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# EDITORIAL

## The loss of the monopoly by the State over mass means of violence: a multifaceted, confirmed and concerning trend

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This edition of *Per la Pau/Peace in Progress* focuses on the relationship between business and violent conflict and, more generally speaking, the ties between companies and the state of peace and human rights in the world, an issue ICIP has dealt with in the past and will continue to address. We are doing so, moreover, in a context marked by two news stories published in August. The first, the growth in weapons sales by the United States, which in 2011 reached 66.3 billion dollars, three quarters of the world's total (85.3 billion), much higher than Russia, the second largest exporter at 4.8 billion (*The New York Times*, 26 August 2012, based on data from the Congressional Research Service, a nonpartisan institution part of the Library of Congress). This figure is even more significant in comparative terms: it entails an extraordinary increase over the year before and is the second highest sales in a single year in history, in a year marked by economic crisis and recession. It seems that the main causes would be the tension with Iran and its impact on arms spending in the area of the Persian Gulf (Oman, Arab Emirates, Saudi Arabia), with the buying of war planes and missile defence systems.

The second piece of news is the publication of *Global Burden of Armed Violence 2011. Lethal Encounters*, the leading report on the origins and outcomes of armed violence around the world using an integrated approach that considers the various forms of armed violence currently existing around the globe. Specifically, forms of violence in the context of conflicts or rebel uprisings, but also related to gang violence, killings associated with drug trafficking, transnational organised crime, and the various forms of non-political violence causing deaths and forcing people to leave their homes worldwide. The results, which for the first time dispense with compartmentalised accounts (interpersonal violence, organised violence, criminal violence…), can be summarised as follows: more than 526,000 people are killed each year as a result of lethal violence. A total of 369,000 people are killed by homicide, while only one in every 10 deaths is caused by armed conflict or terrorist activities. The report also contained other significant data: 58 countries in the world have violent death rates above 10 per 100,000 inhabitants. These countries account for almost two-thirds of all violent deaths, with El Salvador, Iraq and Jamaica as the areas most affected by lethal violence between 2004 and 2009. Homicides related to gangs and organised crime are significantly higher in Central and South America than in Asia or Europe. Moreover, there is a strong association between lethal violence and very negative development outcomes as well as quite negative results in the achievement of the Millennium Development Goals

Both news items are related to two circumstances that have marked international relations for decades, one of which is closely related to the central issue of the journal: first, the loss of the monopoly by the State to control mass means of violence, a trait that Max Weber had used to define the State; and second, the dominance of private players in the realm of international security and in economic dimensions. Both traits are the basis, together with globalisation, of the complex relationship between business, armed conflicts, human rights, natural resources and, according to *Global Burden 2011*, lethal violence. As evidenced in the various articles, it is not enough to observe, analyse and condemn; action is needed. The conclusions of a recent international gathering attended by ICIP (Geneva 2012 UN discussion on the regulation of Private Military & Security Companies) say it very clearly: 'Further consider the possibility of an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation of PMSC as well as other approaches, including international standards (…) to protect human rights'.

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# IN DEPTH

## INTRODUCTION

### Business and conflict

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This edition of the *Peace in Progress* magazine is dedicated to the relationship between business and conflict, a subject that ICIP has been following for some time (as can be seen in No. 9 of the magazine and in No. 8 of the Documents collection of the ICIP).

If we think of armed conflicts, links are very varied and we can highlight three here. Firstly, the international arms market and its supply chain, together with the financial institutions that support them are closely associated with any armed conflict. Secondly, for some years the privatisation of security has increasingly led the private sector into working in areas that are traditionally reserved for public actors, normally governmental ones. Thirdly, companies that are theoretically outside of the arms or security business, whether national or multinational, also operate in areas affected by conflicts and can end up taking positions that are strongly committed to the continuation of conflicts if this benefits their business interests. This is particularly true for sectors involved in the exploitation and trade of natural resources.

Armed conflict situations always generate a climate in which the line between legality and illegality is very blurred and where impunity, based on the power provided by the use of armed force, is the usual situation. Therefore, companies could be directly or indirectly responsible for the violations of human rights associated with armed conflict – which depending on each case could represent war crimes.

However, these negative impacts are not always associated with armed conflicts. The global energy crisis and competition for resources often mean that extracting activities – especially in the fields of mining and oil – have a tremendously negative impact on the environment and on human rights, and on the ways of life of local communities in general.

In this edition of the Magazine we are publishing various contributions regarding specific, representative aspects of this complex problem: the debate about the regulation of private military and security companies (Helena Torroja), the part played by natural resources in the armed conflict in the Democratic Republic of Congo (Josep Maria Royo), the Kimberley Process international certification scheme for diamonds (Antoni Pigrau), the social and environmental effects of mining extractive activities (Tica Font), the possibility of making claims against transnational companies for violations of human rights in the field of European law (Marta Requejo), and advances in the field of corporate liability regarding human rights(Maria Prandi). This analysis is completed by an interview with Mauricio Lazala, deputy director of the Business and Human Rights Resource Centre in London (Eugènia Riera), which is a non-governmental organisation that is carrying out an exhaustive monitoring into claims of involvement by companies in violations of human rights and that has achieved a significant degree of dialogue with companies.

CENTRAL ARTICLES

# An introduction to the debate on the possible forms of international regulation of the phenomenon of PMSCs

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There is currently a debate within the United Nations concerning the most appropriate legal method to regulate the phenomenon of private military and security companies. One method is based on the 'Draft of a Possible Convention on Private Military and Security Companies (PMSCs)' developed by the Working Group on the use of mercenaries of the Human Rights Council, which was submitted for consideration before the Human Rights Council in September 2010. The other method relies on the existing International Code of Conduct for Private Security Service Providers (ICoC) adopted in 2010 under the initiative of Switzerland and of the IRCC at the urging of major companies in the sector. Both forms come up against two groups of States with opposing characteristics and affinities. The Western Group, in general, opposes the Draft of a Possible Convention, primarily basing its arguments on the adequacy and effectiveness of the International Code of Conduct, among others[1]; however, behind this group are the interests of the States which most often resort to this industry, particularly in their military operations abroad. Up against this are several Asian countries, led by China, alongside the Russian Federation, Cuba and others like Nigeria… who are tireless advocates of the draft treaty[2].

What we have are two methods with a legal structure, targets, aim and purpose that are more different than similar.

The Draft Convention, as its name indicates, is a mere draft of a 'possible' convention drawn up by five independent experts, who are members the Working Group on mercenaries, at the request of the Human Rights Council in its resolution 10/11, of 26 March 2009. The Council itself welcomed the text and, in order to give impetus to the draft, decided to create an open intergovernmental group with the mandate of examining whether or not the text was feasible[3]. The States themselves, on the basis of their sovereignty, will decide whether or not to adopt this draft or another that may be drawn up in the future. It is therefore too soon to speak of a draft of an international convention, strictly speaking, since not all States have negotiated and drafted the text, but rather a Group of Experts of the Council that very prudently included in the title draft of a 'possible' convention[4].

