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War Crimes Prosecution Watch is a bi-weekly e-newsletter that compiles official documents and articles from major news sources detailing and analyzing salient issues pertaining to the investigation and prosecution of war crimes throughout the world. To subscribe, please email warcrimesswatch@pilpg.org and type "subscribe" in the subject line.

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AFRICA

NORTH AFRICA

Libya

ICC prosecutor seeks new arrest warrants for crimes in Libya (Yahoo News) By Edith M. Lederer
November 9, 2022

The prosecutor of the International Criminal Court announced Wednesday that he has submitted new applications for arrest warrants stemming from his investigations of alleged war crimes and crimes against humanity in Libya.

Karim Khan told the U.N. Security Council in the first briefing by an ICC prosecutor from Libyan soil that the applications were submitted confidentially to the court's independent judges, who will determine whether to issue arrest warrants. Therefore, he said, he couldn't provide further details.

But, Khan added, "there will be further applications that we will make because the victims want to see action, and the evidence is available, and it's our challenge to make sure we have the resources (to) prioritize the Libya situation to make sure we can vindicate the promise of the Security Council in Resolution 1970."

In that resolution, adopted in February 2011, the Security Council unanimously referred Libya to The Hague, Netherlands-based ICC to launch an investigation into alleged war crimes and crimes against humanity.

The council's referral followed Moammar Gadhafi's brutal crackdown on protesters that was then taking place. The uprising, later backed by NATO, led to Gadhafi's capture and death in October 2011.

Oil-rich Libya was then split by rival administrations, one in the east, backed by military commander Khalifa Hifter, and a U.N.-supported administration in the west, in capital of Tripoli. Each side is supported by different militias and foreign powers.

Libya's current political crisis stems from the failure to hold elections in December 2021 and the refusal of Prime Minister Abdul Hamid Dbeibah, who led a transitional government in Tripoli, to step down. In response, the country's east-based parliament appointed a rival prime minister, Fathy Bashagha, who has for months sought to install his government in Tripoli.

Khan said in his virtual briefing from Tripoli that his visit to Libya, including meetings with victims of violence and abuse from all parts of the country, had reinforced his belief that more needs to be done to ensure their voices are heard, that justice is done, and there is accountability for crimes committed against them and their loved ones.

"We can't allow a sentiment to become pervasive that impunity is inevitable," he said. "Victims want the truth to emerge."

The prosecutor said he visited the western town of Tarhuna, about 80 kilometers (50 miles) from Tripoli, where mass graves were discovered in June 2020 following the withdrawal of Hifter's forces after they failed to take the capital. During a round table meeting, he said, one man told him he had lost 24 family members and another said he had lost 15 relatives.

Khan said 250 bodies have so far been recovered in Tarhuna but far fewer have been identified. He said he emphasized to Libya's attorney general, justice minister and forensic science service that his office is willing to provide technical assistance because "the task is so great."

The prosecutor told the council that for the first time since 2011, the ICC now has a regular presence in the region.

He said his staff has made 20 missions to six countries to collect a variety of evidence, including from satellites, witnesses and audio recordings. The ICC has also built partnerships with Libyan authorities, he said.

"The overwhelming crimes are against Libyans," Khan said. "And this partnership that we're trying to refocus and build and foster is absolutely pivotal if we're trying to move forward."

The prosecutor said he went to Benghazi and met Tuesday with the military prosecutor and with Hifter.

"I made it clear that we had received evidence and information regarding allegations of crimes committed by the LNA," he said, using the initials of the self-styled Libyan National Army that Hifter commands.

"I said that those would be and are being investigated," Khan said.

Khan said the ICC wants to ensure that "whether one is from the east or the west, whether one is in the north or from the south of Libya, whether one is a military commander or a civilian superior, there is an absolute prohibition on committing crimes within the jurisdiction of the court."

Torture of teenage migrant exposes abuse in Libya (Newsbook) By Jurgen Balzan

November 10, 2022

As the fate of hundreds of people rescued in the central Mediterranean by charity vessels has sparked a diplomatic row between Italy and a number of European countries, harrowing images have emerged from Libya of a teenage migrant being tortured.

[FOR_ALL_OTHER_PARAGRAPHS]

A video published by the Twitter account Refugees in Libya on 30 October shows a young Ethiopian migrant being tasered by Libyan militiamen.

The tweet explains that the 17-year-old Ethiopian migrant "is being tortured by militias with electric shock while others place a gun on his head demanding \$10,000 American currency. Everyday, hundreds are tortured for ransoms because we are seen as an easy source of income."

The video was sent to the man's family in Ethiopia, a normal practice used by Libyan militias to extort money from the families of migrants trapped in Libya. Once the militias receive the money, the migrants are then placed on boats directed to Europe.

In a later tweet, Refugees in Libya identified the young man as Abdulrazaq Ismael, explains that he had "fled from the war in the Tigrinya region to Sudan and until he was forced to leave once again due to its instability. He arrived in Libya six months ago and he have been held three times by traffickers."

In the video, the shirtless Ismael is seen hanging upside down from his ankles with his hands tied behind his back. The young man can be heard screaming in pain as his torturers taser him and point a gun at his head while demanding money.

The fate of the young man remains unknown, however the video exposes the conditions in which migrants are held in what are often described as concentration camps on the Libyan coastline.

UN refugee agency officials and human rights organisations have long denounced the conditions of detention centres for migrants in Libya, citing practices of beatings, rape and other forms of torture and insufficient food.

Malta accused of crimes against humanity in The Hague

On arrival in the North African country, many migrants are kidnapped and kept captive by militias or other armed groups, or used by traffickers and smugglers as currency for months on end while awaiting passage in unseaworthy rubber dinghies or rickety fishing boats arranged by human traffickers.

Several international reports, as well as thousands of accounts by survivors, have documented the heinous treatment meted out to migrants and refugees in Libya. In November 2021, the UN fact-finding mission in Libya found these violations to be crimes against humanity.

In February 2017, the Italian government signed an EU-sponsored agreement with the Libyan government, which was renewed for a further three years this month.

Under this agreement, Italy and the EU have been helping the Libyan Coastguard – often accused of cooperating with smugglers while pushing back migrants at sea with the cooperation of Malta and Italy – to enhance their maritime surveillance capacity.

Since 2017, Italy has set aside €32.6 million for international missions to support the Libyan Coastguard, with €10.5 million allocated in 2021.

NGO Medecins Sans Frontieres recently said that “this help comes at the expense of migrants and refugees’ human rights, as virtually everyone intercepted at sea by the Libyan Coastguard ends up in a Libyan detention centre. The agreement between Italy and Libya supports the system of exploitation, extortion and abuse in which so many migrants find themselves trapped.”

A Council of Europe (CoE) report published in March 2021 said that Libya is not a place of safety for disembarkation, owing to the serious human rights violations committed against refugees and migrants, and the ongoing conflict in the country.

Moreover, Pope Francis often highlights the conditions of what he describes as “concentration camps while urging European countries not to pushback asylum seekers to Libya and other unsafe countries where they suffer “inhumane violence.”

Earlier this year, three international organisations accused Libyan militias of committing war crimes against migrants in detention centres and included Malta and Italy in their complaint for their support to Tripoli’s coast guard.

In a case initiated at the International Criminal Court (ICC) Malta and Italy were accused of acting in a coordinated manner with the Libyan coast guard in the recovery of migrants to ensure that they were intercepted and returned to Libya.

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CENTRAL AFRICA

Central African Republic

Official Website of the International Criminal Court
ICC Public Documents - Cases: Central African Republic

Defendants, prosecutor appeal after CAfrica war crimes case (Yahoo News)
November 3, 2022

Three members of an armed group who this week were convicted for crimes against

humanity after a landmark trial in the Central African Republic have filed appeals, the court said on Thursday.

Issa Sallet Adoum, Ousman Yaouba and Tahir Mahamat were accused of taking part in an attack by the 3R armed group in May 2019 in which 46 villagers in northwest CAR were massacred.

After its first-ever trial, the Special Criminal Court, a tribunal of local and international judges, on Monday sentenced Adoum to life and the others to 20 years.

Confirming remarks made by a defence attorney after the trial, the trio have lodged appeals against the ruling, court officials told AFP.

Separately, the court's prosecutors, who had requested life terms for all three, said in a statement that they too would file an appeal.

One of the poorest and most volatile countries in the world, CAR plunged into civil war in 2013 largely along sectarian lines.

Violence fell back in intensity in 2018 but as recently as early 2021, two-thirds of the country lay in the hands of armed groups spawned in the conflict.

The special court's mandate applies to war crimes and crimes against humanity dating back to 2003.

The tribunal was set up in 2015 with UN backing but struggled for years to get going in the face of logistical hurdles, lack of money and local hostility.

Monday's verdict has been acclaimed by rights campaigners and relatives of victims as a crucial step in the fight for justice.

"The judgment shows the capacity of the Central African Republic's courts, assisted by the international community, to address the gravest crimes suffered by its people," Volker Turk, the UN High Commissioner for Human Rights, said in a statement on Wednesday.

UN extends Central African Republic peacekeeping mission (AP News)

November 15, 2022

The U.N. Security Council extended the nearly 17,500-strong U.N. peacekeeping mission in the troubled Central African Republic for a year on Monday, with Russia, China and Gabon abstaining.

The French-drafted resolution maintains the robust mandate of the mission, focusing on protecting civilians, and encourages President Faustin-Archange Touadera and his government to promote lasting peace and stability through a reinvigorated political and peace process.

The vote was 12-0 with the three abstentions.

The mineral-rich but impoverished Central African Republic has faced deadly intercommunal fighting since 2013, when predominantly Muslim Seleka rebels seized power and forced President Francois Bozize from office. Mostly Christian militias later fought back, also targeting civilians in the streets. Untold thousands were killed, and most of the capital's Muslims fled in fear.

After the constitutional court rejected Bozize's candidacy to run for president in December 2020, President Touadera won a second term with 53% of the vote. But he continues to face opposition from a rebel coalition linked to Bozize.

The government controls the capital, but much of the country is controlled by armed groups.

The resolution adopted Monday urges all parties to respect the cease-fire, demands a halt to all attacks on civilians, and calls on CAR and neighboring countries to investigate transnational criminal networks and armed groups involved in arms trafficking and illegally exploiting natural resources.

It also urges CAR authorities to urgently implement a reconciliation process that addresses the root causes of the conflict, including the marginalization of civilians of specific communities, issues of national identity and local grievances.

Russia's U.N. Deputy Ambassador Anna Evstigneeva told the council Moscow abstained because the Central African Republic's views were not reflected in the resolution and Moscow can't accept that the resolution put the government and armed groups "on equal footing."

CAR's Foreign Minister Sylvie Valérie Baipo-Temon accused most states in the Security Council of acting as "both judge and jury" on her country. CAR is facing "an alarming humanitarian situation," she said, and the country needs a mandate to address the armed groups.

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Sudan & South Sudan

**Official Website of the International Criminal Court
ICC Public Documents - Situation in Darfur, Sudan**

Sudan: hospitalised former president sent back to prison (Middle East Monitor)

November 10, 2022

The Sudanese authorities have transferred ousted President Omar Al-Bashir from hospital back to Kober Prison, sources close to his family have revealed. They described the transfer as "political imprisonment".

The sources pointed out that the court session dealing with charges relating to the 1989 coup led by Al-Bashir did not address a transfer to prison, and no judicial decision was issued in this respect. The former president has been recovering for months from some health issues that required hospitalisation.

The sources pointed out that a number of Al-Bashir's aides, who were leaders of the National Congress Party, were also transferred back to prison after many months in private hospitals. Although Al-Bashir is still on trial, along with several his former ministers, he does not attend the court sessions, said the Sudan Tribune. He was filmed a few months ago walking between different rooms at a hospital in Khartoum and talking with patients with no apparent restrictions on his movement, even though he was still technically a prisoner.

Al-Bashir is also being tried on several charges, including corruption, amid pressure from the International Criminal Court to extradite him and try him for war crimes alleged to have been committed in Darfur.

The Sudanese army ousted Al-Bashir on 11 April, 2019, after several weeks of protests against his government due to the high price of bread. Senior army officers are accused of providing protection to the leaders of the former regime. However, for the first time since assuming his position, the head of the Sovereignty Council, General Abdel Fattah Al-Burhan, warned the National Congress Party not to hide behind the Armed Forces. He also demanded that the party should stay away from the army and not use it as a means to return to power.

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Democratic Republic of the Congo

**Official Website of the International Criminal Court
ICC Public Documents - Situation in the Democratic Republic of the Congo**

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WEST AFRICA

Côte d'Ivoire (Ivory Coast)

Official Website of the International Criminal Court
ICC Public Documents - Situation in the Republic of Côte d'Ivoire

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Lake Chad Region – Chad, Nigeria, Niger, and Cameroon

BREAKING: Boko Haram Kills Over 20 Women Labelled As Witches In Borno (Sahara Reporters)
November 15, 2022

Members of the deadly Boko Haram Islamic sect on Tuesday killed over 20 women labelled as witches.

The women were reportedly kidnapped from Gwoza community in Borno, northeastern Nigeria.

SaharaReporters learnt that the terror group killed the women who were labelled as witches following the death of the children of a Boko Haram commander, identified as Ali Ngulde.

“Boko Haram commander, Ali Ngulde slaughtered about 20 women by slitting their throats after accusing them of being witches in Borno,” a military source told SaharaReporters on Tuesday.

“About 40 of them were abducted last week, over 10 were slaughtered in Gwoza town last Thursday and more than 10 were killed during the weekend.

“The women were all suspected of witchcraft after the sudden death of the children of the jihadist group's commander.”

In January 2022, members of the terrorist group invaded the police mobile training school in the Limankara in the Gwoza local government area of Borno State. Some were abducted in the process.

The training school is about 25 kilometres from Gwoza town, the hometown of Senator Ali Ndume, Chairman of the Senate Committee on Army.

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Mali

Malian army, Jihadi groups committed massacres – UN report (North Africa Post)
November 12, 2022

Mali's army and jihadist groups have carried out massacres and hundreds of human rights violations, the United Nations Mission in Mali (MINUSMA) said in a report that details previously undocumented abuses against civilians.

The MINUSMA report reportedly lists 375 rights violations in the country between July and September, attributing 163 to jihadist groups and 162 to the Malian army, out of which 33 were carried out by militias, and 17 by armed groups that signed a 2015 peace agreement in northern Mali. The report details for the first time several abuses that had been impossible to report on previously because of challenges on the ground.

According to the report, for example 14 dead bodies were found in Gassel village in the Douentza region on 12 September “with their hands tied behind their backs,” few hours after the army and “foreign military personnel” had arrested them.

Bamako denies having carried out a military operation in Gassel, the UN said adding that Bamako had launched an investigation. Mali’s junta, which seized power in 2020, often claims it carries out probes, but the results are very rarely made public. Bamako said it was “not aware of the facts reported,” adding that an investigation was under way. The report follows others published by the UN and independent experts it has commissioned to document abuses by the Malian army with foreign support.

