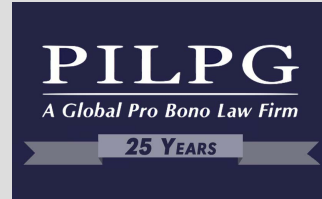




SCHOOL OF LAW  
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War Crimes Prosecution  
Watch



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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 [warcrimewatch@pilpg.org](mailto:warcrimewatch@pilpg.org) and type "subscribe" in the subject line.

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## AFRICA

## NORTH AFRICA

## Libya

**Libya summit holds promise and risks for Biden administration (The Washington Post)** By Missy Ryan and Cleve R. Woodson Jr.  
November 10, 2021

**When world powers gather to discuss Libya’s future in Paris this week, they will cap years of global diplomacy aimed at ending a decade of post-revolution conflict and offer the Biden administration a chance to show it can advance solutions to some of the world’s most intractable problems.**

But the Friday summit, a key moment in Vice President Harris’s third official overseas trip, also poses substantial risks for the United States and its allies amid warnings that Western nations could stoke renewed conflict, or even bloodshed, by pushing for a vote before Libya is ready. “The administration is on the horns of a dilemma,” said an individual familiar with the election effort, who like others spoke on the condition of anonymity to be candid. “Pushing for elections may precipitate violence, but it is equally possible a delay could drive violence. What is needed is a clear-eyed approach that recognizes Libyans’ right to elect their government, while acknowledging the necessary political agreement to ensure a free and fair election appears not to be in place.”

Harris will lead the U.S. participation in the high-level summit, jointly hosted by France, Italy and Germany. The encounter is expected to yield a renewed call for Libya, despite procedural problems and political feuding, to hold its first national elections in seven years as planned on Dec. 24.

Libya a decade on: At the mercy of foreign powers

Far from the heady hopes of the 2011 revolution that ousted longtime strongman Moammar Gaddafi with U.S. and NATO support, Libya has been consumed by internal conflict that has effectively divided the nation, impaired oil production and

ignited a proxy war involving advanced weaponry and tens of thousands of fighters from Turkey, Russia, Syria and other countries.

While Libya does not figure among the Biden administration's top foreign priorities, officials say they have redoubled their diplomacy, for example naming a Libya envoy, in hopes that ending the conflict will make for a less combustible region on Europe's southern edge.

The administration has also sought to put an end to the ambiguity that characterized U.S. policy on Libya under President Donald Trump, whose administration at times signaled favor for a U.N.-backed interim government based in the western city of Tripoli, and at times for its rival, a Russian-supported eastern faction dominated by renegade general Khalifa Hifter.

While a tenuous calm has taken hold, thousands of foreign fighters, including Turkish government forces who were invited in by interim authorities in Tripoli, and Russian mercenary fighters aligned with powers in the east, remain, suggesting that clashes could flare anew. Russia will send its foreign minister to the summit, but Turkey has said it won't participate because of the expected presence of Greece and other nations.

Now, the United States, like some of its European peers, hopes the planned presidential and parliamentary vote can unify Libya under a single authority and start healing its wounds.

Libyans have not coalesced around a national constitution, largely seen as one step on the path to political stability. The head of the national electoral body meanwhile has suggested that presidential and parliamentary elections might be held separately.

Six weeks out, it's not even certain who will run for president, but candidates are expected to include Abdul Hamid Dbeibah, who heads the interim government. Other contenders could include Hifter, an American citizen who faces U.S. lawsuits over alleged war crimes, and Saif al-Islam Gaddafi, the former dictator's son who is wanted by the International Criminal Court for alleged crimes against humanity.

Many advocates fear that holding the elections under such conditions could set the stage for a prolonged — and possibly violent — period of contestation by those who do not prevail. Libya since 2011 has been plagued by successive disputes over the legitimacy of various state actions and bodies, often without any widely accepted arbiter to resolve them.

A senior U.S. official, however, said the Biden administration had assessed the risks associated with delaying the elections were greater than holding them under current conditions. He noted that Libya had enjoyed a period of relative calm while election preparations have taken place. "There was a kind of holding your breath on the expectation that Libya is moving forward with its political transition," the official said. "If you take that election away, I would certainly be concerned about the risks of a return to violent conflict."