The text submitted by the Group of Experts draws upon a rather distrusting conception of the phenomenon of PMSCs, aware of the human rights violations and breaches of international humanitarian law that PMSCs have committed in some cases. The draft has two specific purposes: first, to oblige States to agree not to delegate or outsource 'inherently State functions'; second, to set limits for States in the cases in which they decide to outsource or delegate functions that are not included in the previous category, limits such as establishing a centralised system of authorisations and recording, a system to control the human rights and international humanitarian law training of the staff of these companies, the classification and repression of offences and crimes committed under the Convention and other international rules, and submission to international control of fulfilment of their obligations under the Convention.

Meanwhile, the International Code of Conduct is written based on business logic, with a very positive conception of these companies. In fact, it is the result of the impetus of a powerful lobby comprised of major British and US companies in the sector. It is a text especially directed at companies, and as of today, 357 companies have signed it[5]. The text is not legally binding; it merely has recommendations that are not enforceable before any legal body, but rather before its own bodies (there is currently an open discussion on adopting a Charter of the ICoC which would aim to regulate the mechanism to oversee application of the Code). The aim and purpose of the Code, inter alia, is to meticulously establish the human rights and international humanitarian law obligations that must be adhered to by the companies. There is no room here to elaborate on the content, but reading it clearly shows the business logic on which it is based.

In view of the above, any discussion on which of the two forms is the best must stem from the following presuppositions:

First: the debate should not be viewed as the radical opposition between both forms –or future Convention or Code of Conduct–. This is not correct, because they are not comparable documents, as we've seen, nor are they mutually exclusive, because they can coexist perfectly, and this is how the Working Group on mercenaries should look at it.

Two: the debate should focus on why it is necessary to have an international convention, which could include both codification and gradual development in the area. The answer to this question is based on a fundamental issue: what conception is defended on the rule of law and, specifically, on the sovereign competency of coercive power. While it is true that concerning the liberalisation of certain public services of the State, one can have a more or less liberal conception, a more or less social democratic conception. However, here we are not talking about a public service like healthcare, education, transport… We are talking about an essential part of the critical core of sovereignty upon which the Modern State was built

in Westphalia: the monopoly of the legitimate use of force which is now a cornerstone of the rule of law. One cannot deny that the limits of coercive power of the legislature (its submission to legislative and judicial powers) are a guarantee for the effective enjoyment of human rights and fundamental freedoms. Not even an exceedingly liberal conception would ever agree to the privatisation/outsourcing of the legitimate use of force[6]. Arming companies is overstepping the notion itself of rule of law with its defining elements (democracy, human rights, principle of legality, separation of powers).

1. These are Belgium, Slovakia, Spain, United States, France, Hungary, Japan, Poland, United Kingdom of Great Britain and Northern Ireland, among others (see Human Rights Council, Resolution 15/26, 1 October 2010).
2. These are Brazil, Burkina Faso, Cameroon, Chile, China, Cuba, Djibouti, Ecuador, Russian Federation, Gabon, Ghana, Guatemala, Libyan Arab Jamahiriya, Jordan, Kyrgyzstan, among others (ibid).
3. Human Rights Council, Resolution 15/26 of 1 October 2010, 32 votes in favour, 12 against and 3 abstentions (point 4 of the operative part).
4. On the background of the development of the Draft and its content see Gómez del Prado, JL and Torroja Mateu, H., *Hacia la regulación internacional de las EMSP*, Marcial Pons, 2011.
5. All details at www.icoc-psp.org
6. Hayeck, F.A., *The Constitution of Liberty*, The University of Chicago Press, Chicago, 1960 (first edition 1934), p.133 and ss.

# DR Congo: glimpses of hope in the plundering of natural resources?

**Josep Maria Royo Aspa**
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The control and plundering of natural resources has contributed to the perpetuation of war in the Democratic Republic of Congo (DRC), a war that began in 1998 though it is rooted in the *darknesses* of Joseph Conrad when the Belgians began ravaging this part of the African continent. This business has involved the Armed Forces of the Democratic Republic of the Congo (FARDC), local and foreign armed groups, local companies, various neighbouring countries, and Western and Asian multinationals, according to reports from the United Nations in 2001.

It is the United Nations itself which at the time asserted that the exploitation was *systematic and systemic* and that the cartels had ramifications around the world. The organisation noted that many companies had participated in the war and had directly fostered it by exchanging weapons for natural resources, while others had facilitated access to financial resources to buy weapons. It added that bilateral and multilateral donors had adopted *very different* attitudes toward the governments involved. Nevertheless, the report only outlines a set of recommendations from the OECD on voluntary best practices.

It has been 11 years since the first study by the United Nations Group of Experts, and, although the situation on the ground is not as bad as it was then, given that the troops of neighbouring countries –in particular Uganda and Rwanda– have withdrawn from the DRC and they now maintain acceptable relations with their Congolese neighbour, practices of illegal plundering continue to follow the same patterns, as do the sexual violence and the forced displacement of the population as a result of confrontations. And the Congolese's hopes of having a legitimate democratic government also disappeared in November 2011. One must not forget that the situation in the DRC is complex, as there is a combination of tensions about land ownership, unresolved identity issues, regional power struggles, and the weakness and corruption of the state. Consequently, control of the plundering of natural resources will not put an end to the problems affecting the country, but it can stop fuelling the continuation of the conflict.

Although there has been some progress regarding the implementation of due diligence guidelines to ensure that supply chains do not sustain the exploitation of conflict minerals, the mining industry is far from applying them and few *comptoirs*[1] in the east of the DRC and in neighbouring countries employ them. In November 2011, the Group of Experts evaluated the situation and concluded that between April and November 2011, most tin, tantalum and tungsten *comptoirs* had not had buyers for untagged minerals, except for the Chinese companies TTT Mining, Huaying and Donson International, which had bought the minerals without evidence of due diligence. The Group had evidence that these *comptoirs* had made purchases that had funded armed groups and criminal networks within the FARDC. These Chinese foreign trading companies took their minerals out through Rwanda, and they represent a considerable percentage of the buyers of cassiterite, wolframite, and coltan coming from the DRC. There is also a significant amount of smuggling. Rwanda is where most illegally exported resources are laundered and tagged following the relevant guidelines, according to the Group of Experts.

However, different measures are now starting to be implemented that may begin to help change the situation in the DRC and cut the flow of economic resources that contribute to the perpetuation of the Great Lakes Conflict. It is first important to highlight the lobbying campaign begun in 2007 by the North American organisation Enough Project, which, alongside three other organisations, helped develop the law presented by Congressman James Mc Dermott. The law received support from organisations and companies like Human Rights Watch and Hewlett Packard, but it never came to be. Subsequently, in July 2010, the US government implemented a financial reform bill in the context of the global economic crisis, the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 1502 of this law stated that the US financial regulator, the Securities and Exchange Commission (SEC), had to apply a series of requirements on US companies to disclose the source of the minerals through due diligence. Nevertheless, the law has received a good deal of criticism both from the business sector, for the limitations it entails and the resources needed to audit the supply chain, and from local Congolese players and NGOs, because Section 1502 may represent the end to mining in the east of the DRC. And, indeed, in 2011 there was a decline in the mining industry which caused thousands of people to lose their jobs, coupled with the six-month ban established by the Congolese Ministry of Mines awaiting implementation of Section 1502. The UN Security Council also defined due diligence in resolution 1952 (2010). Later on, in December 2010, the OECD developed a number of recommendations and organised the International Conference on the Great Lakes Region in Lusaka. Germany has been supporting this regional initiative and has promoted a certification called Certified Trading Chains (CTC), which aims to establish standards of transparency and ethics in production. Even the industrial sector has made a move and has started a traceability scheme for cassiterite.