Britain to withdraw troops from Mali peacekeeping force (Reuters) By Sachin Ravikumar, Tiemoko Diallo, and Sofia Christensen
November 14, 2022

Britain will pull out its 300 troops from a U.N. peacekeeping force in Mali following similar withdrawals this year by other Western nations, a government minister said on Monday.

The early withdrawal comes after France and its military allies began withdrawing thousands of troops from Mali this year as the country’s military junta began collaborating with private contractors belonging to Russia’s Wagner Group.

The Western withdrawals from Mali this year have caused fears among diplomats that this could increase violence, destabilise neighbours and embolden jihadists.

British Armed Forces Minister James Heappey told parliament recent coups in Mali had undermined international efforts to help bring peace in the country, which has seen growing violence in recent years by groups linked to al-Qaeda and Islamic State.

"This government cannot deploy our nation's military to provide security when the host country's government is not willing to work with us to deliver lasting stability and security," Heappey said.

The Malian's government's partnership with Wagner, which has also been linked to human rights abuses, was counterproductive to security in the region, he added.

Heappey said Britain's commitment to West Africa and U.N. work in the region would continue. Britain sent troops to Mali late in 2020 to provide reconnaissance support to the peacekeeping mission of about 14,000 personnel.

Mali's army spokesperson Souleymane Dembele did not immediately respond to a request for comment.

The U.N. peacekeeping mission in Mali - MINUSMA - referred to a comment by U.N. Secretary-General Antonio Guterres' deputy spokesman, Farhan Haq, in New York on Monday.

"We're aware of the statement by the Minister of Armed Forces to the House of Commons and we will engage with the Permanent Mission in relation to this announcement," Haq said at a press briefing in New York on Monday.

"We remain grateful to the United Kingdom for its contribution to MINUSMA," he added.

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Liberia

Convicted Liberian War Criminal Appeals Paris Guilty Verdict (Front Page Africa) By Anthony Stephens
November 9, 2022

Lawyers for Kunti Kamara, a Liberian war criminal who was convicted by a French court last week for his role in the country’s first civil war, have appealed his landmark judgment. It is a decision that may see the entire case being re-litigated.

Last week the Paris Appeal Court found Kamara, 47, guilty of all 11 counts in his indictment of crimes against humanity,

torture, and barbarism. In a unanimous decision, the nine-person jury agreed with Kamara's victims and state prosecutors that he committed the crimes in 1993 when he served as a commander for the United Liberation Movement for Democracy (Ulimo). The jury sentenced him to life in prison, which in France equals thirty years after which he will likely be expelled from Europe. The judge in the trial told Kamara he had ten days to appeal the verdict.

Throughout the trial, Kamara repeatedly denied the charges, but did admit that he was a commander with Ulimo in Foya at the time and had 80 men under his command. In a phone call from Paris Marilyn Secci, Kamara's lead lawyer, said the basis of the appeal was the defense's claim that Kamara was given an unfair trial based only on testimony from witnesses remembering events from 29-years ago and with no forensic evidence.

"We don't agree with this decision," said Secci of the verdict. "I think there's no proof. My client said he was just a soldier and with no prove and lifetime sentence. That's why for me, the decision is not correct."

Secci maintained Kamara was found guilty in the minds of the jury before the trial began.

"He was already looked like somebody guilty before his trial because when you arrive at the court and you are accused of crimes against humanity, everyone looks at you as a criminal, even if there's nothing on the file for you," said Secci.

Secci defended Kamara's slamming of witnesses as "criminals" and liars. She claimed that Kamara did not tell the trial that Ulimo committed no war crimes—a comment that was a major twist in the over three-week legal proceedings.

"Anything he said was used against him. He never said that Ulimo didn't do anything in Foya, Lofa county. He said he didn't see anything,".

On appeal, a new court and a jury will hear the case in accordance with French law. It's unclear when the appeal will take place. Under French law Kamara has the right to request his release until the appeal.

Sabrina Delattre, lawyer for the civil parties, said she was unmoved by Kamara's appeal.

"It's Kamara's right to appeal," said Delattre. "It's just how it works in the French system. And for the victims, I know it can be a bit difficult to understand, but we will see how it goes."

Delattre defended the credibility of her clients.

"The victims and the witnesses were heard and believed. Their testimonies were deemed valuable and were considered authentic. So, I do not see the contrary happening for the appeal."

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EAST AFRICA

Uganda

**Official Website of the International Criminal Court
ICC Public Documents - Situation in Uganda**

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Kenya

Official Website of the International Criminal Court

Rwanda (International Criminal Tribunal for Rwanda)

Official Website of the ICTR

Rwandan who, according to witnesses, 'made church float in blood' not extradited after all (Ruetir) November 9, 2022

"Yes," answers Pierre-Claver K. softly into the microphone, he understood; he will not be extradited to Rwanda. The judge asked him to be sure. K. looks dazed, has a straight face, speaks softly. His son is sitting in the stands and, when he hears the statement, immediately puts his hands together, and then to his eyes. He was "surprised," he says afterwards.

K. (66) is suspected of a role in the Rwandan genocide of 1994, but it is "inadmissible" that he is extradited to his native country to be tried there, according to the judge. Three other Rwandan genocide suspects have been extradited in recent years. The difference is that there, K. runs a "real risk" of "political interference in his trial" – he is a political opponent of President Paul Kagame's regime.

The extradition room took not the usual two but three weeks to reach a verdict on K. The case was about more than guilt: whether he participated in a mass murder of some 20,000 to 30,000 Tutsis and moderate Hutus in the town of Mugina in April 1994. What the judge mainly ruled on on Wednesday is the reliability of the Rwandan legal system, the influence that Kagame has on it and the role that K. plays in the exiled opposition party FDU-Inkingi. Would he face a fair trial in Rwanda if he was extradited?

Concierge at an MBO school The 1994 genocide in Rwanda was an attempt to systematically murder the Tutsi minority in the country. More than 800,000 Tutsis and moderate Hutus were killed. Since that year, Rwanda has tried more than a million genocide suspects – in some cases Rwandans who had fled to European countries and extradited them.

Pierre-Claver K. has lived in the Netherlands since 1998, in Ermelo. Until recently, he was a sexton at the Catholic Church and a janitor at an MBO school in Harderwijk. Last May he was arrested on suspicion of involvement in genocide and detained in Alphen aan de Rijn. He will remain so for the time being, the judge fears that he would flee.

The lawsuits began shortly after human rights groups African Rights and Redress published an incriminating report on K., in 2010. It was drawn on the testimony of dozens of relatives of murdered residents of Mugina, just outside the capital Kigali. They pointed to him as involved in a massacre at the local parish church in April 1994 – a massacre that left the church "floating in blood," they said.

One of the relatives explained how a Hutu militia killed her children, "David, five, Rebecca, three and a half, and Nyirantezirayo, one." Then she herself was attacked. "I lost consciousness. The next day they came to finish their work. (...) When they came to me, I pretended to be dead. (...) I hid among the corpses for two more days."

The mayor had protected Tutsis in Mugina by arresting the violent members of the Hutu militia on arrival. Major Pierre-Claver K., an officer of the Rwandan gendarmerie at the time, is also said to have initially guaranteed the safety of the Tutsis. A facade, the researchers wrote, because later he would force the mayor to release the militia members. They were armed, the mayor murdered – thus one of the biggest massacres in the genocide could take place.

Shortly after the report's publication, the newspaper Trouw spoke with relatives who appointed K. as client. A 36-year-old sports journalist told how in 1994 he "saw with his own eyes and heard with his own ears how K. ordered to kill everyone who came out of the church building with cleavers".

NRC wrote at the time that the Rwandan justice had transferred an incriminating file about K. to the Dutch authorities. In 2012, Rwanda submitted an extradition request. It took almost ten years to strip K. of his Dutch citizenship – a necessary step to make extradition possible.

After the report was published, K. told NRC that he “wasn’t even in Mugina” at the time of the murders. In addition, he had heard nothing about the suspicions before joining opposition party FDU-Inkingi – an organization banned by Kagame – in 2006. The allegations are allegedly fabricated by his political opponents.

That is also the reason why the Belgian professor emeritus Filip Reyntjens, who was presented as an expert in the case, wrote that a fair trial for K. in Rwanda would be “little likely”. Fair trials have been conducted, genocide suspects have also been acquitted, but it is “different with processes that have a political connotation”.

Extraditing a suspect like K. is something that “a decent country can no longer burn its fingers on”, his lawyer pleaded.

The judge agrees: K.’s active membership of FDU-Inkingi and his former senior position in the Rwandan army make extradition too risky. There are ‘several trials’ of political opponents that have not been fair. Other FDU members have disappeared, been murdered or convicted in recent years.

The Public Prosecution Service doubts the political role that K. ascribes to himself. There is too little evidence that Kagame sees him as a “serious political opponent”, a spokesman says – that profiling himself as an active opposition member is “no reason to believe” that the Rwandan president also sees him that way. The Public Prosecution Service has two weeks to decide to appeal the decision of the judge.

At least two of the three Rwandan genocide suspects already extradited in recent years were also politically active. One of them filed a complaint against Kagame from the Netherlands, the other organized a meeting at which FDU party leader Victoire Ingabire was guest of honour. But both were, like K., not a “serious political opponent” of Kagame, according to the Public Prosecution Service.

The judge decided in their cases to extradite. One extradited genocide suspects was sentenced to twenty-five years in prison in Rwanda, the trials of the other two are still ongoing. The country now offers enough guarantees for a fair trial, according to the Public Prosecution Service – monitoring reports are being drawn up by the International Commission of Jurists.

The question should not only be whether Rwanda is able to give K. a fair trial, says historian and Rwanda expert Thijs Bouwknecht, but also: what is the alternative? K. will probably be tried in the Netherlands, as happened with two previous Rwandan genocide suspects when the guarantees mentioned by the Public Prosecution Service were not yet in place. “Then a complex case about events from 28 years ago, more than six thousand kilometers from here, is judged in a courtroom in The Hague. By Dutch judges who have never been to Rwanda, do not speak the language, do not know the culture and history,” says Bouwknecht. “And they depend on the cooperation of the Rwandan authorities to hear witnesses there.”

Genocide: Kabuga provided vehicles to dump bodies – witness (New Times) By Hudson Kuteesa
November 15, 2022

A witness testifying before judges at the UN International Residual Mechanism for Criminal Tribunals (IRMCT) has pinned Felicien Kabuga on providing trucks that transported the Tutsi to the dreaded “Commune Rouge” in Gisenyi to be killed and thereafter dumped their bodies.

The protected witness was testifying under code-name ‘KABO66.

He was a member of the Impuzamugambi, an extremist militia that merged with the Interahamwe to kill the Tutsi in 1994.

According to a public summary of his testimony provided by the prosecution, at the very beginning of the genocide against the Tutsi, KABO66 helped offload traditional weapons from vehicles, and was informed that they had been provided by Kabuga.

“These weapons were distributed to the Interahamwe and used to commit crimes in Gisenyi prefecture. Some were loaded onto a vehicle and taken to Commune Rouge where they could be used to kill quickly,” read part of the public summary of his testimony.

Commune Rouge is a place near Umuganda Stadium in Gisenyi, where huge numbers of Tutsi were killed during the genocide.

The Interahamwe named it “Commune Rouge” to mislead the Tutsi into thinking that they were being taken to the administration of the Commune for safety, yet they were being taken to be killed.

KABO66 said that he also assisted in offloading military weapons imported from Goma at Gisenyi military camp on the orders of Colonel Anatole Nsengiyumva, one of military officials in the ex-FAR who played a big role in the genocide.

Nsengiyumva was sentenced to life imprisonment by the International Criminal Tribunal for Rwanda (ICTR) in 2008, along

with Colonel Theoneste Bagosora and Major Alloys Ntabakuze after being convicted of genocide crimes.

The military weapons that KABO66 offloaded included grenades, Kalashnikov firearms and ammunition. He was informed that these were also brought by Kabuga.

On the morning of April 7, 1994, KABO66 began killing the Tutsi in Gisenyi together with other Interahamwe and Impuzamugambi.

During that time, he says, Kabuga provided two large vehicles that were used to transport people to be killed at Commune Rouge, as well as dumping their dead bodies. "Among those killed at Commune Rouge, KABO66 identifies several young children," read the public summary.

The trial is set to continue on Wednesday, November 16 as the court continues to hear what the witnesses have to say.

Notoriously known as the "financier of the genocide," Kabuga, 89, allegedly played a big role in the Genocide against the Tutsi by providing weapons, financial and moral support towards the killers.

He is charged with genocide, direct and public incitement to commit genocide, conspiracy to commit genocide, and persecution on political grounds, extermination, and murder as crimes against humanity.

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Somalia

Experts of the Committee against Torture Commend Somalia on Progress in Rebuilding State and Government Institutions, Raise Questions on the Definition of Torture and the Death Penalty (UN Office of the High Commissioner for Human Rights) November 9, 2022

The Committee against Torture this afternoon concluded its consideration of the initial report of Somalia on its efforts to implement the provisions of the Convention against Torture, with Experts commending the State for progress made in rebuilding its State and Government institutions following years of armed conflict and political instability, and asking about the definition of torture and the use of the death penalty in Somalia.

Liu Huawen, Committee Expert and Co-Rapporteur for Somalia, said although Somalia had experienced years of armed conflict and political instability, in recent years, the country had made significant progress in rebuilding its State and Government institutions. Progress had been made in the Constitutional review process and the construction of the legislative, judicial, and administrative systems.

Mr. Huawen said Somalia had not yet reformed its 1964 Penal Code, and in the absence of specific legislation, judicial authorities did not punish acts that could amount to torture. Could the State party provide information on the review of the Penal Code and specific programmes to add torture to the Code? Had new, progressive pieces of legislation consistent with the Convention been developed? Could details of the punishment provisions for torture be provided?

Naoko Maeda, Committee Expert and Co-Rapporteur for Somalia, asked if the State party intended to establish an official moratorium on the death penalty? What crimes were punishable by death and was the death penalty mandatory? A Committee Expert noted that executions were often carried out publicly in Somalia, which was inhumane and degrading. Could information be provided about initiatives in this regard? Another Expert asked how often persons under the age of 18 were sentenced to death and executed? How many persons were currently on death row?

Isak Hashi Jimale, Director-General at the Ministry of Women and Human Rights Development of Somalia and head of the delegation, said Somalia was committed to the rule of law and human rights. Somalia's Penal Code currently did not include a definition of torture. However, a comprehensive review of the Penal Code would be finalised in 2023 and would include several revisions, including a definition of torture that was consistent with the Convention.

The delegation said Somalia had not executed any minors under the age of 18. The Government was discussing implementing

a moratorium on the death penalty. It was agreed that executions should not be conducted publicly, and Somalia would look to change this in the future. Death row inmates were informed of their execution in advance. There were no political executions in Somalia; the exact crimes which received the death penalty depended on many factors.

