilt of Mr Lubanga beyond “any possible doubt”.

Mr Lubanga denies the charges against him, claiming that he was a politician rather than a warlord and never played an active military role. Ms Mabilie, for the defence, accused the prosecution of gross incompetence and using intermediaries who had coached witnesses with “fabricated” testimonies. She stated that evidence demonstrated that nine former child soldier witnesses had lied to the court, and the evidence against Mr Lubanga was therefore tainted. The prosecution has denied this allegation and stands by the testimony of their witnesses.

Mr. Lubanga read from a short statement prior to the conclusion of the trial, explaining that he wished to “express his feelings” and that it had been “impossible” for him to recognise himself in the image of him that the prosecutors presented during the trial.

This is the first international trial to focus entirely on the crime of child soldier recruitment and is expected to set significant legal precedents for prosecuting the use of children in armed conflicts. While Presiding Judge Fulford noted that the judgement was required by the Rules of the Court to be issued “within a reasonable period of time”, it is understood that, as the judges’ terms end in March, it will be rendered in early 2012.

## ICTJ

Wednesday, 8 September 2011

### The Disappeared: The Right to Justice and the Right to Truth



The International Day of the Disappeared, marked August 30, drew attention to the plight of hundreds of thousands of families of missing persons from different countries spanning the globe. From Colombia to Sri Lanka, from Bosnia and Herzegovina to Nepal, from Syria to Peru, families of people who disappeared in circumstances of conflict or repression suffer greatly as they fight to find out what happened to their loved ones.

The impact of disappearances on the families is devastating and long lasting, leaving them in a terrible limbo, unable to find closure. At the same time, it reaches beyond the immediate communities of the disappeared, affecting entire societies grappling with the legacy of unresolved crimes and the obligation to provide families with the truth about the fate of their loved ones.

In a conversation dedicated to the International Day of the Disappeared, Eduardo Gonzalez, director of ICTJ's Truth and Memory Program talks to Jose Pablo Baraybar, director of the Peruvian Forensic Anthropology Team and a renowned international expert whose work in forensic anthropology has been instrumental in determining the truth about crimes around the world, including Peru, Haiti, former Yugoslavia and Rwanda. Gonzalez and Baraybar explore why it is crucial for societies in transition to address the issue of the disappeared, the tension between demands of conventional justice and the right to truth, and the need for a strategy in searching for the disappeared.

**GONZALEZ:** Any look at transitional justice scenarios around the world now shows how urgent it is to locate and identify the remains of missing and disappeared persons. In some cases, the search for these people takes decades, well beyond the period of repression or war. Why is the question of the missing and the disappeared so important to address for post-conflict societies or societies trying to extricate themselves from authoritarian regimes?

**BARAYBAR:** The issue of the disappeared is very complicated, and because of this it has often been put second to other transitional justice considerations.

It's crucial to address this question though because it's very difficult for individuals and a society to turn the page and have some sort of closure without knowing what happened to their loved ones. People have the right to the truth and they need to know what actually happened to allow for some closure to take place.

In the past we have tried to believe people would be able to go on without knowing. Families in France are still looking for the dead from the First World War in 1914–1918. Many of the missing are known to be buried in the fields of Verdun, and the government said: “We know what happened and we know where the dead are; let's not look at the past.” It is very easy for the state to forget on behalf of others. But people want to have the remains of their loved ones buried as human beings, not just sharing a field with some thousands of others.

This issue of not knowing then becomes inherited generation after generation. People want to know where they come from or what actually happened to them to build their own history; the grandson would like to know what happened to his grandfather. And when closure does not take place at the family level or community level, it will not take place at the country level. Then reconciliation is pretty much an enigma or outright impossible.

**GONZALEZ:** It sounds like if political elites seem content to ask the families to draw solace from a political discourse: “Your children fell for the fatherland” or “Let's move toward the future; let's not look at the past.” In

some cases it looks like a reiteration of “Antigone” where King Creon is angry with Antigone because she defies him, because she continues to ask for the most elementary right—to know what happened and to make sure that her brother is given the rituals that are granted to all the dead.

**BARAYBAR:** At the end of the day memory is a challenge; through memory you are challenging a number of established things and the established order. I think it is very easy to forget on behalf of others. But is very difficult for you to forget, because even if this is very much cliché, knowing actually where you come from, or what happened to you and your forebears for that matter, you will be able to have much more clarity about where you are going to.

Memory can also be a challenge to the state authority. It is very difficult when a state imposes some form of official story and says: “This is the memory. This is the way you will remember what happened from now on,” because those who experienced conflict or abuses often have a very different memory. And by having this different memory they will always be defiant of whatever is presented as the “truth.”