The Congolese government has joined these international initiatives by approving a directive in September 2011 that requires all mine operators in the country at all levels of the production chain to exercise the due diligence defined in Security Council resolution 1952 (2010) and in the guidance of the OECD. Owing to this international pressure, in May 2012 the Congolese government suspended two of the Chinese companies contained in the United Nations report from November 2011, Huaying and TTT Mining, for violating Congolese law and not reviewing the supply chain.

However, to ensure that these measures truly have an impact, local initiatives must be carried out to improve governability, and, at an international level, European and Asian companies must be subjected to the same regulations as US companies. As of yet, the EU has not made move to introduce regulations similar to Section 1502, despite the fact that the European market is one of the primary consumers of these minerals. And the consumers, the end users of many of the high-tech gadgets made from these natural resources, are still too unaware of this perverse dynamic that represents the continuation of a conflict that has killed thousands of people.

1. Mineral buying houses.

## Conflict diamonds and the Kimberley Process

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The use of trade in valuable natural resources as a mechanism to finance armed groups in conflict has been widespread in Africa, as shown by the conflicts in Angola, Sierra Leone, Liberia, and the Democratic Republic of Congo, which have caused millions of victims. One of these resources is diamonds.

The *Kimberley Process Certification Scheme* (hereinafter the Kimberley Process) is an initiative by various governments of diamond exporting and importing countries which met in 2000 in this South African city. The initiative culminated in 2003 and is a response to proposals by various NGOs like Global Witness and Amnesty International. It immediately received support from the United Nations General Assembly (Resolution 56/263, of December 2002) and from the United Nations Security Council (Resolution 1459/2003).

El scheme refers to conflict diamonds, understood as rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as recognised by the United Nations Security Council or the United Nations General Assembly.

The fundamental obligations of those participating in the process (in principle it is not applied to diamonds in transit) are

as follows:

1. With regard to shipments of rough diamonds exported to a participant, require that each such shipment is accompanied by a certificate generated in accordance with the rules and requirements.

2. With regard to shipments of rough diamonds imported from a participant, require the relevant certificate and ensure that confirmation of receipt is sent expeditiously to the relevant exporting authority.

3. Ensure that no shipment of rough diamonds is imported from or exported to a non-participating country.

4. Establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory; designate an importing and an exporting authority(ies); ensure that rough diamonds are imported and exported in tamper resistant containers; and collect and maintain relevant official production, import and export data, and report them to the authorities of the Process.

As a result of insufficient control, the Republic of Congo was expelled from the Process between 2004 and 2007, when it was readmitted.

The diamond industry also tried to create a voluntary self-regulation mechanism to support the Kimberley Process. This mechanism includes all diamonds –rough or cut– and it is based on an industry code of conduct that aims to prevent the buying and selling of diamonds from conflict-affected areas. As a result, all sales must be accompanied by a guarantee ensuring that the diamonds come from conflict-free areas and all invoices issued and received must be recorded and submitted annually to an audit. In addition, diamond traders must inform their employees about governmental and industrial policies to prevent diamond trading in conflict areas.

As of January 2012, the Kimberley Process had 50 participants, representing 76 countries (the EU and its Member States count as a single participant) and accounting for approximately 99.8% of the global production of rough diamonds. In addition, the Process is observed by the World Diamond Council, representing the international diamond industry, the World Customs Organization, and several NGOs (www.kimberleyprocess.com). In the framework of the European Union, the Kimberley Process is implemented through Regulation (EC) No 2368/2002 of the Council, of 20 December 2002, which came into force on 1 February 2003 and has been amended several times.

This Process has indeed managed to substantially reduce the trade of conflict diamonds (conflict diamonds appear to account for 1% of diamond trade today, while in the past they accounted for as much as 15%). But the Kimberley Process was designed to ensure that the diamonds did not finance armed conflicts, which has proven to be a very limited focus. When it has been possible to control this kind of trade, other problems came into the light for which the system is not ready, since the diamond-producing governments themselves are part of these problems. In many cases, authoritarian governments, which have taken advantage of the system to cut off funding for rebel groups and sometimes get rid of them, extract the diamonds in a context of serious human rights violations and use the revenue to sustain their own regimes, without providing any benefit to their respective peoples. This has exposed the latent contradictions with NGOs interested in human rights or in protecting the artisanal mining of diamonds.

In the case of Zimbabwe, in relation to the diamond deposit in Marange, in late 2009, even though the Kimberley Process suspended precious mineral exports from this deposit after claims of serious human rights abuses by the government in the mining area, the suspension was lifted in November 2011. An NGO as important to the Kimberley Process as Global Witness left the Process in April 2012 as a result of its opposition to the way (the excessively tolerant trial) in which the Process handled the case, but also as a result of the cases of the Ivory Cost (which since 2005 has been under Security Council sanctions that prevent it from diamond trade, among other things) and Venezuela (which voluntarily left the Process temporarily in 2008 for transparency problems in exploitation policies and difficulties in controlling its diamond exports).

Furthermore, regular surveys conducted by NGOs among retailers in different European countries show a high degree of ignorance concerning the Kimberley Process and the measures provided for by the industry. Only a small portion of these retailers give buyers certificates on the source of diamonds, and only a small portion of buyers request these certificates.

In 2011, the participants in the Kimberley Process decided to begin a period to evaluate the Process and to do so they created a committee in order to examine proposals for improving efficiency. If there are no reforms, the Process may sink into an irreversible crisis.

# Territory, natural resources and social conflict in Latin America

**Tica Font**
Director of the International Catalan Institute for Peace

'Twice today, soldiers of the Marine Corps carried out indiscriminate machine-gun attacks on the farmhouse of Bajo Cuembí, Perla Amazónica, Putumayo, sowing panic among the school children…' So begin many news stories discussing the social conflicts that have been spreading for over a decade throughout Central and South America.

From the 1960s to the 1990s, social unrest was marked by the use of land to implement agricultural projects. The Green Revolution changed the way food was produced: large pieces of land were concentrated, monocultures were implanted, fertilisers and pesticides were introduced, heavy water use began, etc. As a result, millions of small farmers became indebted, needed to sell their land or were expelled from their land through violence. Millions of them were forced to immigrate to the outskirts of cities and became poor. Even today, large corporations engaged in food production continue to put pressure on farmers to introduce monocultures dedicated to soya, sugarcane, banana, African palm or livestock, or the farmers are pressured to leave their lands. The heaviest pressure is currently focused on the widespread production of crops for biofuel.

However, over the last 15 years, the primary social conflict has centred on the underground, on the implementation of large-scale mining projects in Mexico, El Salvador, Guatemala, Paraguay, Ecuador, Peru, Bolivia, Colombia, Brazil, Argentina and Chile. For example, of the 114 million hectares comprising Colombia, over 8.4 million are used for mining and 37 million are zoned for the exploitation of hydrocarbons. The mining conflict has gone hand in hand with conflict in the building of dams to produce electricity (usually to supply mining projects). In Central America alone, there are 340 construction projects affecting 170 rivers. The boom in mining and infrastructure macro-projects is part of Latin American government's attempt to develop and prosper. The region's economic engine and economic growth are based on an extractive economy.