It's unclear whether international observers will be able to monitor the polls if and when elections occur.

U.S. appointment of Libya envoy signals intensified push to end post-revolution instability Ben Fishman, who worked on Libya at the White House during the Obama administration and is now a senior fellow at the Washington Institute for Near East Policy, said the appeal of elections was understandable but said it was equally important to have made the right technical preparations and to have in place political agreements to accept the results. "Everyone wants to see Libyans exercise their rights to vote," he said. "The question is when and how."

The European visit is a key moment for Harris, who is using the five-day trip to boost her foreign policy bona fides at a time when her party's fortunes seem shaky at home. November has been a roller coaster for Democrats, marked by electoral losses in Virginia and legislative success on President Biden's infrastructure plan.

On Wednesday, Harris met with French President Emmanuel Macron, part of a White House attempt to smooth things over with Paris after the recent spat over a submarine sale. Harris has used her foreign trips to highlight issues of gender and racial equity. In a statement, she said she was attending the Libya conference "to demonstrate our strong support for the people of Libya."

Her performance in previous travels has been uneven. In June, she visited Guatemala and Mexico City as part of the administration's attempt to address the root causes of migration. But the trip became a prime opportunity for critics to tie her to the crisis at the U.S.-Mexico border. Her second foreign trip, to Singapore and Vietnam, was overshadowed by the chaotic U.S. withdrawal from Afghanistan.

Ahead of the summit in Paris, U.S. officials describe strong support among Libyans for holding the votes. The biggest challenge, observers and officials agree, will be ensuring the departure of the foreign forces whose presence has significantly increased bloodshed in Libya in recent years. The Biden administration thinks elections should go ahead in large part because an elected government may have greater "moral weight" to force those foreigners out, the U.S. official said.

“That government will be in a much stronger position and will have some kind of more heft to assert the type of security-military relationships it wants with foreign actors in a way that the interim government now is just not able to do,” he said. While European powers support that goal, one Western diplomat cautioned that Libyans must come together to agree on what will make for a legitimate election if the vote is to have the intended effect.

“Particularly in this last stage before the showdown, we really hope that they maintain the pressure,” the diplomat said. “Ultimately, it’s up to them.”

### **Human rights group questions fair elections in Libya (Associated Press)**

November 11, 2021

#### **A leading rights group questioned Thursday whether Libyan authorities can hold free and fair elections as long as the rule of law, justice and respect of human rights remain absent.**

Human Rights Watch’s statement came on the eve of an international conference on Libya in Paris where world leaders and Libya’s neighbors are pushing for elections to be held as scheduled Dec. 24.

“The main questions leaders at the summit should ask are: can Libyan authorities ensure an environment free of coercion, discrimination, and intimidation of voters, candidates, and political parties?” the New York-based rights group said in its statement.

The group criticized what it said were Libya’s restrictive laws that undermine freedom of speech and association, as well as the presence of armed groups accused of intimidating, attacking and detaining journalists and political activists.

Libya has been engulfed in chaos since a NATO-backed uprising toppled longtime dictator Moammar Gadhafi in 2011. He was captured, and two months later, killed, by an armed group.

The oil-rich country was for years split between rival governments, one based in the capital, Tripoli, and the other in the eastern part of the country. Each side is backed by different foreign powers and militias. The interim government now in charge was appointed in February after months of U.N.-backed negotiations to lead the country through elections.

HRW called on Libyan interim authorities to revoke all restrictive laws ahead of the elections and to show “a clear commitment” to holding accountable local and foreign fighters who committed crimes during the Libyan civil conflict.

“The upcoming elections are a chance for a much needed reset in Libya and international leaders should take the opportunity to ensure that when Libyans go to vote, they have the best chance to elect their new president and parliament in a free and fair way,” read the statement.

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## **CENTRAL AFRICA**

### **Central African Republic**

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

#### **Spare no effort in probe into attack against blue helmets in CAR: Guterres (UN News)**

November 5, 2021

**UN Secretary-General António Guterres has urged authorities in the Central African Republic (CAR) to spare no effort in investigating the “unacceptable attack” earlier this week by the presidential guard against a vehicle from the UN mission in the country, MINUSCA.**

Ten unarmed Egyptian “blue helmets”, who were newly deployed to the mission, were injured in the incident, which occurred in the capital, Bangui, on Monday.