In concluding remarks, Mr. Jimale said Somalia was gradually implementing a statistical infrastructure, and understood that reliable data was key for the promotion and protection of human rights in the country. It was hoped that Somalia's data collection capabilities would improve in the coming years.

Claude Heller, Committee Chairperson, said the dialogue aimed to be constructive and beneficial to both parties. He wished the delegation safe travels back to Somalia.

The delegation of Somalia consisted of representatives of the Ministry of Women and Human Rights Development; the Ministry of Internal Security; the Ministry of Defence; and the Permanent Mission of Somalia to the United Nations Office at Geneva.

Summaries of the public meetings of the Committee can be found [here](#), while webcasts of the public meetings can be found [here](#). The programme of work of the Committee's seventy-fifth session and other documents related to the session can be found [here](#).

The Committee will next meet in public on Thursday, 10 November at 3 p.m. to conclude its review of the second periodic report of Uganda (CAT/C/UGA/2).

Report

The Committee has before it the initial report of Somalia (CAT/C/SOM/1)

Presentation of Report

ISAK HASHI JIMALE, Director-General at the Ministry of Women and Human Rights Development of Somalia and head of the delegation, said Somalia emphasised its commitment to international human rights mechanisms, including the Convention against Torture. It was committed to the rule of law and human rights. Somalia's Penal Code currently did not include a definition of torture. However, a comprehensive review of the Penal Code would be finalised in 2023 and would include several revisions, including a definition of torture that was consistent with the Convention. New progressive pieces of legislation were also being developed, including the sexual offences bill. The new legislation defined torture as any act of unlawfully inflicting severe mental, emotional or physical pain or suffering on a person as a means of intimidation, control, coercion, or punishment for any reason, based on discrimination of any kind. The impact of the COVID-19 pandemic had caused delay and created unexpected challenges for the promotion and protection of human rights in Somalia.

Somalia had been working hard to improve the human rights situation of detainees and enhance the conditions. It was putting in place mechanisms to improve the judicial oversight of detention centres. The Government was also strengthening dialogue with federal states to ensure that addressing the situation of prisoners and those held in custody for questioning was done in a coordinated manner so that the rights of detainees were upheld across Somalia. Somalia was committed to ensure that all Government security staff were well trained in human rights and respected the fundamental rights of detainees. Unfortunately, due to Somalia's young Government, there were no up-to-date statistics available on complaints, investigations, or prosecutions relating to harmful traditional practices, or on assistance provided to victims. However, Somalia was working with different Government institutions to gather this data and information, with the tentative plan to create an up-to-date system that would be ready in a few years' time.

The establishment of the National Human Rights Commission was ongoing. A Committee had been appointed to propose the way forward to ensure the Commission was established in the coming months. The Commission would be tasked with providing advice on human rights' issues to the Government. Mr. Jimale said Somalia looked forward to engaging with the Committee regarding Somalia's work on protecting human rights in the country.

Questions by Committee Experts

LIU HUAWEN, Committee Expert and Co-Rapporteur for Somalia, said although Somalia had experienced years of armed conflict and political instability, in recent years, the country had made significant progress in rebuilding its State and Government institutions. Progress had been made in the Constitutional review process and the construction of the legislative, judicial, and administrative systems. According to reports, Somalia had not yet reformed its 1964 Penal Code, and in the absence of specific legislation, judicial authorities did not punish acts that could amount to torture. Could the State party provide information on the review of the Penal Code and specific programmes to add torture to the Code? Had new, progressive pieces of legislation consistent with the Convention been developed? Could details of the punishment provisions for torture be provided?

How was Islamic Sharia law compatible with the national Constitution and other laws concerning the prohibition of torture?

Had the State party tried to establish a national human rights institution with a broad mandate in compliance with the Paris Principles, as per the recommendations of the Universal Periodic Review in May 2021? Was Somalia considering the ratification of the Optional Protocol to the Convention? Did the Human Rights Commission and the Ministry of Women and Human Rights Development encourage civil society members to participate in the fight against torture?

Allegations had been received about the disregard of fundamental legal safeguards by federal government forces, particularly the National Intelligence and Security Agency, including detention for prolonged periods and mistreatment during interrogations. What was the "reasonable time" from detention to trial? Were there measures to guarantee detainees the right to access a lawyer; to receive an examination by an independent physician; and to notify a relative of their arrest? Were there remedies if the rights of detainees were violated? What was the threat of corruption upon the prohibition of torture and how did the federal states fight corruption in judicial and law enforcement processes?

Mr. Liu noted there were no centralised detention and prison registers in Somalia. The Committee favourably noted information provided on the case management system and was happy to learn that the implementation of the programme had seen positive results. Could the Committee be updated on the effectiveness and implementation of the case management system? What actions had the State party taken to address the shortage of judges and court administrators? What measures were in place to increase the efficiency of the judicial system across Somalia?

It was reported that the prisons in Jubaland were the worst in Somalia, as they were designated to host mainly those who had been arbitrarily arrested. What were the measures taken to reduce prison overcrowding and to improve the conditions of detention, health-care provision, water, and bedding in prisons? What measures were taken to ensure that men were separated from women and adults from minors in all places of detention? What steps were taken to meet the needs of persons with disabilities in detention? What measures were taken to address inter-prison violence, the spread of HIV infection, and access to illegal drugs in prison? In the face of drought and famine, could Somalia secure food supplies for people deprived of their liberty?

The Committee was concerned about reports on the use of unlawful detention centres. What legal safeguards were in place to prevent arbitrary and warrantless arrests? What oversight mechanisms were in place to ensure that detention centres, including those in Somaliland, were kept sanitary and in conformance with international norms? What steps had the State party taken to end the use of unofficial detention centres?

In Somalia, military courts had the power to try civilians, especially in terrorism related cases. It was reported that civilian courts were not functional in many areas of Somalia. Could statistics be provided on the cases of civilians tried by military courts in recent years, and what were the "special" circumstances for choosing military courts? Did Somalia have any specific implementation plans and programmes for transferring such cases to civilian courts?

The locals in the areas of Leego had accused Danab forces of abducting and torturing hundreds of young men in the period between 2018 and 2022, under the pretext of fighting al Shabab terrorists. There were also reports of secret prisons run by the National Intelligence and Security Agency in the context of counterterrorism, and allegations of the use of torture in those detention facilities and also by the Somali National Army's Special Forces. Could these allegations be clarified? Could the delegation provide detailed information on the measures adopted by the Government to curb the violence from terror groups, as well as the parliamentary process and key provisions of the national counter terrorism bill? Could the Committee be informed of the current terrorist threat to Somalia and the need for help from the international community?

The Committee favourably noted the State party's response providing information on the establishment of a national action plan on ending sexual violence in conflict. However, according to United Nations sources, there had been an alarming 80 per cent increase in sexual violence in Somalia. In 2020, nearly 400 civilians, primarily young women and girls, were victims of rape or sexual violence. In 2021, there were more than 100 cases of sexual violence against women and girls in the first quarter of the year alone. How had Somalia implemented the action plan, cracked down on gender-based violence, and protected women's rights? What support services were available to victims? What efforts had been taken to strengthen the legal system against gender-based violence?

Somalia had one of the highest rates of female genital mutilation in the world, with well over 90 per cent of girls and women having been subjected to some form of the practice. In the first quarter of 2022 alone, more than 12,000 girls underwent female genital mutilation in Somalia. Had the female genital mutilation act been passed and had it entered into force? Had female genital mutilation been established as a criminal offence, and what was the criminal responsibility? Could information on judicial cases concerning female genital mutilation be provided? What measures were in place to protect and support victims of the practice? Could disaggregated data on victims of female genital mutilation be provided? What measures had the State party taken to strengthen its efforts to combat harmful traditional practices, such as early and/or forced marriage?

The Committee remained concerned about insufficient governmental and judicial efforts to investigate, penalise and prevent human trafficking. Reports indicated that children were trafficked into sex trafficking, military support roles, direct combat, and marriage to al-Shabab militants. Could disaggregated data be provided on investigations, prosecutions, and convictions related to trafficking. Were administrative, legal, or judicial efforts being undertaken to prevent and fight trafficking? What services were available to victims? What steps were being taken to protect children?

The Committee welcomed that Somalia had ratified the Convention on the Rights of Persons with Disabilities in 2019. What was the status of the National Disability Agency, including its work content, staff composition, and the Government's budget for its funding? Were there administrative regulations and monitoring mechanisms for institutions for the disabled, mental health institutions, and rehabilitation centres?

It was deeply concerning that corporal punishment was widely accepted in Somalia and not prohibited in the home, alternative care settings, day care and schools, and in penal institutions as a sentence for crime. It was also concerning that the Penal Code punished assault except when the perpetrator was the parent. What progress was being made on ensuring that legislation prohibited corporal punishment of children in all settings, including in the home, and served as the criminal rule against a crime? Had the campaign to raise awareness on the protections guaranteed to children been effective? What efforts had been made to ensure oversight and improvement of the human rights situation in Somaliland?

NAOKO MAEDA, Committee Expert and Co-Rapporteur for Somalia, said the United Nations estimated that 2.8 million Somalis had been displaced due to conflict, insecurity and climate change. The Committee commended the State's consultations on the draft national policy on refugee-returnees and internally displaced persons. What was the status of this draft national policy? Could statistics on internally displaced persons in Somalia, disaggregated by age, sex, and current location, be provided? What resources were offered at each camp for internally displaced persons? To what extent did the State party cooperate with civil society to improve the situation in the camps in terms of human and budgetary resources? What steps were being taken by the State party to ensure security for internally displaced persons?

The establishment of the National Commission for Refugees and Internally Displaced Persons was positive and welcomed. What was the mandate of the Commission? How many refugees had applied for asylum, and been granted asylum or citizenship? The Committee positively noted that the State party had enshrined the principle of non-refoulement into the Constitution, stipulating that every person had the right not to be returned to any country in which that person had a well-founded fear of persecution. What was the concrete domestic legal framework to enshrine the principle of non-refoulement? What procedure was followed when a person invoked that right?

Regarding universal jurisdiction, did the State party plan to address this more clearly in the revision of the Penal Code? Were acts of torture considered an extraditable crime? Had Somalia ratified any extradition agreements with States? Could information on extradition cases undertaken be provided? Had there been any developments on the ratification of mutual judicial assistance treaties since the 1985 Riyadh Agreement? Were training programmes for judges and attorneys carried out in line with the Istanbul Protocol? Could more information on the training for judges and attorneys be provided and how they were educated on the prohibition of torture? How effective were these programmes?

The Federal Government had not yet abolished the death penalty or declared a moratorium on executions. Did the State party intend to establish an official moratorium on the death penalty? Could it describe the measures taken towards abolishing the death penalty and the current obstacles to such an abolition? What crimes were punishable by death and was the death penalty mandatory?

The Committee commended that the State arranged regular visits to prisons and detention facilities and conducted interviews with prisoners. Could disaggregated data on these visits be provided? How often were these visits conducted? Why were these visits conducted by the Attorney General's office and not independent parties? Could information be provided on the frequency of inter-prisoner violence, including cases involving negligence by law enforcement personnel? Could statistical data on deaths in custody be provided? How were these deaths investigated and were there measures to prevent this from occurring in the future? What were the conditions needed for the Police Oversight Committee to commence and operate investigations on torture cases?

It was commendable that the Serendi Rehabilitation Centre, which was established in 2012, supported the reintegration of 'low-risk' former members of terrorist group Al-Shabab into the community. How many persons had received this rehabilitation and achieved re-integration to societies? Were the human and budgetary resources enough for management of the Centre? The Committee remained deeply concerned about the frequent impunity granted to police and military officials who committed abuses. Could the delegation provide information on legal frameworks on investigations, disciplinary and criminal proceedings, and the types of convictions or disciplinary punishments applied?

The Committee was concerned about the continued excessive use of force by the police against civilians; what was the legal standard applied in the State for appropriate use of force and firearms by law enforcement officials? Could more information

on the status of a National Truth and Reconciliation Commission be provided? How were members nominated and appointed? Could information be provided on legal frameworks on redress and compensation measures provided to victims of torture or their families? How many requests for compensation had been made and granted? Were victims able to access independent legal aid?

The Committee welcomed the inclusion of the inadmissibility of evidence obtained through torture in the Criminal Procedure Code. What criteria were used to consider that a confession was made voluntarily or involuntarily? Did judges undertake any training programmes regarding the evaluation of confessions? How often had pre-recorded confessions been used as a basis for conviction or as prime evidence in a hearing? What procedures and safeguards were in place for defendants who claimed their confessions were obtained by torture? Were there specific measures to combat the use of torture or other coercive measures to obtain confessions in any proceedings?

A Committee Expert noted that executions were often carried out publicly in Somalia which was inhumane and degrading. Could information be provided about initiatives in this regard? Had there been any public executions in the last year?

Another Committee Expert asked how often persons under the age of 18 were sentenced to death and executed? How many persons were currently on death row? Were capital offences confined to the Penal Code?

One Committee Expert asked for clarification about the word “unlawfully” in the definition of torture; why was this word in there and was it consistent with the Convention?

Responses by the Delegation

The delegation said the Government was reviewing the Penal Code and would define torture in line with the definition outlined in the Convention. Somalia had updated legislation, including the juvenile justice bill, with provisions relating to torture. A strong mechanism had been established to protect human rights, which focused on the elimination of all forms of torture. A project had been created, which aimed to reduce the punishment of children in the home, encourage positive parenting, and improve the quality of parenting. This project would assist in preventing all forms of torture in the country. The Government had ongoing plans to protect detainees and was working with international partners, including the Red Cross. A project had been developed, which focused on providing medical aid, access to justice and the safeguarding of rights to detainees.

Regarding gender-based violence, a strategy had been developed, which included prevention and mitigation responses, as well as outlines for psycho-social support, mental health support, and access to justice. It also included a comprehensive plan of action, which addressed the needs and priorities identified by the community. With the support of the United Nations Children’s Fund, the social work programme was rolled out in universities across the country, with the provisional social workers to take responsibility for the implementation of the strategy.

The National Commission for Refugees and Internally Displaced Persons in Somalia was created in 1973 and had clear policies and responsibilities coordinating all measures necessary for protecting all persons of concern in Somalia. The Commission helped asylum seekers and returnees, stateless persons, and vulnerable women and children. The delegation said all detainees enjoyed legal safeguards from the outset of their arrest, including access to a lawyer, an independent medical examination by a professional, and the right to notify a relative regarding their arrest. Several training sessions had been conducted for legal professionals, including on instances of torture and ill-treatment. Men and women were detained separately in prisons and places of detention. The State was anticipating massive defectors from al Shabab, and a rehabilitation centre would be opened to receive children under the age of 18 who had left the group.

The delegation said Somalia had initiated the process of the National Human Rights Commission a few years ago, with the first stage concluded in 2017. There had been a delay in approving the preliminary list of candidates, which had come through a transparent process that met the criteria of the Paris Principles. Somalia had welcomed a new Government in May this year, which was committed to ensuring the establishment of the Commission before mid-2023. A Committee had been appointed to accelerate the process, which would develop a list of names for the Commission to be approved by parliament. Ideally the Commission would be established within a year, which would be the first time Somalia had a national human rights institution in line with the Paris Principles.