It is important to note that most of these projects are located in rural areas or on indigenous community lands where the state has had virtually no presence and the people have built their own models of development different from those the government wants to implement. These communities oppose the mining projects, claiming that such projects deteriorate and pollute the lands and cause the deforestation of large tracts of land. They protest against the heavy use of water by mining companies (some of which use one million litres of water per day), a use that causes river flows downstream to decrease and affects crops, the life of the fish and domestic supply. They also complain about the pollution of land and water (streams and groundwater) and about the fact that the courses of rivers are changed. The Angostura mining project (Colombia) with an environmental permit to extract gold provides for the use of 40 tonnes per day of cyanide. The construction of a hydroelectric plant like La Cerrón Gran in El Salvador displaced 13,339 inhabitants as a result of land flooding.

Those living in the regions that are the site of infrastructure mega-projects or extractive activities feel as though all this activity will affect them; they believe they will lose ownership of the land where they plant their food and where their cow and their animals graze or that they will contract diseases as a result of land and water pollution. They are certain they will not benefit from this activity, neither economically nor in health or educational services, and in the case of electricity production, the beneficiaries will be the mining companies, but not the inhabitants. The peasants and indigenous people defend their traditional way of interacting with the land and water and are against the implementation of this activity.

Social problems arise when the villagers, peasants and indigenous people, oppose these industrial activities and express their opposition. The companies that have received licences try to divide the population through promises to create jobs and minimise the human, social and environmental impacts of their activity. But because this activity is part of the government's development goals, in the face of social rejection, public forces tend to generate barriers to protect this economic activity.

In recent decades, indigenous movements have conducted an organised struggle to defend their cultures, their lands, their skills and their wisdom. They are fighting for rights outlined in ILO Convention 169 which establishes the obligation of governments to ask these people about the various legislative proposals or drafts that may affect them in order to gain their consent or reach an agreement. However, it is important to note that this consultation is not binding, that is, even if the people are against a project being carried out, the project may still be conducted if the government believes it should be. This right of consultation is being widely violated.

Pressure on peasant and indigenous communities to accept the implementation of mega-projects is carried out by singling out and threatening leaders and through criminalisation, discrediting in the media and even litigation brought against the social organisations. In the case of Colombia, with a long history of the use of violence, communities have been victims of massacres, economic blockades, forced displacements, threats and murders carried out by paramilitary and guerrilla groups with the aim of seizing the land and paving the way for the entry of multinationals or collecting revenues for the resources extracted.

The most recent report from the Consultancy for Human Rights and Displacement (CODHES) states that mining areas are militarised and paramilitarised; 'The armed forces protect private investment and paramilitaries suppress social protest and create displacement.'

On 18 June 2010, the priest Martín Octavio García of the community of San José del Progreso (Oaxaca, Mexico), after a smear campaign against him for disseminating information about the consequences of mining, was kidnapped and beaten by villagers supporting the Fortuna Silver mining company. The same day, the municipal president and the councillor of health were killed during a confrontation. Later the priest was arrested and charged with murder. He was eventually released for lack of evidence.

## Transnational Business, Human Rights, and Civil Litigation… in Europe?

**Marta Requejo Isidro**
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Civil liability claims are a possible (albeit indirect) way to compel transnational corporations to respect human rights in their activities outside their home State. So far, this road has been explored almost exclusively in the U.S. under the highly discussed ATS, starting with the *Doe v. Unocal* affair initiated in 1997; whether it will remain open or not in the near future depends on the worldwide expected decision of the SC regarding *Kiobel v. Royal Dutch Petroleum Co.*[1]

Unlike the U.S., Europe has seldom been the scenario of civil litigation for violations of human rights. However, with the chances to sue in the U.S. seriously threatened, the fact of victims of harmful behavior turning to the old continent, directing their claims for the damage caused by subsidiaries against the parent companies headquartered in Europe, would not come as a surprise. But, what reasonable expectations, in terms of access to justice, may they harbor?

To be true, pessimism is likely to be the correct answer. Potential claimants, usually residents and nationals of third countries, will find from the very outset difficulties for which the laws of the European countries lack adequate solution. The shortcomings of existing Community instruments relating to procedural prerequisites have been reported over and over again. Regulation (EC) no. 44/01 of December 22, 2000, the document of civil cooperation in Europe *par excellence* designed to facilitate cross-border disputes, plays but a very limited role in the context under survey: it only addresses the issue of international jurisdiction, offering solutions that hardly meet the needs of this kind of litigation. From this point of view the upcoming revision of the Regulation introduces no real changes[2].

The situation does not improve once the difficulties of admissibility of the claim have been surmounted. The answers to the substantive issues raised by the plaintiffs will largely depend on the rules concerning liability. The case being a cross-border one, the applicable law must be determined through the conflict rule in force in the forum. In EU member States this is Regulation no. 864/07, in force since 2009 and *erga omnes*. According to the Regulation, in the absence of choice of law by the parties (art. 14), and common habitual residence of the parties (Article 4.2), the conflict rule leads to the law of the place where the harmful event occurred (Art. 4.1), therefore to the third (host) State. Too often this law will be unfavorable to the victims, due to lack of attention to human rights violations by local authorities: either by negligence, either by the desire to keep a legal offer attractive for new investors or for companies already existing in the territory. True, refusal to apply this law in a particular case is still possible through the public policy exception (art. 26): but this is a quite narrow door.

Actually, even before these technical issues arise other obstacles, related to a commonly poor economic condition of the victims, emerge and put into question the suitability of the European arena as a place for civil litigation in defense of human rights. Suffice to consider that only rarely will an individual have the means to engage in a procedure and hold it until its end; but the procedural devices that could ease this flaw (collective actions for multiple victims occurrences, generous legal aid provisions – i.e., not limited to EU citizens or legal residents-, legal standing for institutions charged with the defense of legality - such as our *Ministerio Fiscal*-, a culture of *pro bono* work, the waiver of court fees ...) do not exist, or lack sufficient development, or are not designed for these specific cases in European systems. This fact is not surprising if we consider the different views bear on either side of the Atlantic on the value of litigation: in the U.S. civil claims are used for social criticism and are powerful engines of change; Europeans tend to avoid judicial confrontation. Also worth recalling is the different role assigned here and there to civil liability: compensation in Europe, prevention and deterrence in the U.S.

Does any European Union action targeting accountability of European based companies focus on improving access to courts for victims of human rights violations? In theory, yes: the concern for corporate social responsibility in Europe, which started with the century, has been fuelled by J. Ruggie' works, from 2008 on. In this regard, an outstanding action of the Commission was a call

for tender made in 2009, which resulted in the University of Edinburgh *Study of the Legal Framework on Human Rights and the Environment Applicable to European Enterprises Operating outside the European Union* (2010). A second initiative conducted under the European Union's Program for Employment and Social Solidarity -PROGRESS (2007-2013)-, ended with the publication in 2011 of the study *Responsible Supply Chain Management Potential Success Factors and Challenges for Addressing Prevailing Human Rights and Other CSR Issues in Supply Chains of EU-Based Companies*. The Commission recently issued a communication entitled *A Renewed EU Strategy 2011-14 for Corporate SocialResponsibility*[3], and stated therein its intention to take both studies into account in future CSR proposals. Unfortunately, whatever those proposals may be, none will arrive in time to be reflected in the new draft of Regulation (EC) no. 44/01, and therefore in one of the European basic documents of international jurisdiction in civil matters.