**GONZALEZ:** You mentioned earlier the concept of the right to the truth, a concept you don’t find in the Universal Declaration of Human Rights. What is this right to truth? How would you define the fact that this is a right, on the basis of your own experience? And if this is a right, then what obligations does it impose on the state?

**BARAYBAR:** To put it in simple terms, every individual has a basic right of knowing what happened to their relative or relatives. No one should be left in the dark by someone saying “well, your relative simply vanished.” The right to know is an appropriate response. Nobody simply disappears.

This is quite overlooked because we tend to believe that justice in itself is a truth provider. But the judicial process is a series of arguments that articulate a version of the truth that is enough to reach an acceptable threshold of justice. We as relatives, as individuals, as human beings need other answers; what actually happened when this person met death.

This kind of right is very intangible. It is very difficult for this set of truths to be written down somewhere or listed or prescribed in any kind of judicial ruling. Sentences by international institutions like the Inter-American Court of Human Rights have been recommending more and more to exhaust all means to find out exactly what happened, but I think the right to know is something that embodies all these kind of recommendations into a much more specific set of rights beyond the workings of the courts.

**GONZALEZ:** In some way we are all victims to the notion that only what happens in a court of law is the truth. You’re saying what happens in a court of law is the judicial truth; what is proven with evidence and by following certain scientific procedures. A subjective experience, such as the pain of a relative of a person who has been disappeared, is irrelevant in a criminal procedure. So there is a clear need for a process that is centered on the victim as much as courts of law focus their activity on the presumed perpetrator.

**BARAYBAR:** The burden of proof for a crime is totally different than the burden of truth; you need to know what actually happened and bring closure to a family. Those are two different things.

Any restorative approach cannot be based on the retributive justice in the classical sense. Justice in the classical sense is also a social construct and a social good. It is something that has repercussions in society as a whole. You punish somebody to set an example and also to prevent things from happening to society, not to individuals alone. There isn’t much restoration. I would say the right to know is very restorative in that respect.

A good example of this is cases of disappearances that have been sentenced and the accused have gone to jail, but the body has not appeared. The Inter-American Court of Human Rights case of “Castillo Páez v. Peru” is closed and police officers went to jail, but the body of Ernesto Castillo Páez has not been found. And although the court recommended the state do everything in its power to find the remains, the ones who know where they may be—the

officers in jail—have no incentive to provide information because they are already paying for the crime they committed.

So there are two distinct rights here—the right to justice and the right to know—only one of which was fulfilled by the trial.

**GONZALEZ:** The Ernesto Castillo case is a very important one to me; Ernesto was a good friend of mine. When I think of him more than 20 years after his disappearance, I think on the one side that the struggle of his family and the human rights community to achieve justice on his case has given us positive jurisprudence in the Inter-American Court of Human Rights and in Peruvian courts.

But on the other hand, that is little consolation for friends and family because we do not know where Ernesto is. Why is it not possible once the perpetrators have been convicted, for prosecutors or the judicial system to grant some kind of incentive to these people to cooperate in the search of these bodies?

**BARAYBAR:** Well if they do such a thing in every other aspect of criminal justice, I don't see why it should not be done in this case. But it is easier to engage in retributive practice of criminal justice rather than combining it with restorative justice that may include more imaginative or more liberal policies, such as incentives. These policies are not established; we have not yet taken this leap forward in thinking how we find harmony between the needs of families and the needs of the system in order to bring both justice and truth to the families. That is the challenge.

**GONZALEZ:** It's been 8 years since the Peruvian Truth and Reconciliation Commission (TRC) issued its final report in which the commission identified about 4,000 possible places for gravesites with the bodies of the disappeared, and authoritative investigations—including the work of your institution, the Peruvian Forensic Anthropology Team—indicates that about 15,000 Peruvians continue to be missing or disappeared. Yet the Peruvian authorities have failed completely to look into these cases. What is needed in Peru to comply with the victims' right to know? What do you expect from the new Peruvian administration?

**BARAYBAR:** The lesson being learned in Peru is not different than many other countries in the region: we took the easiest of the recommendations of the truth commission on board—such as reparations—and avoided the most complex issue: establishing a strategy for accounting for the disappeared.

What is needed in Peru as in many other places is a search strategy. We are lacking a search strategy—one of the recommendations of the truth commission was to create an office of the missing persons—understanding that the task of devising such a strategy is a complex thing. It is not a matter of exhuming bodies; that can be done by anybody. Exhuming is easy; restituting identity is very complex.

We should have a state policy that involves searching for those Peruvians that are missing. It is not just a necessity but an obligation of the state. These people are not collateral damage; these people are Peruvians whose families have been looking for them or waiting for them for years.

*Photo: A mother places a carnation on the image of her missing son during a commemoration of the International Day of the Disappeared in Colombia, 2011. Photo by Ronald Dueñas*