There were no immediate plans to ratify the Optional Protocol to the Convention. A dialogue would be held to determine the opportune moment to ratify the Optional Protocol, as well as other international treaties to which Somalia was not yet party to. Somalia was emerging from a difficult situation, and a lot of institutions were young and developing. The Somali National Institution of Statistics had been in place for around three years and was constantly improving and conducting data research in different areas. Although a lot of statistics were not currently available, the process was ongoing and Somalia was constantly improving in this context.

The delegation said Somalia had ratified the Convention on the Rights of Persons with Disabilities, and had established the National Disability Agency, which was working to implement the national disability law. The law provided significant protection to persons with disabilities. It was hoped that Somalia would be able to tackle critical issues regarding persons with disabilities as the capacity of the agency improved; however, the State was not there yet.

Somalia paid high attention to children deprived of their liberty and was reforming institutions for children. It would be useful for Somalia and other countries if the Committee on the Rights of the Child and the Committee against Torture adopted a joint general comment regarding the protection of children in different institutions. Somalia was incorporating activities aimed at abolishing all forms of corporal punishment in the national plan of action. The framework had been developed and the final draft of the plan was now ready. The plan focused on access to justice, training of the judiciary, and data collection, among other factors. There were numerous barriers to protecting children against corporal punishment, including traditional cultural beliefs. There was a political will to move towards the complete prohibition of corporal punishment.

The national plan of action for children was an integral part of a broader approach toward a human rights agenda in Somalia, and would address all forms of torture which applied to children. Somalia was planning to develop a platform for monitoring the implementation of recommendations by the Committee on the Rights of the Child, and the same would be done for the Convention against Torture's recommendations. There were some remaining treaty bodies which Somalia was willing to ratify, and this was under discussion.

The Office of the Prime Minister had developed strategies to respond to human trafficking. Somalia worked with United Nations partners to provide assistance to victims and worked closely with regional authorities to address human trafficking in the country. Somalia had developed several laws to strengthen the promotion and protection of human rights over the past 10 years. The laws Somalia had been working on included draft legislation on sexual offences, including the anti-female genital mutilation bill. All these bills would domesticate the Convention into Somalia's legislation. Somalia was committed to putting in place protective measures to ensure the full enforcement of the legislation. The comprehensive review of the Penal Code would result in a significantly enhanced Penal Code, which would include elements which were currently missing in Somalian legislation.

Questions by Committee Experts

LIU HUAWEN, Committee Expert and Co-Rapporteur for Somalia, said the State report and the replies by the delegation were "under construction", discussing things which had not happened yet, such as laws being drafted. Political will was very important, and this needed to be shown through actions and measures. Mr. Liu had learnt a wise theme from Somalia "one finger cannot wash the whole face". One actor was not enough; there needed to be joint efforts and systematic approaches. Somalia was facing so many challenges, but the rule of law could help to maintain the solidarity and connect different actors.

The attitudes towards human trafficking were promising, but the law needed to be reviewed in order to combat the modern nuances of trafficking. For each list of the concerns outlined, the Committee wanted to know the current status, if there were laws in place to combat these, and whether it was possible for the victims to report crimes and receive assistance from the police. Structural reform was needed, as there were so many different departments within Somalia. There was a need to streamline processes and standards. What laws had been passed and were effective now? Which ones were going to be passed in the next two years?

NAOKO MAEDA, Committee Expert and Co-Rapporteur for Somalia, said the Committee appreciated Somalia joining the meeting under complicated circumstances. There were many questions which had not been addressed, so the Committee would like the delegation's input on the more concrete information, regarding the framework and infrastructure. Could the delegation provide statistics on how many internally displaced persons had been evicted from camps and how those persons had been informed of their rights? Was training available to border guards and security personnel at camps for internally displaced persons? There needed to be more information provided on Somalia's legal framework. Ms. Maeda asked for more information on extradition, as the issue was ambiguous and contradictory. Had there been any agreements with States since the submission of the report? What was the basis to conduct extraditions?

The death penalty was a big issue; information had been received from civil society which stated that at least a dozen executions were carried out in 2019. There were also concerns that executions were carried out publicly and in public spaces; could this be clarified? What kind of crimes could receive the death penalty and were they strictly limited to serious crimes? Information had been received that people could receive the death penalty for crimes of a political nature. What measures had been taken to reduce prison overcrowding in Somalia? What alternatives to imprisonment were being considered? What was being done to improve conditions in prison, including health care? The Committee remained concerned over the lack of protection for journalists and human rights defenders, and noted there were many cases of arbitrary detention and arrest. Could a status of these cases be provided? Had investigations been conducted, and those who were responsible prosecuted?

CLAUDE HELLER, Committee Chairperson, said he agreed with what both rapporteurs had said about the lack of replies;

many issues had been raised which had gone unanswered. It was very much appreciated that Somalia had taken the trouble to come to Geneva bearing in mind the complicated situation in the country. The delegation should use this opportunity for dialogue and to make requests for assistance from the international community. What did Somalia believe were the main obstacles to implementing the Convention? What were the State's priorities, and what was preventing the State from reaching its goals?

A Committee Expert said no responses had been received regarding questions on the death penalty, including the number of persons executed, those on death row, and minors who had received the death penalty.

Responses by the Delegation

The delegation said there were mechanisms in place to monitor human trafficking cases and prevent them from occurring. There were awareness raising campaigns being conducted to inform the public on this issue, however, statistics were currently not available. Somalia did not forcibly detain refugees or asylum seekers. A bilateral agreement had been signed with India regarding the extradition of pirates. Apart from this, Somalia had not signed a bilateral agreement with any State and did not plan to do so in the future.

Somalia had not executed any minors under the age of 18. The Government was discussing implementing a moratorium on the death penalty. It was agreed that executions should not be conducted publicly, and Somalia would look to change this in the future. Death row inmates were informed of their execution in advance. There were no political executions in Somalia; the exact crimes which received the death penalty depended on many factors. It was noted that many questions had been asked regarding statistics, but right now the delegation did not have these available.

Questions by Committee Experts

LIU HUAWEN, Committee Expert and Co-Rapporteur for Somalia, said there were high expectations for Somalia's Human Rights Commission. It was progress that the new Ministry of Women and the Human Rights Development had been created. For the realisation of human rights, legal reform was always necessary. The coming years were a big opportunity. There needed to be a sound definition of torture and human trafficking, and for other crimes concerning torture and ill-treatment. There was a need to pay more attention to the victims and to help them reintegrate into normal lives. Many women prostitutes were survivors of human trafficking; they should not be treated as criminals, but rather survivors of crimes. This could be addressed in the legal reform. The law should be used to unite the country legally and morally. It would be appreciated if the delegation could respond to questions in writing.

NAOKO MAEDA, Committee Expert and Co-Rapporteur for Somalia, thanked the delegation for their positive attitude. The Committee would take note of the responses, despite limited areas. The purpose of the dialogue was to shed light on Somalia's achievements and their future challenges, and the Committee looked forward to continuing dialogue with Somalia in the future.

Responses by the Delegation

The delegation said a report would be given to the Committee from civil society, and asked if it could be shared with the delegation. Human trafficking had been an issue for the last 10 years. Could the Committee share the questions with the delegation so they could use the experts in Somalia to provide the proper answers?

Closing Remarks

ISAK HASHI JIMALE, Director-General at the Ministry of Women and Human Rights Development of Somalia and head of the delegation, said Somalia was grateful to hear the thoughts and views of Committee members and looked forward to implementing the Committee's recommendations. Somalia was gradually implementing a statistical infrastructure, and understood that reliable data was key for the promotion and protection of human rights in the country. It was hoped that Somalia's data collection capabilities would improve in the coming years.

CLAUDE HELLER, Committee Chairperson, said the dialogue aimed to be constructive and beneficial to both parties. He wished the delegation safe travels back to Somalia.

Somalia: Türk decries steep rise in civilian casualties amid surge in Al-Shabaab attacks (UN Office of the High Commissioner for Human Rights) November 14, 2022

A steep rise in civilian casualties in Somalia, due largely to attacks by the Al-Shabaab armed group, has exacerbated an already grim human rights and humanitarian situation for the people of Somalia, UN High Commissioner for Human Rights Volker Türk said Monday.

According to the latest UN figures, at least 613 civilians have been killed and 948 injured so far this year – the highest number since 2017 and more than a 30 percent rise from last year. Most of the casualties, 315 killed and 686 injured, have been due to Improvised Explosive Devices (IEDs), at least 94 percent of which were attributed to Al-Shabaab. Other casualties have been caused by State security forces, clan militia and other unidentified actors.

“This year has brought an abrupt halt to a general decline in deaths and injuries documented since 2017,” said Türk. “I am deeply concerned that more Somalis continue to lose their lives on a daily basis.”

“All parties to the conflict must uphold their obligations under international humanitarian law and ensure that civilians are protected. This also includes armed elements engaged alongside the Government in the conflict against Al-Shabaab, as well as international forces.”

“I call on the Government of Somalia to take all necessary steps – in cooperation with the international community – to strengthen the protection of civilians, in line with international human rights norms and standards and international humanitarian law,” the High Commissioner added.

Other casualties have resulted from Al-Shabaab suicide bombings, the most recent of which was on 29 October near the Ministry of Education in the capital Mogadishu, and left at least 121 people dead and 333 injured, according to Somalia’s Ministry of Health. Most of the casualties were civilians. An earlier Al-Shabaab attack on Mogadishu’s Hayat Hotel on 21 August killed at least 22 civilians and injured 30.

In addition to the deliberate targeting of civilians, latest information gathered by the United Nations Human Rights Office indicates that in recent months Al-Shabaab has destroyed numerous wells and poisoned another in the Hiraan region, at a time when Somalis are facing extreme hardship due to drought in many parts of the country. Al-Shabaab also destroyed part of the riverbank of the Shabelle river, houses, a bridge, the disabling telecommunication antennas and 11 schools.

“Such wanton destruction is reprehensible, particularly given the difficult humanitarian situation, with the consecutive failure of five rainy seasons and large-scale displacement in the country,” Türk said.

“Deliberately targeting civilians and destroying, as such, objects indispensable to the civilian population constitute war crimes under international law. They must stop.”

The UN Human Rights Chief also stressed the crucial need for accountability for gross violations of international human rights law and serious violations of international humanitarian law – key to prevent the fuelling of vicious cycles of violence.

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Ethiopia

Recognize genocide in Ethiopia’s Tigray region, experts urge Canadian committee (The Globe and Mail) By Geoffrey York

November 6, 2022

As a humanitarian official and health expert for three decades, Mukesh Kapila witnessed the horrors of genocides in Rwanda, Cambodia, Bosnia and Darfur. Now he is trying to alert the world to another emerging genocide: this time in Ethiopia.

The doctor and scholar, who has written two books on genocide, is urging Canadian MPs to investigate crimes against humanity in the Tigray war in northern Ethiopia. He is one of a series of experts at a parliamentary committee in Ottawa who have called for Canadian legal action – including possible steps under international laws against genocide.

Despite a peace deal signed by Ethiopian and Tigrayan officials last week, it is still unclear whether the bloodshed will stop. Early signs suggest the ceasefire is already being violated, and a blockade of food and medicine has continued. The MPs say they will push ahead with their Tigray report as urgently as they can, spurred on by witnesses who described mass rapes and starvation.

“A lot of the testimony was gut-wrenching,” said Liberal MP Sameer Zuberi, chairman of the Commons subcommittee on

international human rights.

“It was extremely hard to listen to,” he told The Globe and Mail. “Testimony, for example, from physicians who treated women who were sexually abused in unspeakable ways. Shocking sexual violence as a means of terrorizing and brutalizing a population.”

He said the subcommittee is likely to issue a report or statement on Tigray within weeks, before Parliament breaks for the holidays next month.

“What the experts were saying at committee was that this meets the legal definition of genocide, so that must be taken very seriously,” he said.

Another MP on the subcommittee, NDP foreign affairs critic Heather McPherson, said the members still need to reach a formal decision on their report, but the testimony has seemed compelling to her. “The testimony we’ve heard from experts, from victims, from Tigrayan civilians, all points very clearly to me toward a genocide taking place,” she told The Globe.

The war began in November, 2020, when Ethiopia sent troops into Tigray in an attempt to subdue the region’s recalcitrant government. Since then, as many as 600,000 Tigrayans have died from war-related causes, including violence, starvation and lack of medical care, according to estimates by researchers at a Belgian university.

In his testimony, Dr. Kapila described a pattern of dehumanizing hate speech in Ethiopia’s state media, co-ordinated attacks on civilians in Tigray, a deliberate blockade of food and medicine to the region, and the systematic destruction of urban and rural livelihoods by cutting off electricity and communications – all orchestrated by the command and control structures of the Ethiopian and Eritrean authorities.

“My professional assessment is clear, based on my experience of nearly 30 years of international war and peace efforts,” Dr. Kapila said. “Progressive acts of genocide are being perpetrated by the governments and agents of the states of Eritrea and Ethiopia against Tigrayans.”

Another witness, Toronto-based human-rights lawyer Sarah Teich, told the committee there is sufficient evidence of genocide in Tigray to compel Canada to take action under its international treaty obligations to prevent genocide.

“There is mounting evidence of intent to destroy Tigrayans as a group,” said Ms. Teich, who was testifying on behalf of a Canadian Tigrayan organization.

Citing reports from human-rights groups and a United Nations investigation, she said the brutal sexual violence was a “defining feature” of the war and it had genocidal intent, “suggestive of an intent to destroy the Tigrayan ethnicity.” Tigrayan women, often targeted for gang rape, were told by their assailants that “a Tigrayan womb should never give birth,” she said.

The committee heard graphic medical accounts from physicians and hospital officials who witnessed the damage inflicted on Tigrayan women and girls from gang rapes during the war.

Hayelom Kebede Mekonen, a former senior official at Tigray’s biggest hospital, Ayder Referral Hospital in Mekelle, counted 533 rape victims who needed treatment from the hospital during the first six months of the war alone.

“All of this rape is not just an incident – it is a systematic campaign to subjugate the whole of society so that they will live in fear and panic and be submissive to the central government,” he told the committee. “In my view, all this amounts to a genocide and sexual slavery happening in Tigray.”

The testimony has been echoed by similar warnings from UN officials and other international experts on genocide. In a statement on Oct. 25, the U.S. Holocaust Memorial Museum said it was deeply concerned about “further crimes against humanity and a heightened risk of genocide” in Tigray, especially for civilians in towns captured by Ethiopian forces and their allies in recent weeks.

Last week, when Ethiopian and Tigrayan officials signed a peace agreement after 10 days of negotiations in South Africa, many observers were hopeful that the killing would finally end and the blockade of Tigray would be lifted. But on the weekend, there were reports of continuing fighting in several places in the region, and humanitarian aid supplies to Tigray were still halted.