1. * This contribution is a result of a research funded by the Xunta de Galicia, Consellerías de Educación e Ordenación Universitaria (Ayuda para la consolidación y estructuración de unidades de investigación competitivas del Sistema Universitario de Galicia, Grupo de Investigación *De Conflicto Legum*), y de Economía e Industria (Proyecto ref. INCITE09PXIB202096PR), the Ministerio de Ciencia e Innovación (Proyecto ref. DER2010-17048, sub JURI) and the ERDF. Funding has also been granted from the Ministerio de Educación (Programa Nacional de Movilidad de Recursos Humanos del Plan Nacional de I-D+i 2008-2011).
621 F.3d 111 (2d Cir. 2010)
2. COM (2010) 748 final, Art. 6.
3. COM(2011) 681 final ,25.10.2011.

## Trending topic: corporate responsibility

**Maria Prandi**
Researcher and professor/consultant on issues of corporate social responsibility and human rights. Has published various books on the role of companies with respect to human rights, development and peace

We are now at an important turning point. Never before in human history have there been so many manuals, guides, industry recommendations, directives, multi-player conferences and debates focused on analysing and increasing the responsible practices of companies in terms of their impact on human rights at a global level. This means, first of all, that much progress has been made on the issue since the first scandals in the textile industry in Southeast Asia broke out 20 years ago, and that, second of all, companies now have few excuses for not including human rights in their everyday management.

But this fact also has another important interpretation: a large number of players have actively helped to put this issue on the agenda. The fact that certain companies currently manage their risks in human rights in a more responsible way does not only have to do with their own initiative, but also, above all, with the active pressure by other players that have wanted to contribute to the governability of this issue. Consumers, employees, labour unions, shareholders, NGOs, governments, multilateral organisations, industry organisations, and investment funds, among others, have been essential to consolidating significant progress.

The strategies of the various players have been different and flexible over time. While NGOs have historically played a crucial role of confrontation with the private sector, multilateral organisations and other international bodies have built a network of voluntary instruments and rules that, in the form of recommendations, have gradually permeated decision making practices at companies. However, nowadays we are seeing some NGOs change their strategy, while we are also witnessing the emergence of new players occupying a specific role.

Among the most significant aspects, it should be noted that today, in parallel to the pressure exerted by some NGOs, other organisations of the third sector have chosen the alternative of collaboration and negotiation with companies. This phenomenon has given rise to a wide range of academic literature on the subject. In addition, investment funds and pension funds, both public and private, are putting more and more pressure on companies and excluding those that violate the human rights of their workers or of the communities in which they operate. Among these, it is important to highlight the leadership of the Norwegian Pension Fund, the second largest in the world, which has excluded over 50 companies in recent years. These players are important, because they go against the traditional belief that only some sectors that are traditionally more likely to receive external pressure (like the textile industry) are bound to be called upon to improve their human rights record.

Other players remain less active, including, most significantly, consumers and governments. Despite the fact that in a recent survey most Spaniards (83%) stated they would stop consuming a particular product if they had information that it

involves human rights abuses, the truth is that mass consumers remain oblivious to these kinds of considerations in their buying decisions. Furthermore, governments have not sufficiently developed the options offered by public procurement to encourage certain corporate behaviours. Public spending in Spain in recent years has accounted for approximately 18% of GDP. Despite the initial difficulties that may arise when defining social and environmental standards that at the same time assure free competition, this recourse serves a dual extremely important function: that of creating a market of responsible companies (especially SMEs) and that of increasing the much required social responsibility of the government itself.

Nonetheless, 10 years ago it would have been unthinkable for textile companies to make their list of suppliers in southern countries public in a clear exercise of transparency, or for companies in the technology sector to allow independent organisations to audit their supply chain, or for global companies to require their local partners to reinstate dismissed trade union representatives, or for mining companies to implement specific policies concerning indigenous populations or to adopt protocols in the area of private security in accordance with international principles of human rights.

Throughout this process, corporate social responsibility has moved from the margins to the mainstream. This means that there are increasingly more human rights issues that companies must address. The sphere is no longer limited, like we thought 10 years ago, to child labour (even though in some countries this continues to be a top priority), but instead the 'social licence' to operate depends on what happens beyond a company's walls, like, for example, in its supply chain, in the management of security in complicated environments, or in the local communities in which it operates anywhere in the world.

Moving to the mainstream also means that companies have needed to learn to interact differently with the world around them, i.e., not only considering their traditional stakeholders (customers, employees and shareholders), but also including in their decision making everyone who in some way interacts with the company, whether positively or negatively. To do so it must know that conflict is inherent and inevitable in all relationships. Conflict (without violence) is positive, because it makes it possible to learn, progress, become something better, build other kinds of more sustainable relationships, and overcome the resistance to change that often wedges companies into positions that, in the long run, do not favour them. Companies have learned that the globalisation of trade and technology inexorably makes the world a smaller place. A worker at an electronics plant in China commits suicide and investors in Silicon Valley take note. Employees at an oil plant in Nigeria threaten to go on strike and the oil market responds. A dispute concerning land in Ethiopia becomes an issue of concern for pension funds in California.

# FINDING OUT MORE

In this section we offer a selection of links and bibliography selected by the authors of the articles.

**Webs**

l'Observatoire des Transnationales: www.transnationale.org
Global Witness: www.globalwitness.org
Corpwatch: www.corpwatch.org
Fatal Transactions: www.fataltransactions.org/Dossiers/Mapping-Conflict-Motives-in-War-Areas
Business and Human Rights Resource Center: www.business-humanrights.org
Danish Institute for Human Rights: Human Rights and Business: www.humanrightsbusiness.org
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Rule of Law in Armed Conflict Project: www.adh-geneva.ch/RULAC/
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Corporate Legal Accountability Portal: www.business-humanrights.org/LegalPortal/Home
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Observatorio de Multinacionales en América Latina: www.omal.info/www/
Observatorio de conflictos mineros de América Latina: www.conflictosmineros.net
MiningWatch Canada: www.miningwatch.ca/es
Coordinación por los derechos de los pueblos indígenas: www.codpi.org/observatorio

**Bulletin**

Private Military & Security Companies Bulletin: www.business-humanrights.org/Documents/PMSCbulletin
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INTERVIEW

# Mauricio Lazala, Deputy Director of the Business and Human Rights Resource Centre

**Eugènia Riera**
International Catalan Institute for Peace

Mauricio Lazala, lawyer specialising in human rights, has since last year been the Deputy Director of the Business and Human Rights Resource Centre, an independent non-governmental organisation that works to encourage companies to respect human rights. We talk to him about the abuses committed by the private sector in conflict areas and also about good business practices, which do exist.

**Do private companies forget too much about human rights when operating in conflict areas?**
The area of research concerning companies and conflict is relatively new –it's between 10 and 15 years old– and obviously among the 70,000 multinationals around the world, there is a lot of variety. But we can indeed say that many companies forget too much about human rights, even though there are also those that are progressing in this issue.