The peacekeepers had arrived at M’Poko International Airport as part of the periodic rotation and deployment of troops in the country. They were heading to their base when they came under heavy fire from the presidential guard, MINUSCA said in a statement that day.

While attempting to withdraw from the area, located some 120 metres from the presidential residence, their bus accidentally struck and killed a woman bystander.

#### Strong condemnation

The UN chief has strongly condemned the attack, his Spokesperson Stéphane Dujarric said in a statement issued on Thursday.

“The Secretary-General emphasizes that attacks against United Nations peacekeepers may constitute a war crime,” said Mr. Dujarric.

“He calls on the Central African authorities to spare no effort in investigating and promptly holding accountable the perpetrators of this unacceptable attack.”

The Secretary-General wished a speedy and full recovery to the wounded peacekeepers and also expressed his deepest condolences to the family of the civilian killed during the incident.

Mr. Guterres also underlined his gratitude to the people and Government of Egypt for their contribution to peace and stability in the CAR.

More than 14,000 uniformed personnel are serving at MINUSCA, which has been in the country since 2014, following deadly violence between mainly Christian and mainly Muslim militias.

The Secretary-General also reaffirmed the UN’s solidarity and continued support to the CAR.

### **Central African Republic Rebel Group Accused of Deadly Village Attack (Eyewitness News)**

November 9, 2021

#### **The alleged attack tests a truce declared last month by President Faustin Archange Touadera that he said aimed at fostering a national dialogue.**

A rebel group attacked a village in northwest Central African Republic, killing at least two government troops and a civilian, opposition groups said on Tuesday.

The alleged attack tests a truce declared last month by President Faustin Archange Touadera that he said aimed at fostering a national dialogue.

A 12-party opposition alliance called COD-2020 said the 3R armed group last Thursday attacked the village of Letele in Bocaranga district, about 500 kilometres (300 miles) from the capital Bangui.

“COD-2020 condemns this violent action by the 3R... (and) urges the president to take the appropriate practical measures so that the ceasefire is respected by both sides,” it said in a statement.

The government did not immediately reply to an AFP request for comment.

Touadera on October 15 declared a “unilateral ceasefire” after pro-government forces made gains against rebel groups that previously controlled some two thirds of the territory.

The main armed groups said they would also honour the truce.

Several rebel groups have accused Touadera’s forces of violating the ceasefire, although it is difficult to verify the allegations.

Touadera has been bolstered by the arrival of hundreds of Russian paramilitaries and Rwandan troops, who rushed to the country last December to thwart a rebel advance on Bangui.

Pro-government forces then went on the offensive, recovering all of the major towns and pushing the rebels back into forest sanctuaries.



The CAR is one of the poorest countries in the world, despite having mineral treasures that range from gold and diamonds to copper and uranium.

The former French colony spiralled into civil conflict in 2013 when the then president, Francois Bozize, was ousted by a rebel coalition drawn largely from the Muslim minority.

The coup triggered a bloodbath between the Seleka coalition and so-called "anti-Balaka" self-defence forces, mainly Christian and animist.

French intervention and the deployment of UN peacekeepers helped dampen the violence, opening the way to Touadera's election. He was returned to office after disputed elections last December.

Despite their losses, the rebel groups, often claiming to represent the interests of specific ethnic groups, remain powerful.

**U.S. confronts Russia as U.N. renews C.Africa peacekeepers (Reuters)** By Michelle Nichols  
November 13, 2021

**Russia and China abstained in a U.N. Security Council vote on Friday to extend a U.N. peacekeeping mission in the Central African Republic (CAR) as the United States called on Russia to investigate accusations of abuse by Russian contractors in the country.**

Russia has sent hundreds of military instructors to the CAR - a gold- and diamond-rich country of 4.7 million people mired in violence - to train the army, police, and national gendarmerie as Moscow works to expand its influence in Africa.