Several analysts said they were worried the peace agreement will unravel, partly because many Tigrayans see it as a one-sided deal that could leave the region defenceless and dominated by the Ethiopian government.

Ethiopia govt says aid flowing to Tigray but rebels deny (France 24) November 11, 2022

The Ethiopian government said Friday that 70 percent of the war-stricken northern

region of Tigray was now under federal army control and that aid was being sent in - - claims swiftly denied by Tigrayan rebels.

"70% of Tigray is under ENDF (Ethiopian National Defence Force)," Prime Minister Abiy Ahmed's national security adviser Redwan Hussein posted on Twitter.

"Aid is flowing like no other times," he said, adding that trucks of food and medicine had been sent to the strategic city of Shire and that flights were being allowed into the area.

The restoration of aid to the region of about six million people is one of the key planks of a breakthrough peace deal between the federal government and the Tigray People's Liberation Front (TPLF) to end two years of brutal war in northern Ethiopia.

But the rebels denied Redwan's claims.

"He is plucking his facts out of thin air," TPLF spokesman Getachew Reda told AFP in a message.

AFP was not able to independently verify the claims as Tigray remains inaccessible to journalists.

The northernmost region is in the grip of a severe humanitarian crisis due to lack of food and medicine, and there is limited access to basic services including electricity, banking and communications.

Redwan's comments were also dismissed by a humanitarian worker based in Tigray.

"What Redwan tweeted is completely false," the worker told AFP. "No aid is allowed to enter Shire city at all.

"No services have been reconnected and no flights are allowed."

'Many dying of starvation' The peace deal was signed in the South African capital Pretoria on November 2 after little more than a week of negotiations brokered by the African Union between federal government and TPLF delegations.

It notably calls for the cessation of hostilities, restoration of humanitarian aid, the re-establishment of federal authority over Tigray and the disarming of TPLF fighters.

On Wednesday, the World Health Organization called for a massive influx of food and medicines into Tigray following the ceasefire deal, saying desperately-needed aid had not yet been allowed in.

"Many people are dying from treatable diseases. Many people are dying from starvation," WHO chief Tedros Adhanom Ghebreyesus, who hails from Tigray, told a press conference.

"Even in the middle of fighting, civilians need food, need medicine. It cannot be a condition."

Talks have been under way in the Kenyan capital Nairobi this week between representatives of the warring sides to follow up on the Pretoria deal.

The meetings were due to discuss the disarmament of the rebels, while the AU said they should also provide a "roadmap" for immediate humanitarian access and restoration of services" in Tigray.

The conflict between the TPLF and pro-Abiy forces, which include regional militias and the Eritrean army, has caused an untold number of deaths, forced more than two million from their homes and sparked reports of horrific abuses by all parties.

Estimates of casualties vary widely, with the United States saying that as many as half a million people have died, while the EU's foreign envoy Josep Borrell said that more than 100,000 people may have been killed.

UN investigators have accused Addis Ababa of possible crimes against humanity in Tigray and of using starvation as a weapon of war -- claims denied by the Ethiopian authorities.

Abiy -- a Nobel Peace Prize laureate -- sent troops into Tigray on November 4, 2020 to topple the TPLF, the region's ruling party, in response to what he said were attacks by the group on federal army camps.

There Can Be No Peace In Ethiopia Without Justice And Accountability (Forbes) By Dr. Ewelina U. Ochab
November 13, 2022

On November 2, 2022, the Ethiopian Government and the Tigray People's Liberation Front (TPLF) signed a peace deal towards ending the brutal two year war in Ethiopia.

On November 12, 2022, they further signed an agreement laying out the roadmap for implementation of the peace deal. The roadmap includes steps to facilitate unhindered humanitarian access, provide security to aid workers, and ensure the protection of civilians, among others. It does not include any provisions to ensure justice and accountability.

The two years of war have seen atrocity crimes perpetrated by all actors to the conflict and humanitarian crisis reaching new levels, among others around 5.2 million in need of humanitarian assistance in Tigray, including 3.8 million who need healthcare. Understandably, the agreement does not change the fact that atrocity crimes have been perpetrated. They must be investigated and those responsible brought to justice. Among these crimes is conflict related sexual violence (CRSV).

In early November 2022, the Dr. Denis Mukwege Foundation published their new report “Understanding Conflict Related Sexual Violence in Ethiopia”, produced in cooperation with the United Kingdom’s Foreign, Commonwealth and Development Office (FCDO) and the Institute for Public Health at Washington University. The report found that “data suggest that Ethiopian and allied forces committed CRSV on a widespread and systemic basis in order to eliminate and/or forcibly displace the ethnic Tigrayan population.”

The report cites numerous testimonies of survivors of CRSV in the region.

Among them, 27-year-old woman who was raped in front of her children by a half-dozen Fano militiamen carrying out neighborhood searches targeting Tigrayans testified: “Two of them raped me and then I lost consciousness and don’t know how many more raped me, if all six [did], or not. They said: ‘You Tigrayans should disappear from the land west of Tekeze! You are evil and we are purifying your blood.’”

30-year-old survivor testified that “four men raped me. [...] They insulted me and they urinated on my head. They said: ‘You and your race are a foul, toilet-smelling race and should not be in our land.’”

28-year-old mother of two, was apprehended by ten Amhara militia members and raped, as she was trying to flee to Sudan, testified that “they said: ‘If you were male we would kill you, but girls can make Amhara babies.’”

The report further cited a testimony of a survivor who recalled that “Eritrean soldiers saying while raping her that they were ordered ‘to come after the women’, while another woman recall[ed] Eritrean soldiers saying that their actions were revenge against Tigray.”

The report further identified that the use of CRSV in Ethiopia is widespread and perpetrated by all actors to the conflict, and affects many ethnic groups. The report indicates that “multiple sources suggest[] that the [Eritrean Defense Forces] EDF perpetrated CRSV because they were ordered to and as a means of ethnically motivated revenge. (...) CRSV by the TPLF appears to have been ethnically motivated revenge in response to atrocities committed by federal forces and their allies in Tigray.”

Furthermore, the report indicated that Eritrean refugees have been targeted by multiple actors to the conflict, including by the EDF, by Amhara forces and by Tigrayan forces.

The response to the atrocities in Ethiopia, and specially to CRSV, is yet to follow. This also applies to healthcare services for survivors of CRSV which are still lacking.

As we watch some progress with the peace agreement, the issue of justice and accountability cannot be delayed or left unaddressed. Lasting peace cannot be achieved if the atrocities in Ethiopia enjoy impunity and survivors are left without a voice.

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EUROPE

TIME IS RUNNING OUT FOR WAR CRIMES PROSECUTION IN BOSNIA (Justice Info) By Massimo Moratti
November 14, 2022

“A race against time” is the title of a recent report by the OSCE Mission to Bosnia and Herzegovina (BiH) highlighting the delays in implementation of the country’s strategy for war crimes prosecution. The risk is to see the process prolonged for a number of years. While the completion of those trials was a top priority for the country only 15 years ago, it has now become hostage to political tensions in Bosnia.

National prosecution of war crimes in Bosnia and Herzegovina (BiH) was set in motion by the 2003 United Nations Security Council’s Resolution 1503, which outlined the completion strategy for the International Criminal Tribunal for the former Yugoslavia (ICTY). The resolution called “on the international community to assist national jurisdictions [...] in improving their capacity to prosecute cases transferred from the ICTY”. More concretely, a Sarajevo-based special chamber within the State Court of Bosnia and Herzegovina was designated to adjudicate allegations of serious violations of international humanitarian law. The effort was not limited only to Bosnia but also extended to neighbouring countries, in particular Croatia and Serbia and Montenegro.

Prosecution of international crimes at the state level in Bosnia and Herzegovina (BiH) started in 2005. It was led by the war crimes department of the Court of BiH and by the Prosecutor’s Office of BiH. These two bodies until 2012 operated in a hybrid manner, with international judges and prosecutors working alongside nationals in both of them.

The National War Crimes Processing Strategy was adopted in late December 2008. It included war crimes, crimes against humanity and genocide. It aimed at dealing with the most complex cases by 2015 and completing the overall work by 2023. War crimes cases were allocated to the state court of BiH, in charge of prosecuting the main perpetrators, and to courts in the two entities that comprise Bosnia (the Federation of Bosnia-Herzegovina and the Republica Srpska), as well as the Breko district.

NEARLY 10,000 WAR CRIMES SUSPECTS

A total of 1,781 cases involving 9,879 persons suspected of war crimes were identified by the war crimes strategy in 2008. In addition, there were 2,692 cases where the perpetrators were unknown and 517 cases where it was not clear whether the case was a war crime. The strategy foresaw regional cooperation via memoranda of understanding amongst different prosecutors’ offices in BiH, Serbia and Croatia notably, but it left unaddressed some key issues such as possible perpetrators having dual citizenship or potential criminal prosecutions happening against the same individuals in more than one country.

One year after the adoption of the plan, a separate ad hoc working group started drafting a transitional justice strategy which was finalized but never adopted by the Council of Ministers (BiH government), mostly due to the disagreement of political parties representing the three main ethnic groups of Bosnia and Herzegovina. The transitional justice strategy was supposed to complement the war crimes strategy. It aimed at creating a sustainable platform for establishing facts about the past and, by developing a “never again” mentality, it sought to prevent the reoccurrence of conflict.

After the initial years, however, the war crimes strategy had to be revised. It was clear that at the existing pace, it was not possible to meet its ambitious goals and deadlines. In April 2017, the Council of Ministers tasked a working group for the purpose of drafting changes and amendments to the strategy. The working group completed its work in May 2018, providing a “Revised national strategy for war crimes processing”. The revised strategy acknowledged the fact that the initial deadline had passed already and it set the completion of all cases in Bosnia and Herzegovina, including the most complex ones, by the end of 2023.

A REVISED AND DELAYED STRATEGY

According to the revised strategy, in 2018, 780 cases involving 5,390 individuals remained pending before the different prosecutors’ offices, but it didn’t mention those cases already at the trial stage. While reiterating the commitment to complete all cases, it took stock of the fact that the actual mechanism for the allocation of cases to the different courts was not functioning and that in spite of previous commitments, resources for its implementation, including human resources, were still lacking.

It also acknowledged that regional cooperation remained a problem. While the most numerous and complex cases had taken place in Bosnia, neighbouring countries had adjudicated cases related to crimes that occurred in BiH, even if the bulk of evidence, victims and witnesses for those cases was in BiH. But the fact that many alleged perpetrators of crimes committed in Bosnia have either Croatian or Serbian citizenship prevented neighbouring countries from extraditing those persons to BiH even if they were indicted. Contacts and signed coordination agreements were insufficient to solve the problems.

Yet again increased political tensions that have characterized Bosnia for many years affected the implementation of the revised strategy. Prosecution of war crimes is a highly sensitive topic still. And as a result, the revised strategy was adopted by the BiH Council of Ministers only in September 2020, two and half years after it had been drafted. Even worse, due to political infighting, the new supervisory body, whose role had been strengthened in the revised strategy, has not been appointed up to now.

However the prosecution of war crimes is still considered as one of the key priorities for Bosnia and Herzegovina to walk its path towards European integration. In May 2019 the European Commission published its opinion on the membership application of BiH and it clearly referred to the issue of war crimes prosecutions and the backlog of cases. In addition, the creation of an environment conducive to reconciliation to overcome the legacies of the war was considered by the European Commission as one of the 14 conditions that the country should fulfill in order to hope becoming an EU member.

HUNDREDS OF CASES STILL PENDING

The Office of the Prosecutor of BiH and the Court of BiH provide only general information on their activities. There is no information available on the actual progress in the implementation of the revised strategy. The OSCE Mission to Bosnia and Herzegovina, however, has been closely following the domestic prosecution of war crimes and has released a number of reports on it.

The latest, published in June 2022, rang the alarm bell. Eighteen months before the announced date of completion of the strategy, progress has been insufficient and too slow, it said. At the current pace, it estimated that six more years will be needed to complete the work.

In the period 2004-2008, a total of 89 war crimes cases were finalized, concerning 136 defendants, an average of 18 cases per year. In the following decade (2009-2019), 555 cases (involving 842 defendants) were completed across the country - an average of around 55 cases per year. There are currently 245 ongoing cases before the courts of BiH. However, this is only a partial picture as it does not take into account the backlog of investigations at the different prosecutors' offices. By end of 2021 the prosecutors' offices had resolved 59% of the backlog of 1,210 investigations as registered in 2014 by the OSCE, and 495 investigations (for 4,284 potential suspects) were still pending. If indictments are confirmed in those cases, many could actually end up in the courts, adding to the existing backlog of ongoing trials.

THE PASSING OF TIME

The number of indictments has been decreasing constantly from 2014 to 2021. Besides the tempo of the completion of the strategy, the OSCE is concerned about a progressive deterioration in the quality of investigations and indictments. It stressed that the mechanism to identify less complex cases and allocate them to district courts has not really been implemented. It notes that the appointment of prosecutors doesn't always follow merit criteria, but sometimes reflects the need to respect ethnic quotas.

In spite of the signed agreements and a number of joint activities, which are continuing to date, regional cooperation continued to suffer from politicization of cases and national sensitivities. Around 35% of the backlog of cases at the prosecutor's offices and 38% of the trials pending before all BiH courts are affected by this situation. In 94 of 245 pending trials before the courts of BiH, around 100 defendants can't be brought to court because they are in either Serbia or Croatia where they enjoy dual nationality.

The passing of time is another key factor that plays against the strategy: 30 years have passed since the beginning of the conflict. Victims and witnesses might have difficulty in recalling key details of the events or might just no longer be around to testify.

INCREASING POLITICAL TENSIONS

While investigations, prosecutions and trials have been ongoing for decades and convictions have become a reality in Bosnia and Herzegovina, their impact on today's life in the country remains unclear. Issues like the genocide in Srebrenica remain deeply divisive - with the Bosnian Serb and Serbian authorities persistently qualifying Srebrenica as a "terrible crime" rather than genocide. There have been a number of instances where streets and public buildings were named after war crimes defendants or convicted war criminals. War criminals themselves, after serving their sentence, do not shy away from public appearances either by freely addressing the public at political rallies or by running for public office in Bosnia.

In July 2021, the situation prompted the High Representative for Bosnia and Herzegovina – the international official overseeing the implementation of the 1995 peace agreement in Bosnia – to issue a decision criminalizing the denial and condonation of genocide, crimes against humanity and war crimes. His decision further exacerbated tensions in Bosnia with renewed calls to secession by the leaders of Republika Srpska (RS), the Bosnian Serb entity in BiH, and renewed fears of conflict. More recently, the city of Banja Luka, the main centre of RS, and numerous other RS municipalities financed a controversial movie by the Serbian-Canadian film maker Boris Malagurski, who portrayed the creation of Republika Srpska as a centuries-long “struggle for freedom” while omitting the war crimes that occurred in the region and caused the displacement of non-Serbs from Republika Srpska. The movie was accused by war victims associations of denying the genocide of Srebrenica and the crimes committed by Bosnian Serb forces. It also prompted several petitions across Europe to ban projections.