**What are the most common violations?**
The most common ones are related to the extraction of natural resources. Here we are talking about mining companies and about their value chains, particularly about the electronics, metal, mining and petrol and oil industry. Why? Because natural resources fund armed groups operating in conflict areas, and in some countries, especially in Africa, they even fund the governments which are committing abuses. And there are also many examples of private military and security companies that have violated the most basic rules of international law and have abused human rights, especially in Iraq and Afghanistan. There are companies like Blackwater which conduct combat activities, but there are also others that have been sued for alleged complicity in tortures (for example in the Iraqi prison of Abu Ghraib), for trafficking of workers (such as KBR, also in Iraq) or for lack of security of their own workers (ArmorGroup in Afghanistan).

**Is greater international regulation of the conduct of the private sector in conflict areas necessary?**
Without a doubt. One of the reasons it has been difficult to sue these security companies is because they exist and operate in an absolute regulatory gap. For many years they have enjoyed total immunity in Iraq, in Afghanistan and in the United States, and it has also been impossible to bring them before international justice, because there is no mechanism to do so. They could basically do whatever they wanted to without having to pay for anything. Now, this last year, the situation has somewhat improved. Iraq has cancelled the immunity and Afghanistan has expelled several foreign security companies.

**And in other conflict zones?**
One can virtually speak of immunity also, because the rule of law is very weak. For example, in the western area of the Democratic Republic of Congo (DRC), there is a complete absence of the rule of law and it's very easy for companies to get away with whatever they want.

**Are instruments like the OECD *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High Risk Areas* enough? What benefits can these codes of conduct provide?**
This is a good and necessary instrument, but it's not enough, because it doesn't have the force of an obligatory text, it has no legal weight, and it only covers OECD countries and some affiliates. Moreover, in conflict areas, often the problem is not so much that the company directly commits abuses, but rather its complicity with local governments and armed groups. In Colombia, for a lot of years, many companies (like Chiquita, a distributor of bananas, which was already sued) made payments to paramilitary groups and to the FARC guerrilla. This kind of complicity does not have any regulation either.

**In this situation, can the private sector be considered responsible for sustaining a conflict?**
Yes, even though the responsibility is indirect –through payments, for example–. There is the case of Anvil, a mining company sued in Canada, which, when it operated in the DRC, lent the armed forces vehicles, logistics, helicopters and planes that were used to commit human rights abuses. The sue is directly against Anvil for complicity in the crime.

**Is more corporate training required so that the private sector is aware of the role it can play in preventing and resolving conflicts?**
Yes, definitely. We've always said that it is in conflict areas where companies have more opportunities to positively contribute to society and to the advancement of human rights. And it should be noted that there are companies who have taken this seriously and are working along these lines.

**What examples of good business practices in contributing and promoting peace would you highlight?**
In Sri Lanka, companies like Holcim Lanka are providing training and rehabilitation to ex-soldiers, a very important thing in a post-conflict phase. In Colombia, the supermarket Éxito is also working with ex-soldiers and demobilised paramilitaries. We

could also talk about Bombardier (in Northern Ireland), Heineken (Rwanda), and ABB and Ericsson (Sudan) as examples of companies involved in conflict resolution.

**Do examples like these show that we are working in the right direction?**
Yes, I think so. The progress that has been made over the past 10 years is quite considerable in some areas, and we are optimistic that things will continue to move forward. Ten years ago, nobody seriously paid attention to the issue of business and human rights. Nowadays, the United Nations has a working group on this matter, major NGOs like Amnesty International, Human Rights Watch and Oxfam have specific departments, just like multilateral institutions like the World Bank and the OECD. And at our centre we are also seeing how the business world is becoming aware, given that more and more companies respond to the allegations and complaints of human rights abuses that we send them. Today 75% of companies agree to respond, when 10 years ago not even 10% would have done so.

# PLATFORM

## Cyber-space: a battlefield without regulation

**Léonie Van Tongeren**
International Catalan Institute for Peace

Some say the next war will be in cyber-space. But what exactly is a cyber-war? Was the 2008 attack against Georgia an act of cyber-war or merely a conventional war with offensive cyber elements? Are viruses like “Stuxnet” and “Flame”, which caused malfunctions in nuclear plants in Iran, acts of war? What is the threshold for declaring a cyber-attack an act of war? And to what extent are the current laws of war applicable to cyber-conflict? While States increasingly recognise they are highly unprepared for cyber-threats, debates on the regulatory frameworks to be put in place in order to counter them reflect opposing views on many issues.

Although there is as little agreement on the legal qualification of these phenomena as there is on its terminology, these cyber-security issues constitute one of the most sensitive domains of the wider regulatory field of global Internet governance. They are also deeply entangled with multiple other subdomains, such as the right to Internet access, the right to privacy, and net neutrality. Wider debates on the best regulatory model for the Internet therefore project themselves in the cyber-security field. With many attacks coming from non-State actors and approximately 80% of States’ critical national infrastructure in hands of the private sector, cooperation beyond State-level seems the only workable approach. But which ever kind of institutional architecture is chosen, even after establishing international rules the question remains how to ensure those rules are observed.

The lack of international agreement on how to tackle crime and conflict in cyber-space has tangible consequences. It allows criminals to operate with impunity in a low-risk, but highly profitable (with profits surpassing the combined trade in marijuana, cocaine and heroin) and anonymous environment that offers an almost unlimited amount of targets.

This does not mean that the international community has stood completely idle in the face of this growing concern. Several international initiatives, aiming to take up the challenges of regulating cyber-crime and cyber-conflict have indeed emerged in recent years. Some are led by States or international organisations, such as major info-security conferences, others by think-tanks. Interesting examples of such Track-two initiatives are the Cyber-40, a coalition of representatives of the G20 and the next 20most important cyber countries, and the Worldwide Cybersecurity Initiative, both of which have been set up by the EastWest Institute.The Secretary General of the UN’s International Telecommunications Union (UIT), Hamadoun Toure, has even called for a cyber peace treaty, stipulating that countries should protect their citizens in the case of a cyber-attack and not harbour cyber terrorists. But diverging views on the usefulness of conceptualizing cyber-conflict as international conflict and on the most effective ways to prevent and frame it make coming to a universal agreement currently impossible.

Progress may therefore be more rapidly achieved on the regional level. The EU, for example, is working on an inter-institutional response. A European Cybercrime Centre is to become operational at Europol’s headquarters in January 2013 and, recognizing the need to agree on common definitions, the European Network and Information Security Agency (ENISA),

the EU's 'hub' for information exchange in the field of information security, is trying to define standards. Additionally, the EU is working on a directive on the criminalization of cyber-attacks and pressing States to ratify the Council of Europe's Budapest Convention (2004), which aims to create a common criminal policy against cyber-criminals. Yet it should be stressed that cyber-conflict knows no borders, and that, although progress at the regional level should be welcomed, a merely regional approach is insufficient if it is not aligned to approaches of international partners.

Despite the clear and urgent need for more comprehensive solutions a quick fix should not be expected, however. It is worth recalling that only 20-30 years after the advent of nuclear weapons arms control systems were put into place. Alternatives such as cyber-confidence-building measures are therefore of key importance to fill the gaps until more weighty international action is taken. While the conditions for the establishment of such global legal regulatory framework for inter-state conflict and criminal threats to global electronic network security are unlikely to be adopted in the near future, the journey towards it can almost be an end in itself.

## 10 years of the International Criminal Court: expectations fulfilled?

**Sabina Puig**
International Catalan Institute for Peace

On 1 July 1 2002, a decade ago, the Rome Statute that regulates de International Criminal Court (ICC) entered into force. It was a great victory for all those victims and human rights advocates from all over the world that had been demanding for years the establishment of an international and permanent criminal tribunal responsible for bringing to justice individuals suspected of genocide, crimes against humanity and war crimes.

A distinctive characteristic of the new tribunal is that for the first time ever in the history of international criminal law, justice would not limit itself to prosecute crimes but it would also offer victims a chance to participate in the proceedings and guarantee them the right to a fair and adequate reparation. With the establishment of the ICC, justice is no longer just about condemnation and punishment, it also becomes reparative. The two-folded mandate of the ICC gave and is still giving high expectations to victims. When assessing the first 10 years of the Court's work, there is a question that one should not elude: are all their expectations being fulfilled?

How many victims of investigated crimes have had the opportunity to participate in the proceedings? To what extent have they been able to participate? Have the victims been actually listened to? Have effective protection measures been taken to ensure their safety? Have they had sufficient means to travel up to The Hague? How have they been legally represented in the Court room? Are the differences made between "victims of a situation" and "victims of a case" fair enough? To what extent has the ICC's outreach program worked? Is the ICC communicating efficiently with victims? Has it managed to explain them in a proper way what their rights are, the existing options to participate in the proceedings they have and the limits of the Court's mandate? What is their perception of a Court located thousands miles away from their lives?

The question of the participation of and reparation for victims is so new in the field of international criminal justice that these first 10 years have not been enough to come to conclusions nor to give answers to most of the doubts that are coming up during the ongoing proceedings. In fact, although on 7th August the Court issued a first decision on the principles for victims' reparations, it has not issued any reparations order yet. It is expected that it will do so soon, in the context of its first verdict.

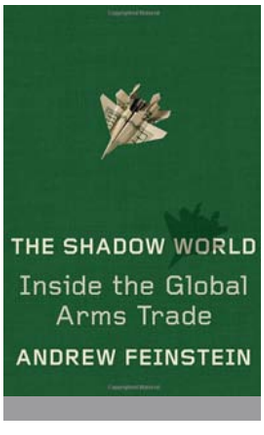
We are referring here to the Thomas Lubanga Dyalo case (Democratic Republic of the Congo), who has recently been sentenced to 14-year imprisonment for enlisting, recruiting and using child soldiers. It should be pointed that this is a case that has produced mixed feelings amongst the victims. The length of the proceedings (Lubanga was arrested and delivered

to the ICC on 16 March 2006 and the trial started on 26 January 2009, for crimes committed in 2002 and 2003) and the relatively low sentence that has eventually been issued have generated frustration amongst them. The decision to limit the charges against the defendant has also been disturbing. Despite the claims of many victims, charges did eventually not include the cruel and inhuman treatment they were subjected to nor the sexual slavery many of them were forced to. The sentence does not consider sexual violence against the victims as an aggravating factor either. A third reason for victims and affected communities to be annoyed and concerned about is that one of Lubanga's men, Bosco Ntaganda, who is also sought by the ICC, is still at large and on top of that, he is still recruiting and using child soldiers.

However, despite all the disappointing shortcomings, the first ICC sentence is nevertheless a huge conquest against impunity and it gives victims some room for satisfaction and hope. The fact that at last one of the main responsible for all the harm they suffered has been found guilty and sentenced must somehow alleviate their pain. But justice does not stop here, at a punishment level; it has to go one step further.

The judges in charge of this case have a great challenge ahead: they will have to order reparation measures that the Court can assume and that are also proportional to the needs of the victims and to the scale of the damages committed against them. At the same time that the ICC is reviewing the successes and failures of its first 10 years, a new chapter, a key one in the history of universal justice, is just beginning: the effective recognition of the right to victims of gross human rights violations to a fair and adequate reparation.

# RECOMMENDATIONS




## The Shadow World

Andrew Feinstein. *The Shadow World: Inside the Global Arms Trade*. Farrar, 2011.

Andrew Feinstein was a member of the African National Congress until it refused to investigate a corruption case related to an arms sale to South Africa. Following this experience, he has investigated the behind-the-scenes of the global arms trade and this is exactly what he explains in this book. After an exhaustive search of declassified documents, Feinstein details the specific connections among politicians, arms manufacturers, arms dealers and armies around the world.

Each of the arms sales analyzed involves government to government transactions, but also the deals that take place in the shadow world of illicit trade and, particularly, the frequent relations between often these two sides of the same coin. Operations on the five continents in which several people of the United States and Britain play a crucial role, not always reaching the mass media and, therefore, leaving the public opinion unaware of what's going on.

One of the values of this research is that it specifies each of the phases of the arms trade process, with the obvious consequences that a system of widespread corruption has for democracy, socio-economic development and human rights violations worldwide. The stories it contains, written with force and precision, exhort us to continue to push for an international arms trade treaty as soon as possible.

J.A.


## El tiempo es ahora

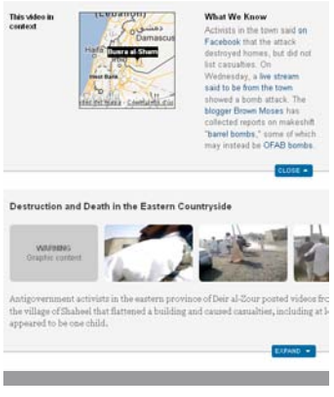
*El tiempo es ahora. ¿Es posible una memoria incluyente de las víctimas en el ámbito local? Experiencias y desafíos*. Asociación Pro Derechos Humanos Argituz, 2012.

The report *El Tiempo es ahora* ("The Time is Now"), published by the Argituz association, provides an analysis of the possibilities of constructing an inclusive memory for the victims of terrorism and politically motivated violence, as a consequence of the violent conflict in the Basque Country.

The text is structured in three parts. The first part reviews the international experience in relation to the importance that measures of recognizing responsibility and symbolic actions of collective memory have for victims. Part two analyzes the experiences developed within the Basque territory, studies their problems, their impact and their difficulties, and compiles the considerations of the protagonists. The third part deals with lessons learned and the difficulties for an inclusive memory in the Basque Country, establishing some criteria which take into account the relationship with the victims, the projects developed at a local level, as well as the challenges, so that this inclusive memory becomes a mechanism of recognition and violence prevention in the present and future.

In a context marked by the end of ETA violence and by a political normalization which allows for participation in politics and for a life free of threats and fear, the recognition of responsibility and of memory is one of the steps pending in the process of reconstructing the relations fractured by violence.

E.G.




## Watching Syria's War: online videos put in context by the NYT

http://projects.nytimes.com/live-dashboard/syria

Every day new, often shocking, videos appear online about the on-going violence in Syria. Doubts can often be raised, however, about the reliability of the information provided and certain videos are clearly used for propaganda purposes. Given that "what you see does not necessarily reflect exactly what is going on", the New York Times (NYT) has set up the project Watching Syria's War, aiming to create some clarity out of the chaos of online material.