IS JUSTICE ABOUT PREVENTION?

Last December, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence found it necessary to voice his concerns and urged Bosnian authorities to put an end to hate, denial of genocide and glorification of war crimes.

Divisive narratives, denial of war crimes and more or less open support to war criminals are very much present today in Bosnia and Herzegovina and in neighbouring Serbia. This is in spite of the fact that the prosecution of war crimes has been ongoing for almost 30 years. For many people in Bosnia, war criminals for one ethnic group are considered heroes by another ethnic group, regardless of criminal convictions by international or domestic courts. This reality questions what was stated in the national prosecution strategy that “preventing impunity and facing the recent war events is considered as one of the basic preconditions for the gradual reconciliation and progress of Bosnia and Herzegovina”. Even if the strategy is eventually completed, it will occur in isolation and will not be supported by a wider transitional justice strategy. Evidence suggests that its impact on national reconciliation will be deeply limited, whether there are six more years of trials or less.

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Gulf Region

Qatar: Rights Abuses Stain FIFA World Cup (Human Rights Watch) November 14, 2022

The FIFA World Cup from November 20 to December 18, 2022, will be played following years of serious migrant labor and human rights abuses in Qatar, Human Rights Watch said today, publishing a "Reporters' Guide" to support journalists covering the Qatar World Cup.

The 42-page guide, "Qatar: FIFA World Cup 2022 – Human Rights Guide for Reporters," summarizes Human Rights Watch's concerns associated with Qatar's preparations for and hosting of the 2022 FIFA World Cup and outlines broader problems with protecting human rights in the country. The guide also describes FIFA's human rights policies and how the global football governing body can more effectively address serious violations in Qatar and mitigate harm. [Human Rights Reporters' Guide for 2022 FIFA World Cup Qatar](#)

"The World Cup draws immense international media and fan attention, but the tournament's dark side is overshadowing football," said Minky Worden, director of global initiatives at Human Rights Watch. "The 2022 World Cup's legacy will depend on whether Qatar remedies with FIFA the deaths and other abuses of migrant workers who built the tournament, carries out recent labor reforms, and protects human rights for all in Qatar – not just for visiting fans and footballers."

Over 1.2 million international visitors are expected to visit Qatar to watch the 32-team tournament, along with many government and global football leaders. Thousands of journalists will cover the once-every-four-years' event, and billions of fans will watch on television. FIFA's partners and corporate sponsors will benefit financially and widely promote it.

FIFA granted Qatar the games in 2010, with no human rights due diligence and no set conditions about protections for migrant workers who would be needed to construct the massive infrastructure. FIFA also failed to examine the human rights concerns for journalists, or systemic discrimination that women, LGBT people, and others face in Qatar. In 2017, FIFA adopted a Human Rights Policy, pledging to take "measures to promote the protection of human rights," saying, "FIFA will take adequate measures for their protection, including by using its leverage with the relevant authorities."

Migrant Worker Rights

FIFA should have recognized that because Qatar lacked the infrastructure for the World Cup, millions of migrant workers would be needed to build and service it. This included eight stadiums, an airport expansion, a new metro, multiple hotels, and other key infrastructure, at an estimated cost of US\$220 billion.

FIFA is responsible not just for stadium workers, a minority of the total migrant workforce whose employers are held to higher standards for workplace conditions, but also for workers to build and service projects for tournament preparation and delivery, including transport and accommodations, security, cleaning, and landscaping.

Despite repeated warnings from the workers themselves and civil society groups, FIFA failed to impose strong conditions to protect workers and became a complacent enabler to the widespread abuse workers suffered, including illegal recruitment fees, wage theft, injuries, and deaths, Human Rights Watch said.

FIFA has the responsibility to identify and remedy these abuses in accordance with the United Nations Guiding Principles on Business and Human Rights, which FIFA adopted into its Statutes in 2016 and its Human Rights Policy, adopted in 2017. FIFA also has ample resources for remedy since the 2022 World Cup is expected to generate over \$6 billion in revenue.

Key labor reforms introduced by Qatari authorities came too late or were too weakly implemented for many workers to benefit.

In May, Human Rights Watch and other human rights organizations, trade unions, and fan groups pressed FIFA and Qatari authorities in a Joint Open Letter and campaign to provide a remedy for the abuses workers have experienced, including financial compensation for wage theft or injuries, and to families of the deceased.

Women's Rights

In a 2021 report, Human Rights Watch documented that Qatari laws, regulations, and practices impose discriminatory male guardianship rules, which deny women the right to make key decisions about their lives. Women in Qatar must obtain permission from their male guardians (male family members) to marry, study abroad on government scholarships, work in many government jobs, travel abroad until certain ages, and receive certain reproductive health care.

Qatar's penal code criminalizes all forms of sex outside marriage, with sentences of up to seven years in prison. If they are Muslim, they can also be sentenced to floggings or stoning. Women have been disproportionately prosecuted, because pregnancy serves as evidence of the so-called crime, and reporting rape can be deemed as a confession. Police often disregard women who report such violence, instead believing the men who claim it was consensual. Any indication that a woman knew the man has been enough to prosecute the woman.

Women are also required to show a marriage certificate to access certain forms of sexual and reproductive health care, including checks for sexually transmitted infections and post-exposure prophylaxis for HIV, and lack access to emergency contraception.

On November 7, the Supreme Committee for Delivery and Legacy, Qatar's organizing body for the World Cup, told Human Rights Watch that it will provide shelters and clinics for psychological, medical, forensic and legal support for victims of abuse during the World Cup.

On November 9, FIFA told Human Rights Watch that, "FIFA is confident that women will have full access to medical care, including any care connected with a possible pregnancy, regardless of circumstances and without questions asked about marital status." The association also said that, "FIFA has been assured that women reporting rape or other forms of abuse will not face any questions or accusations regarding possible consensual extramarital sexual relationships and should not fear repercussions of any form on that basis."

Lesbian, Gay, Bisexual, and Transgender (LGBT) People's Rights

Qatar's penal code punishes consensual sexual relations between men above age 16 with up to 7 years in prison (article 285). It also provides penalties of between one and three years (article 296) for any male who "instigates" or "entices" another male to "commit an act of sodomy or immorality." A penalty of up to 10 years (article 288) is imposed on anyone who engages in consensual sexual relations, which could apply to consensual same-sex relations between women, men, or heterosexual partners.

In October, Human Rights Watch published research findings that Qatar Preventive Security Department forces, under the Interior Ministry, had arbitrarily arrested six Qatari LGBT people and subjected them to ill-treatment, including severe beatings and sexual harassment, in detention. As a requirement for their release, security forces mandated that transgender women detainees attend conversion therapy sessions at a government-sponsored "behavioral healthcare" center. LGBT people interviewed said that their mistreatment took place as recently as September, even as the government came under intense scrutiny in advance of the World Cup for its treatment of LGBT people. In November, a 2022 FIFA Qatar World Cup Ambassador described homosexuality as "damage in the mind" in a television interview.

Freedom of Expression and Press Freedom

Qatar's penal code criminalizes criticizing the emir, insulting Qatar's flag, defaming religion, including blasphemy, and inciting "to overthrow the regime." Qatar's 2014 cybercrimes law provides up to 3 years in prison and a fine of 500,000 Qatari

riyal (US\$137,000) for anyone convicted of spreading undefined “false news” on the internet or for posting online content that “violates social values or principles,” or “insults or slanders others.” Some international journalists have been detained while reporting in Qatar, forced to confess, and their work has been destroyed.

“Qatar, FIFA and sponsors still have an opportunity to salvage the tournament’s legacy by remedying the migrant rights abuses associated with the World Cup and adopting reforms to improve protections for women, LGBT people, and migrant groups – not just during the World Cup but beyond,” Worden said. “Journalists can help ensure these crucial issues come to light.”

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ASIA

Afghanistan

International Criminal Court Criticized for Investigation of War Crimes in Afghanistan (The Organization for World Peace) By Andrew Dickson

November 8, 2022

The International Criminal Court (ICC) reopened an investigation on October 31st into war crimes and crimes against humanity committed in Afghanistan. The investigation had been planned to start in March 2020. However, no investigation by the ICC occurred then because the former government of Afghanistan wanted to investigate the crimes. The ICC does not prosecute crimes that are being investigated by courts of countries that are ICC members. In 2021, the Taliban took over Afghanistan, but the ICC did not believe the Taliban would investigate the crimes, causing the Court to decide to reopen the investigation.

ABC News reported that the ICC had planned to investigate all crimes committed in Afghanistan since 2003, which is when Afghanistan became a member of the ICC. This included crimes committed by the former Afghan Government, U.S. military, Taliban, and the Islamic State of Khorasan Province (ISKP). However, prosecutor Karim Khan has planned to investigate only crimes committed by the Taliban and ISKP. According to Al Jazeera, when explaining why he would not investigate crimes committed by the U.S., Khan said, “I made a decision, based upon the evidence, that the worst crimes in terms of gravity and scale and extent seem to be committed by the so-called Islamic State [in] Khorasan and also the Taliban.” Although the Taliban and ISKP have committed many crimes, the ICC’s decision not to investigate crimes committed by the U.S. military or the former Afghan government has been opposed. Patricia Gossman, the associate Asia director at the Human Rights Watch said, “[c]ontinued impunity in the country’s decades-long conflict will only further the instability, corruption, discrimination, and recurrence of violence that the Afghan people have long endured.”

The U.S. military, former Afghan government, Taliban, and ISKP have all been accused of committing war crimes in Afghanistan. According to the Council on Foreign Relations, the U.S. military and Central Intelligence Agency (CIA) committed crimes against 80 detainees (including Al-Qaeda prisoners) who suffered torture and cruel treatment during interrogation techniques in 2003 and 2004. According to the Human Rights Watch, before the Taliban take over, the Afghan government attacked civilians who were believed to support the Taliban. However, there was little evidence the civilians who were killed had supported the Taliban. It is also likely the CIA knew about the attacks by the Afghan government. Since taking over Afghanistan, the Taliban has killed many former government officials, and detained women who have protested the closing of girls’ schools. ISKP, an ISIS affiliated group, has killed 1,500 civilians, mostly Shia Muslims and other religious minorities.

In the past, the ICC had wanted to investigate crimes committed by the U.S. military and former Afghan government. This was opposed by President Donald Trump who imposed sanctions on the ICC. The sanctions were later lifted by President Joe

Biden, though the Biden Administration has also opposed the Court investigating crimes committed by the U.S. military. Usually, the ICC does not investigate crimes committed by nationals of countries that are not members of the Court. However, the ICC can investigate crimes committed by the U.S. in Afghanistan since Afghanistan is a member of the ICC. Although the U.S. government has opposed investigations, it cannot prevent the ICC from investigating crimes committed by the U.S. military, and the ICC has often investigated crimes that occurred in countries whose governments did not cooperate with investigations.

Khan's decision to investigate the Taliban and ISKP while not investigating the U.S. or former Afghan government has been viewed as creating a double standard because all four committed war crimes. Amnesty International viewed Khan's decision to not investigate the crimes committed by the U.S. military as evidence of the fact that the Court had chosen to not investigate more powerful perpetrators of the conflict. Reuters reported that the ICC chose to not investigate crimes committed by the U.S. military or former Afghan government since it needed to use resources to investigate the Taliban. However, Amnesty International considered it likely that this has been used as an excuse for not investigating crimes committed by the U.S. military or former Afghan government, and that ICC has enough resources for more investigations.

The ICC has been criticized for not investigating the crimes committed by the U.S. and former Afghan government, but has been supported for investigating the Taliban and ISKP. It is more likely the ICC can prosecute the Taliban and ISKP because the Rome Statute of the ICC allows the Court to prosecute for crimes against humanity, which include persecution based on gender or religion. According to The Diplomat, the Taliban closing girls' schools and opposing protests for women's rights are viewed as persecution, and could be considered a crime against humanity. Since ISKP has killed religious minorities in Afghanistan, it could be prosecuted for religious persecution. Also, there are enough witnesses who escaped from Afghanistan who will be able to report crimes committed by the Taliban to the ICC. Although the Taliban has committed crimes against humanity, an investigation by the ICC could force the Taliban to be more supportive of human rights. Currently, most countries do not recognize the Taliban as the legitimate government of Afghanistan due to its opposition to human rights. However, it is possible that the Taliban might gain further support if it does more to support rights for women and religious minorities. The Taliban has wanted to be recognized as the legitimate government of Afghanistan as this would allow trade with other countries to increase, and sanctions could be removed.

Although an ICC investigation would reveal more about the crimes U.S. military officials committed, it will be difficult for the ICC to prosecute U.S. military officials. Soon after the ICC was created, the U.S. Congress passed the American Service-Members' Protection Act which protected military personnel from being prosecuted by the ICC, and authorized the President to stop any prosecution. Since the ICC cannot prosecute military officials who committed crimes, the officials will have to be prosecuted by the U.S. government. According to the Human Rights Watch, the Justice Department investigated the torture of detainees in 2009, but no charges were made because the investigators did not find enough evidence due to their inability to interview detainees who were tortured. However, there is now more evidence torture occurred. In 2014, the U.S. Senate Intelligence Committee released a report about the interrogation techniques that occurred in Afghanistan which included waterboarding, sleep deprivation, and death threats. In order for a new investigation to charge military officials who committed crimes, it would likely need to include interviews from detainees, while also proving the fact that military officials knew interrogation techniques were torture and ineffective in gathering intelligence.

Conflicts in Afghanistan have occurred since the country became a member of the ICC, and have continued after the Taliban took control. Although the ICC has been opposed for not investigating crimes committed by the U.S., it is unlikely the Court would be able to prosecute U.S. military officials. However, the ICC should prosecute the Taliban and ISKP. If this occurs, the ICC will be important for supporting the rights of women and religious minorities in Afghanistan. U.S. military officials committed crimes in Afghanistan, and the U.S. government needs to do more to prosecute war crimes since this cannot be done by the ICC. If both the ICC and U.S. government are successful in prosecuting war crimes, it is possible there will be fewer conflicts in Afghanistan, and the U.S. military will stop to torture detainees.

Australian war crime investigation grows (Canberra Times) By Dominic Giannini
November 8, 2022

Australian officials are investigating further allegations of war crimes as they prepare to hand over the first evidence brief to begin the prosecution of special forces soldiers.

The Office of the Special Investigator has been tasked with examining allegations of war crimes committed by Australian special forces soldiers in Afghanistan.

Last year's Brereton report found credible evidence of war crimes, referring to 36 matters made up of 23 incidents, including allegations of 39 murders.

The office's director-general Chris Moraitis confirmed the number of matters being investigated has since risen to be in the

40s.

Mr Moraitis indicated it could go higher.

"To be fair, I don't want to be held to that figure, because as we investigate, you have lucky days sometimes," he told a Senate estimates hearing on Tuesday.

Mr Moraitis said he was optimistic his office would be able to hand over an evidence brief to prosecutors in the first half of 2023.

He said he was "loudly confident" there would be enough evidence in the brief for prosecutors to prepare a case.

But Mr Moraitis refused to confirm whether any partial briefs had already been handed over, saying the investigation was still being finalised and he didn't want that information on the public record.

He added the investigation had been stonewalled by officials not being able to enter the country.

The Taliban retook control of the capital Kabul in mid-2021, hindering access to the nation.

But Australian officials have travelled to third countries to gather evidence.

Mr Moraitis said it was easier for United Nations personnel and journalists to gather some information about the alleged crimes if they have a presence in Afghanistan.

"It's one thing to go there and to have a conversation with a few people in Kabul," he said.

"It's another matter to go out into, let's say, a province, obtain evidence and then have a state-to-state relationship whereby you can use that evidence in an Australian court of law."

The number of staff in the office doubled last year, going up from 52 to 125 working across its three offices in Canberra, Sydney and Melbourne as well as AFP offices around the country.

UK forces killed between 64 & 135 children in Afghanistan in eight years, says anti-war group (People's Dispatch) November 10, 2022

British forces alone were responsible for killing anywhere between 64 to 135 Afghan children in the nine years between 2006 and 2014, against the officially acknowledged number of 16, a report published by UK-based human rights group Action on Armed Violence (AOAV) revealed.

AOAV claimed that its figures are based on calculating the amount paid by the UK military as compensation to its war victims. The report claims that the UK forces paid an average of 1,656 pounds (USD 1,894) to each of the victims. The AOAV analyzed documents of compensation dispersal obtained through freedom of information requests.

As per the report, even the "lower number is four times more than" the previously acknowledged figure of 16 by the UK's Ministry of Defense. Most of these children were killed in air raids carried out by the NATO forces, of which the UK is a part. AOAV claims that most of the deaths were caused by "consequences of poor targeting, over use of heavy weaponry or fighting in populated areas," and were not results of deliberate targeting.

Underreporting to avoid criticism and accountability

Thousands of civilians lost their lives in the war in Afghanistan, beginning with the US-led NATO invasion in 2001. Though there is no single verified figure of the total civilian casualties in Afghanistan between 2001 and 2021 when all foreign troops left the country. According to one estimate, close to 47,000 civilians were killed in this period. According to the Brown University's Cost of War project, the combined areas of Afghanistan and Pakistan have seen the killing of at least 70,000 civilians since 2001.

Estimates of the number of children killed in Afghanistan since the NATO-led invasion in 2001 also vary. In 2021, UNICEF claimed that at least 28,500 children have been killed in Afghanistan since 2005. According to Save the Children, the figure is even higher at 33,000, and at least one child has been killed in Afghanistan every five hours since 2001. Both UNICEF and Save the Children do not specify who was responsible for these killings.

According to the UN, between 2017 and 2020, when the NATO and Afghan forces increased their air raids in the country, at least 2,122 civilians were killed and over 1,855 were injured in just the air raids. This does not include casualties caused in

operations by ground forces.

At least 1,600 of these casualties between 2017 and 2020 were of children. Majority of those casualties (57%) were caused by NATO-led international forces which included the British. The deadliest year for children in Afghanistan was 2018, when a total of 236 children were killed and another 256 were injured in air raids. Many have raised questions about attempts to suppress the actual number of civilian casualties caused by NATO forces including the US and the UK, in their operations particularly in Afghanistan and Iraq. It is claimed that such a strategy is adopted in order to minimize accusations of war crimes, which is crucial for maintaining domestic support for foreign operations, and to avoid questions regarding the efficiency of their armed forces. There are also questions on avoiding action against those responsible for killing civilians.

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Extraordinary Chambers in the Courts of Cambodia (ECCC)

Official Website of the Extraordinary Chambers [English]

Official Website of the United Nations Assistance to the Khmer Rouge Trials (UNAKRT)

Cambodia Tribunal Monitor

Khmer Rouge Tribunal leaves a mixed legacy (BBC News) By Sarah Williams

November 10, 2022

On 22 September 2022, the Supreme Court Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) delivered a summary judgment in Case 002/02. The ECCC, otherwise known as the Khmer Rouge Tribunal, was created in 2001 as part of an agreement between the Cambodian government and the United Nations (UN) under which local and foreign judges could hear crimes perpetrated by the Khmer Rouge in Cambodia from 1975 to 1979.

The Chamber dismissed the vast majority of the issues raised on appeal, confirming the life sentence of former Cambodian prime minister Khieu Samphan for crimes against humanity, war crimes and genocide. That was the final hearing before the ECCC.

After 16 years, the ECCC will cease operations and transfer its remaining tasks to the ECCC residual mechanism, a separate entity established for an initial three-year period. But if one measures success by the number of convictions, the ECCC's record is not impressive.

The ECCC trials focussed on the senior leaders of the Democratic Kampuchea regime and those considered most responsible for its crimes.

In addition to Khieu Samphan, the ECCC convicted the former commander of S-21, Kang Kek Iew or 'Comrade Duch', of crimes against humanity, including murder, torture, enslavement, extermination, and war crimes. The ECCC also convicted Nuon Chea — second in command to former prime minister Pol Pot — of international crimes including genocide.

Most of the direct perpetrators — such as the guards and executioners at S-21 (a secondary school turned detention centre used by the Khmer Rouge) — will never face prosecution. The ECCC's judgments do not directly confront the complexity of criminal responsibility in the Cambodian context, where many perpetrators were also victims of the regime.

The ECCC achieved measured success in other areas. Funded by external donors, the Court approved reparation projects designed to benefit victims. Outreach activities, including documentaries and exhibitions, were launched to educate the population about the crimes of the Khmer Rouge. Enabling victims to participate in legal proceedings was an international first and provided a valuable precedent for the International Criminal Court and other justice mechanisms.

For many, Cambodia is synonymous with genocide and the infamous 'killing fields'. But while the ECCC's judgments recognise the mass killings, the Court relies on the UN Genocide Convention's narrow definition of genocide, which protects only religious, ethnic, racial and national groups. The Khmer Rouge targeted most victims based on their political ideology or class

status, so ECCC judgements do not recognise most killings which occurred under the Khmer Rouge as genocide.

The scale of the crimes committed by the Khmer Rouge meant that the ECCC was never going to produce a comprehensive account of all crimes and perpetrators. The ECCC attempted to explain why those crimes occurred. Its summary judgment concludes that while the regime and its overarching objective — a socialist revolution through a ‘great leap forward’ — were not criminal, they were both achieved through violent, cruel and criminal means.

But criminal trials produce selective renderings of history, and the ECCC’s judgments certainly avoided key issues.

The tribunal’s statute was determined by the Cambodian government and the UN (with the active involvement of states such as the United States) and looks only at crimes committed by the Khmer Rouge. That obscures the involvement of states like China, Vietnam and the United States in supporting the Khmer Rouge or contributing to the circumstances that enabled its rise to power.

The ECCC employed many Cambodian lawyers and other staff in key positions such as prosecutors and judges. It exposed many lawyers and law students in Cambodia to the international standards of fair trial and the language of human rights. But it may take years to see whether this international presence will have any long-term effect on Cambodia’s domestic legal system.

The susceptibility of the Cambodian legal system to political interference was well-known when establishing the Court. Yet the UN agreed to the demands of the Cambodian government for substantial domestic involvement in the Court’s operations.

This failure was most evident in a series of cases known collectively as Cases 003 and 004. These cases would have looked into perpetrators at the zone, regional and local levels, as well as those in command of the armed forces. While the Court’s international personnel generally supported these cases, the Cambodian government opposed and blocked them from proceeding.

The UN and key states effectively acquiesced in the end of these other cases, perhaps due to a wish to bring the Court to a close and divert scarce resources elsewhere. Faced with government opposition and procedural concerns, pursuing further cases may have destabilised the tribunal and undermined its legacy.

It remains uncertain whether the ECCC will have any lasting impact on Cambodia. The government has increasingly moved to silence civil society and human rights activists and is heavy-handed with dissenters, members of the opposition and other critics of the regime.

Adequate and reliable funding was a constant struggle for the ECCC. Funding shortfalls resulted at one stage in the local staff ceasing operations and judges suggesting that trials would have to stop. Future tribunals must be adequately resourced, with funds for victim support and reparations.

The ECCC was an important experiment in international criminal justice, but its record is imperfect. Alongside its achievements, it offers a precautionary tale of the risks of introducing an international legal institution into a local system prone to political interference.

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Bangladesh International Crimes Tribunal

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War Crimes Investigation in Myanmar

US, EU Extend Sanctions as Myanmar Violence Escalates (OCCRP) By Inci Sayki

November 10, 2021

The European Union and United States imposed further sanctions on Myanmar's military regime on Tuesday by designating arms dealers, companies and senior officials as violence continues to escalate since last year's military takeover.

The simultaneous sanctions mark the second anniversary of the last general election held in 2020, which was overturned by the February 2021 coup d'etat.

The military takeover of Myanmar's democratically elected government sparked widespread protests, known locally as the "Spring Revolution," which were violently suppressed by the military junta, resulting in the death of over 2,300 civilians and displacement of 900,000 according to a U.S. Treasury statement from last month.

In its fifth package of sanctions to the Southeast Asian country, the EU blacklisted 19 more individuals on Tuesday, including a minister, chief justice, business representatives, and high-ranking members of the Myanmar Armed Forces.

The State Administration Council, the military junta governing Myanmar since the military coup, was also blacklisted for its "central role in undermining democracy and the rule of law in Myanmar/Burma," Tuesday's announcement said.

There are now a total of 84 individuals and 11 entities sanctioned by the union. "The EU will continue to strive to bring to justice all those responsible for the human rights violations, war crimes and crimes against humanity committed in the wake of the 1 February 2021 coup in Myanmar," the European Council's announcement said.

The U.S. Treasury Department on the other hand, designated major arms dealer Kyaw Min Oo and his company Sky Aviator Company Limited for facilitating arms deals, importation of aircraft parts, and weapons purchases on behalf of Myanmar's military.

"Kyaw Min Oo profits from the violence and suffering the military has inflicted on the people of Burma since the military coup," said Brian E. Nelson, the Under Secretary of the Treasury for Terrorism and Financial Intelligence.

The U.S. last month sanctioned three businessmen with ties to the Burmese military officials and their company for allegedly supplying Russian-produced arms to Myanmar's military.

"Burma's military regime has continued to oppress and deny the will of the people to chart an inclusive, democratic future for their country," the Treasury's Tuesday announcement said.

"The sanctions announced today do not target the people of Burma but rather target those who profit from the oppressive actions of the regime by operating in the defense sectors of Burma's economy and by enabling Burma's military connections to foreign militaries" it added.

The European Council said in its announcement that the EU is "deeply concerned by the continuing escalation of violence and the evolution towards a protracted conflict which has spread across the country and has regional implications," and condemned the rights violations including torture and sexual abuse, as well as the persecution of civil society, activists, and journalists by the country's armed forces.

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Piracy

Nigeria Federal High Court hold foreign nationals for alleged piracy, oil theft (BBC News Pidgin) November 14, 2022

Di Ministry of Defence don arraign some foreign sailors for di Federal High Court for

Port Harcourt, di Rivers State capital, Southern Nigeria for piracy and crude oil theft.

Dis dey come after di Nigerian Navy arrest 26 sailors from di vessel wey dem gbab for Equatorial Guinea for alleged piracy and crude oil theft from Akpo Oil Field, Bonny for Rivers State.

Di 26 suspects wey from India, Sri Lanka, Philippines and Poland dey face charges wey border of:

Entering a restricted zone around an oilfield without authorization.

Illegally attempting to load crude oil from Nigeria without appropriate documentation, wey be economic sabotage.

Falsely accusing a Nigerian Navy Ship of piracy on international maritime reporting platforms.

Na only 16 of di suspects appear before Justice Turaki Mohammed of Federal High Court Port Harcourt and dem plead not guilty to di charges.

Di court say dem go remain for di Nigerian Navy and adjourn di mata to Tuesday 15 November wen di remainng 10 suspects go come take dia plea.

How Nigerian Navy arrest di vessel

Nigerian Navy bring back a runaway Very Large Crude Carrier, VLCC, MV HEROIC IDUN dem arrest for Equatorial Guinea becos e unlawfully enter Akpo Oil Field Bonny, Rivers State to illegally lift crude oil.

Di Nigerian Navy mobilize about five ships including NNS IKENNE and NNS OJI run di operation for voyage wey take dem eight days to and fro.

Dis na afta ogbonge diplomatic negotiations wit di two kontris.

According to di Chief of Policy and Plans, Naval Headquarters, Abuja, Rear Admiral Saidu Garba, dis Very Large Crude Carrier VLCC, MT HEROIC IDUM with length 336 meters, 60 meters width and 11 metres draught, with IMO number 9858058, dey registered for Marshall Island and get capacity to carry over two million litres.

Di vessel enta Nigerian waters say dem wan lift crude oil around Akpo deep offshore Bonny for midnight of 7 August 2022.

But di Nigerian Navy Maritime Domain Awareness facility sight dem and ask weda di VLCC get legitimate presence for di Akpo Field wey Total SA dey operate.

Dem later find out from di controlling agency, NNPC Ltd, say di vessel no dey cleared.

So dem deploy Nigerian Navy Inshore Patrol Craft, NNS GONGOLA, to investigate am.

Dem discover say di vessel no get both NNPC approval and Naval clearance and so dem instruct di vessel to proceed to Bonny anchorage for further instructions.

But captain of MV HEROIC IDUN no gree follow instructions and say dem tell am not to take directives from di Nigerian Navy Ship.

E go di direction of di Sao Tome and Principe maritime area.

Na as dem sail enter di Nigerian-Sao Tome and Principe joint Development zone into Equatorial Guinea, di Nigerian Navy go arrest am.

"Di Nigerian Navy assure Nigerians say with dia statutory responsibilities and from di strength of di strategic directives of Chief of Naval Staff, Vice Admiral Auwal Zubairu Gambo, di Service go maintain zero tolerance to crude oil theft and oda criminal activities for our maritime domain.

Rear Admiral Garba say e no happy with di level of economic sabotage oil theft don cause di kontri.

Di vessel currently dey held at Luba Anchorage in Bioko Island, Equatorial Guinea wia di kontri dey also conduct her own investigations while we await diplomatic procedures for handing over to di Nigerian Navy." E add.

'False piracy alarm by MV HEROIC IDUN na slap on Nigeria'

No be only say dis MV HEROIC IDUN wan kolobi oil comot Nigeria dem even report Nigerian Navy vessels say, dem be

pirates.

Rear Admiral Saidu Garba na im reveal dis one say, di Captain broadcast false piracy attack call to IMB Piracy Reporting Centre to mislead mariners say NNS GONGOLA na pirate vessel and to forge alibi for dia desperate action.

Di Chief of Policy and Plans NHQs say dis false information na slap on di integrity and reputation of Nigeria. becos

Since 2021, dem never record any pirate attacks within Nigerian maritime environment and dis naim make di International Maritime Bureau to comot Nigeria from di list of piracy prone countries for March 2022.