As videos uploaded by the people in Syria present their own particular views on the conflict, Watching Syria's War, which is run by journalist J. David Goodman, does not present videos as the truth, but rather puts them into context. The web explains "What We Know" and "What We Don't Know" about the events shown in the videos and provides links to related online footage, thereby always stressing that, even if it is believed that the images are correct, it is not the NYT that has made these videos, nor that it can take any responsibility for them. Moreover, Watching Syria's War tries to convert the videos into interactive stories, stimulating discussion by sending out Tweets after every posting.

This project can certainly be welcomed, particularly given the difficulties that professional journalists face when trying to cover stories in Syria. Self-made online videos clearly cannot replace professional war journalism, but uploading videos to YouTube is an essential part of telling the story of the Syrian rebellion. And it certainly is a story which needs to be told.

L.v.T.


## The new Human Rights Channel on YouTube:Increasing the impact of human rightsactivism

http://www.youtube.com/humanrights

How to make previously unheard voices heard? The new Human Rights Channel on YouTubeprovides a helping hand by creating a platform for recording, visualising andcontextualising under-reported stories on human rights issues.The channel, which also incorporates footage of human rights organizations that already share their work on YouTube, helps people find their way through the huge amount of raw citizen-videos that are put online each day.Featured stories include topics like the Arab Spring, the conflict in Sudan and the use of cluster munitions, but also local cases of police brutality, discrimination, gender-based violence, or socio-economic justice.

For this project, which was launched in May 2012, YouTube works together with two key partners.The videos are provided with context by WITNESS, an international NGO,co-founded in 1992 by Peter Gabriel, Human Rights First and the Reebok Human Rights Foundation, whichpromotes the use of video amongst human rights defenders. Verification ofthe videos is done by Storyful, a social newsgathering operation specialised in separating actionable news from merely“noise”of the Internet.

The Human Rights Channel also providesuseful support and insights fromexperienced video activists, includingtools and informationthat can turnany citizen into an effective human rights defender and a five-part video seriesonhow to film protests, conduct videos and protect both the camera person and the people shown in the video.The channel is also available on Google+, so thatothers can participate in the discussions, share material, or find partners for their human rights projects.All in all, it is certainly worth a look.

L.v.T.

# NEWS

## ICIP NEWS

### ICIP commemorates International Peace Day

Once again, ICIP will commemorate International Peace Day, September 21, with an official declaration at its head office during which ICIP president, Rafael Grasa, will set forth the Institute’s priorities for the coming months and take stock of the work done.

This year, as a new feature coinciding with the celebration, ICIP will hold a series of events prior to September 21 with the aim of reinforcing the commemoration of International Peace Day. The programmed activities include the presentation of the book *El valor humà de la pau i altres textos inèdits*, by Lluís Maria Xirinacs (published by ICIP and Angle Editorial), a guided tour of the exhibit *Líbia, Any Zero* (Libya, Year Zero), on display at the ICIP head office, and the presentation of didactic materials connected to this exhibition.

## ICIP's First Lip-Dub-for-Peace Contest

ICIP has announced the First Lip-Dub-for-Peace Contest, in which all non-university educational establishments are invited to participate. With their music videos, contestants need to be able to disseminate messages of peace and nonviolence through a collective activity that must be creative, participatory and fun.

The best lip dubs submitted will be screened during a public event to be held by ICIP January 30, 2013, School Day of Nonviolence and Peace. The prize, consisting of a video camera, will be presented to the winning team during this event.

Schools interested in participating must fill out the form available on the website www.icip.cat and send two copies of their lip dub to ICIP before December 21. Contest rules have been published in the Diari Oficial de la Generalitat de Catalunya.

For more information, please contact Sabina Puig at spuig.icip@gencat.cat or at 93 554 42 75.

## Conference on medieval peace institutions in Catalonia

ICIP will hold the conference "Medieval Peace Institutions in Catalonia. Historical Legacy and Lessons for Peacebuilding," on October 8-9. The objective of the conference is to show the past, present and future of Catalonia as a benchmark in peacebuilding, and, specifically, the legacy of the medieval institutions of Pau i Treva and El Consolat de Mar.

The conference, chaired by ICIP president, Rafael Grasa, and with the participation of over twenty experts, will be held in the Parliament of Catalonia. The keynote address will be given by Thomas N. Bisson, professor at Harvard University and one of the foremost specialists on the medieval era in Catalonia. The president of the Parliament of Catalonia, Núria de Gispert, and the vice-president of the Catalan government and minister of Governance and Institutional Relations, Joana Ortega, will be present during the opening and closing sessions. This conference is part of the ICIP research program "Human Security, Conflict Transformation and Research for Peace."

More information: www.icip.cat.

## New ICIP Publications

ICIP has expanded its book collections with two more publications. On the one hand, the book *El valor humà de la pau i altres textos inèdits* (ICIP and Angle Editorial) has been published in the collection "Classics of Peace and Nonviolence." This book comprises a selection of texts by Catalan philosopher and pacifist, Lluís Maria Xirinacs, who passed away five years ago. On the other hand, another novelty is the book *Noviolència. Història d'una idea perillosa* (Nonviolence: The History of a Dangerous Idea) (ICIP and Pagès Editors), by Mark Kurlansky, which is part of the collection "Nonviolence and the Struggle for Peace."

ICIP has recently published the rapporteur's report of the seminar on the International Criminal Court entitled "The Future of the International Criminal Court. Tenth Anniversary of the Entry into Force of the Rome Statute." The report of this seminar, which took place in Barcelona, is part of the collection "Documents and Reports." The ICIP Policy Paper *Conflicte regional per l'aigua a l'Àsia Central. Un nou model de relacions energètiques descentralitzades*, by Mar Campins and Aurèlia Mañé, and ICIP Bibliographic Dossier Number 6, with a specific session on Colombia, have also been published.

# INTERNATIONAL NEWS

## Hope in Colombia

After a year and a half of confidence-building measures and six months of secret exploratory talks in Cuba, Colombian president Juan Manuel Santos and FARC leader Rodrigo Londoño (aka Timoleón Jiménez or "Timochenko") announced the beginning of peace talks. The announced agreement defines a timetable, a roadmap, topics to be discussed, and mechanisms for implementation and verification of agreements as well as mechanisms for resolving conflicts that may come up during the talks. We hope that this new scenario for peace that is beginning to unfold will prove to be permanent and sustainable.

## Burma abolishes pre-publication censorship

Successive Burmese governments have maintained news censorship for 50 years. The new government has eased restrictions and has announced that publications will not have to get prior permission to publish news. Restrictions will also be lifted on more than 30,000 Internet sites. This process of freedom of expression is advancing slowly since journalists can still be punished and imprisoned for offending the government and films will still be subject to censorship. Nevertheless, fundamental freedoms in Burma are moving forward.

## Sarayaku, drums from the jungle

In a ruling made public on July 25, 2012, the Inter-American Court of Human Rights found the Ecuadorean state responsible for violating the Kichwa de Sarayaku community's right to be consulted and their community property rights, as well as their right to life and to judicial protection, among others. The Court noted the deep cultural, immaterial and spiritual ties the Sarayaku people maintain with their territory; the intimate relationship between the "living jungle" and its inhabitants. It is not limited to ensuring a livelihood; it forms part of their view of the world and their identity. This favorable ruling for the Sarayaku is the fruit of almost nine years of struggle.

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