MV HEROIC IDUN dey among some very large vessels wey Nigerian Navy and oda security agencies don arrest for crude oil theft

Oda arrest of large vessels for oil theft

Di mata of oil theft don keep Nigerian navy busy over time.

For October 2022, Nigerian National Petroleum Company Ltd (NNPCL) and some Security Agencies on Monday destroy one of di biggest oil vessels dem arrest with crude oil wey dem allegedly tiff from Escravos Pipeline for Delta State, Southern Nigeria.

Dem arrest di vessel, MT Deinmo, with IMO number 7210526, last week for di Niger Delta creeks with seven crew members on board.

Na di private Security outfit Tantita security wey ex-militant leader, Government Ekpemupolo, (alias Tompolo) own and wey di NNPCL dey use do pipeline surveillance, na im catch di vessel wey bin dey loaded with di stolen crude oil.

Dem catch dem as dem dey pump di crude directly from di Escravos Pipeline into dia vessel for Warri South West LGA, Delta state and dem don hand over di arrested crew members to di Joint Task Force JTF for 3 Battalion Nigerian Army, Effurun near Warri.

Di matter of crude oil theft na one ogbonge challenge wey dey worry di Nigeria economy as dat na di main revenue earner for di kontri wey dem even dey use plan di annual national budget.

Crude oil theft don reduce di production capacity wey di Organisation of Petroleum Exporting Countries OPEC give Nigeria, wey also don negatively affect di revenue of di kontri.

Dis join with di bad effect e get on environmental pollution wey be say now most of di aquatic life don spoil finish and many rivers for di Niger Delta don spoil finish.

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Gender-Based Violence

Iranian Women's Demands for Freedom Must Be Heard (Human Rights Watch) By Rothna Begum
November 16, 2022

The current protests gripping Iran show no signs of abating. More than forty days since the death of Iranian Kurdish woman Mahsa Amini—who died after being arrested by Iran's morality police for breach of the country's strict dress code—the wave of fury unleashed at compulsory hijab laws, security forces' brutality, and wider government repression continues to rage.

This uprising has been different. Men and women of various ethnic backgrounds have marched under the banner of women's rights. Across Iran crowds have shouted the women's movement chant in both Kurdish "Jin, Jian, Azadi!" and in Farsi "Zan, Zendagi, Azadi!," which means "Woman, Life, Freedom!," understanding that freedom for women means freedom for all.

In recent weeks, we have seen courageous schoolgirls and students at universities take the helm: raising up their scarves, marching through streets, and chasing off government officials. But the crackdown has resulted in mass arrests and,

reportedly, killings of hundreds of people, including girls.

The demands are for fundamental change, and it is no surprise that girls and young women are on the front lines. Jina, Mahsa's Kurdish name, was only 22 when she died in Iranian police custody, and has come to symbolize the injustice of the state's restrictive rules for women. As girls, they are required to wear the hijab upon reaching puberty. As women, they continue to be denied their choice of dress which impacts their right to take part in all aspects of public life including study, work and even leaving their home.

They may find, as Jina did, that they can be arrested simply because a morality police official considers that the way they wear the hijab is not "proper." They can be fined or hauled into detention to be "educated," beaten, harassed, and, if they are deemed to have protested against the dress code, even sentenced to prison.

Women have been fighting against compulsory dress code for decades and are now openly defying it as an act of resistance by simply going out to live their lives without the hijab. While the dress code is the most visible form of discrimination, it is just one aspect of the systemic discrimination they face.

The economic crisis that predated this uprising has pushed many in Iranian society to the margins of poverty, affecting women disproportionately. Iran's laws and policies discriminate against women's access to employment including by restricting the professions women can enter into and denying equal benefits to women in the workforce. Over 50 percent of Iran's university graduates are women, but women's unemployment rate is more than double that of their male counterparts—a troubling trend that has only widened since the Covid-19 pandemic.

Indeed, women's labor force participation in 2019 was barely 18 percent, and fell to 14 per cent in 2020. Men's participation, by contrast, was 72 per cent in 2019, falling to 70 per cent in 2020. In 2017, Human Rights Watch found that employers routinely advertise jobs for men over women, and some require written consent from husbands and fiancés, with no law to sanction them for such outright discrimination.

Instead of dealing with women's economic struggles and their unequal access to opportunities to shape their own lives, Iranian authorities are trying to force women to marry earlier and have more children to increase the national population. Where the government once received international accolades for promoting family planning, women today are contending with severe limitations on their access to sexual and reproductive rights. A population law passed last November outlawed sterilization and free distribution of contraceptives in the public health care system unless a pregnancy threatens a woman's health, and further limited access to safe abortion.

The same law provided incentives for early marriage such as interest free loans to those who marry at 25 and younger. With many families being driven into poverty, they may force girls and women into marriage earlier to have one less person to feed. The government's own reports show child marriage is on the rise. Iran's civil code provides that girls can marry at 13 and boys at age 15, as well as at younger ages if authorized by a judge.

Once married, girls and women often face further abuse. Iran's laws grant husbands significant control over their wives' lives. Under the Civil Code, the husband has the right to choose where they live and he can prevent his wife from having certain jobs if he deems them against "family values." Under the Passports Law, a woman needs her husband's permission to obtain a passport and travel outside the country.

Iran does not have policies in place to prevent abuse, protect women, and prosecute domestic violence, despite increasing reports of horrific femicides and women risking their lives to escape abuse. In many femicide cases, prosecutors, and judges often do not press for adequate penalties.

More than 40 years ago, Iranian authorities sought to marginalize women from public life. Despite discrimination, Iranian women are highly educated and have broken barriers in many professional fields. Women have pushed against discriminatory laws and policies, like the dress code and sexual harassment, achieving some reforms. But they have faced arrest, torture, imprisonment, and even death sentences. Notably, Iranian authorities have imprisoned the leaders of the "One Million Signatures" campaign, a pivotal women's rights campaign that began in 2006 seeking a million signatures from Iranians supporting gender equality.

Iranian girls and women are protesting discriminatory rules and calling for wholesale change to achieve their fundamental rights and freedoms. The Iranian authorities – and the world – should listen.

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Commentary and Perspectives

US Delegation Makes Historic Visit to International Criminal Court (Human Rights Watch) By Esti Tambay
November 7, 2022

A bipartisan United States congressional delegation recently visited The Hague, home to the International Criminal Court (ICC). The trip was unprecedented given the complicated and sometimes hostile history of the United States toward the ICC. The trip could help pave the way for a better US relationship with the court in the future.

This was just the latest development suggesting US lawmakers might begin to tentatively accept a court many had vigorously opposed, with lawmakers from both parties speaking favorably about the court's investigation in Ukraine. Senator Lindsey Graham, a Republican, led a unanimous Senate resolution supporting "any investigation" into crimes "levied by [Russia's] President Vladimir Putin," which would include the ICC investigation. He also met with the ICC prosecutor during a visit to Washington earlier this year.

US policy continues to object to the court's jurisdiction over US citizens and nationals of other non-ICC member countries. This objection, which lacks a basis in international law, should be set aside. In the meantime, Congress should follow through on renewed interest in the court with legislative fixes that will open the door to future meaningful cooperation with the court across the breadth of its global mandate.

Some of the obstacles to greater practical US cooperation with the ICC stem from the amended American Servicemembers' Protection Act (ASPA), which US officials have interpreted to allow the US to provide limited support to the ICC only in specific cases when a foreign national is "accused of" a serious international crime. While a full repeal of ASPA is unlikely, key revisions should clarify that the US can aid ICC investigations early on, well before there are any "accused." Other fixes would allow ICC investigators into the US to conduct investigations related to crimes occurring in Ukraine, as proposed by Sen. Graham and Representative Bill Keating, a Democrat, although that fix should extend to crimes committed elsewhere. Legislation should also broaden the types of assistance the US can provide, as envisaged in the draft Senate appropriations bill.

Political rhetoric by lawmakers supporting the ICC's Ukraine investigation and their interest in the court demonstrated by this trip are important developments. To carve a new constructive path, US lawmakers need to adopt genuine commitments to cooperate with the world's court of last resort.

How Egypt Doubled Down on Fossil Fuels by Stifling Dissent (Human Rights Watch) By Tirana Hassan and Richard Pearshouse
November 9, 2022

Egypt began hosting the United Nations climate change summit (known as COP27) this week. In preparatory meetings, its government has criticized the hypocrisy of high-emission countries that are failing to adequately support developing countries in facing climate impacts. That criticism is entirely justified.

But the undeniable failures of high-emission countries do not alleviate the need to scrutinize Egypt's own environmental record. There's a very real risk that won't happen during the climate talks in the Sinai Peninsula resort town of Sharm el-Sheikh. That is not because there hasn't been independent environmental activism in Egypt but because Egypt's repressive government has severely curtailed that movement as part of its efforts to silence nearly all civic and political activism, independent media, and freedom of speech.

The fact that crucial environmental issues can't be openly debated is obviously a huge problem for Egypt. But the history of Egypt's fierce domestic activism against coal should also be a point of sober reflection for diplomatic delegations at COP27, especially those who are already under the illusion that progress on climate ambition requires silence on Egypt's human rights crisis.

Egypt burns coal for electricity toward industrial production. Fossil fuels—coal but also oil and gas—account for around 90 percent of total energy production, and Egypt plans to significantly increase oil and gas production. But within Egypt, there's effectively no public campaigning against the country's own fossil fuel production. It's simply too dangerous.

That has not always been the case. In 2012, Egyptians Against Coal emerged as a broad-based campaign in response to the government's interest in reincorporating coal into the country's energy mix. In many ways, it was the high-water mark of

modern Egyptian environmentalism.

Following the country's 2011 revolution, Egypt experienced salient economic challenges—and energy shortages. In 2013, then-President Mohamed Morsi's post-revolution government, eager to avoid even more regular domestic blackouts, halved the gas supply to cement factories, which consumed around 20 percent of domestic gas supplies.

Egypt's cement industry, one of the largest in the region, began to lobby hard for alternatives. It wasn't just any large business sector: The government and military have long owned many of the factories—although how much is hard to pin down.

It was at this point that a group of 10 mostly environment- and public health-focused organizations created Egyptians Against Coal. The movement harnessed long-standing concerns over air quality, which was already notoriously poor around many cement factories in Greater Cairo, Alexandria, and other cities. An Egyptian Environment Ministry report estimated that coal use in the cement industry could cost Egypt \$3 billion to \$5 billion a year in health costs, primarily from respiratory diseases.

Activists were also motivated by the opaque nature of the cement industry's advocacy. "Coal for them, the bill on us" went one protest slogan, alluding to the sense that only a few wealthy businesspeople would benefit from an arrangement that would hurt many individuals.

From 2012 until mid-2014, the campaign enjoyed considerable success. It was supported by a wide variety of actors—from tourism operators concerned about potential damage to the Red Sea coastline, where some cement factories are located, to the powerful Egyptian Medical Syndicate and grassroots activists across the country. Leading environmentalists appeared regularly on TV and even featured positively in state-owned daily newspapers.

In July 2013, the military forcibly removed Morsi. Egyptians Against Coal also had the support of Laila Iskander, who was appointed environment minister by the interim government that month. A longtime environmentalist, she was the cabinet's lone anti-coal voice. She commissioned and disseminated a report on coal's health consequences, which was later removed without explanation from the ministry's website.

The government of Abdel Fattah al-Sisi, who had been the defense minister under Morsi (and became president in June 2014) began to relentlessly persecute critics, dissidents, journalists, and human rights and political activists. Egypt's environmental movement was not spared.

As the government intensified its crackdown on independent civil society, freedom of expression, and judicial freedom, the anti-coal campaign began to wither away. "We had some prominent people who showed up on TV to speak against coal, but suddenly they started to quit the campaign," an environmental activist told Human Rights Watch. "One was harassed by security at the airport, so he quit."

A domestic legal case against coal ground to a halt. Mentions of Egyptians Against Coal disappeared from media. And public protests, previously energetic and frequent, became too dangerous.

In April 2014, the Sisi government decided to permit coal use for heavy industry. Soon after, Iskander was removed and replaced by Khaled Fahmy, who also served as Iskander's predecessor. Some activists referred to him as the "minister of coal" due to his strong support for the fuel during his first stint in government.

Fast forward to today. Egyptian authorities effectively prohibit journalists and advocates from working on sensitive environmental issues. They are barred from studying the impact on local communities and the environmental toll of fossil fuel operations, including production, refining, and export operations. They are also barred from determining the impact of Egypt's vast and opaque military business activities—such as destructive forms of quarrying, water bottling plants, and some cement factories—as well as of so-called national infrastructure projects—such as a new administrative capital—many of which are associated with the president's office or the military.

Meanwhile, Egypt has taken few steps to move away from the production and use of fossil fuels and is instead increasing the production of both oil and methane gas, with the hopes of becoming a leading methane gas exporter. According to the Climate Action Tracker, Egypt is responsible for over a third of total methane gas consumption in Africa and is the continent's second-largest producer. The organization rates Egypt's overall climate targets and policies as "highly insufficient."

For those attending COP27, the summit presents a clear opportunity to scrutinize the host government's own climate rhetoric and reality. But there is also an obligation to urge Sisi to release his chokehold on the country's freedoms of assembly, association, and expression during COP27 and afterward.

The debate among diplomats at COP27 over whether ambitious climate policies or protecting human rights should come first presents a false dichotomy. Robust climate policies require robust engagement from civil society. Climate action needs more critical voices, not fewer.

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Aiding and Abetting

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WORTH READING

'Complete Labelling' and Domestic Prosecutions for Crimes against Humanity

Javier Eskauriatza

November 18, 2022

Fair labelling is an established principle of criminal justice that scrutinises the way that States use language in labelling criminal defendants and their conduct. I argue that "complete labelling" is a related but separate principle which has not received any explicit attention from commentators. Whereas fair labelling focuses, usually, on the protection of defendant's rights, the principle of complete labelling explains and justifies whether the labels attached appropriately represent the nature and scale of the wrong done to the community. As a case study, I apply this lens in the context of regional (U.S./Mexican) criminal justice responses to crimes against humanity perpetrated by "drug-cartels" in the context of the Mexican Drug War. Successive administrations in Mexico and the U.S. have tended to charge cartel leaders (and/or their political supporters) with so-called "transnational crimes" (for example, drug-trafficking, money-laundering, bribery/corruption). This is despite the fact that many of the most powerful cartels have controlled territory, attacked entire towns, carried out acts of terror, and disappeared thousands of people. The principle of complete labelling is useful in normative terms because it helps in the critical examination of a State's prosecutorial practices, exposing problems that might otherwise be missed. In relation to the case study discussed, for example, a focus on complete labelling helps to expose the regional prosecutorial policy as either an unjustified exercise in selectivity or, at worst, an expression of collective denial. After considering certain counteracting reflexions which speak to some of the foundational anxieties of international criminal justice, the article concludes that domestic prosecutions for crimes against humanity in the context of drug-cartels may, sometimes, be justified.

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