Earlier this year, U.N. experts accused the Russian instructors and CAR troops of targeting civilians with excessive force, indiscriminate killings, occupation of schools and large-scale looting. The Kremlin has denied accusations.

"We would like to call attention to the use of the phrase 'all parties to the conflict' in the resolution, which in our view, includes these Russian contractors - they must respect international humanitarian law and it is imperative that they respect the human rights of all Central Africans," said deputy U.S. Ambassador to the United Nations Richard Mills.

Mills said Washington called on both the Central African Republic and Russian governments to fully investigate accusations of abuse and to hold those responsible accountable.

"Again and again, we hear from a number of council members unfounded egregious accusations regarding our specialists that we have rejected on several occasions," deputy Russian U.N. Ambassador Anna Evstigneeva said.

"If there have been violations, then they should be investigated primarily by the national authorities in the CAR. We are in bilateral contact with them and we coordinate work with them," she told the council.

While Russia and China said they support the U.N. peacekeeping operation, which was established in 2014, they abstained because the Security Council resolution did not reflect concerns expressed by the CAR government.

The relationship between the CAR government and the U.N. mission, known as MINUSCA, is strained. MINUSCA has accused security forces of repeatedly violating an agreement between them. MINUSCA has some 12,000 troops and 2,000 police.

**Central African children in crosshairs, UN calls for their protection (UN News)**  
November 15, 2021

**Children in the Central African Republic (CAR) have suffered a spike in grave violations since the end of 2020, according to a new UN report on the situation in the country, issued on Monday.**

The report on children and armed conflict in CAR highlighted that between 1 July 2019 and 30 June 2021, 1,280 children suffered one or more grave violations, with girls accounting for more than 40 per cent of all victims.

While most were committed by armed groups, five per cent were attributed to the national armed forces, FACA.

"The security situation in the Central African Republic has rapidly worsened in recent months and children are paying a high price for these renewed hostilities", said Virginia Gamba, UN Special Representative for Children and Armed Conflict.

"I call on the signatories of the Political Agreement to uphold their commitments including those pertaining to children and urgently put in place concrete measures to protect children from harm and prevent further violations".

## Recruitment, rape and denial

With some 845 children affected, their recruitment and use were the most prominent of violations.

Following was rape and other forms of sexual violence, where at least 249 girls fell victim, although the actual scope is likely much worse as the crime is vastly underreported, usually for fear of reprisal, stigma, lack of accountability and support for victims and survivors.

The denial of humanitarian access was the third most verified violation, with 226 incidents.

“The situation is becoming increasingly difficult for humanitarian actors, who are struggling and facing growing dangers to reach the most vulnerable ones, including children, in dire need of life-saving assistance”, said Ms. Gamba.

As of 30 June 2021, 2.8 million people have needed humanitarian assistance and over 717,000 had been internally displaced in the country, based on figures from the UN humanitarian aid office, OCHA.

## A heavy toll

Violence in the country continues to take a heavy toll on children.

The report reveals that 155 boys and girls were verified killed or maimed, most by crossfire between parties to the conflict; and 116 were abducted, more than half of them girls.

Attacks on schools and hospitals are also concerning, as is the impact of conflict and COVID on education and health systems as well as the growing use of military control of schools.

“These incidents deprived children of attending classes or forced them to enrol in different schools”, explained the Special Representative.

“I urge all parties to vacate all schools and hospitals that continue to be used, to respect the civilian character of these facilities and to put in place swift and effective measures to prevent this practice in line with the commitment made to the Safe School Declaration that the country has endorsed”, she added.

We need to stand ready to respond to the urgent needs of children – UN Special Representative Progress amidst challenges

Some progress has been made, including strengthened national legal framework through the promulgation of the 2020 Child Protection Code – with provisions that criminalize the six grave violations of killing and maiming of children; recruiting or using them in armed groups; denial of humanitarian access for children; their abduction; attacks on schools or hospitals; and rape or other grave sexual violence.

Also, UN advocacy with armed groups on the ground has led to the release of 653 children and an additional 130 who have been separated since last June.

Despite this, impunity remains high.

The Special Representative urged the authorities to bring perpetrators to justice and to make full use of the recently promulgated Child Protection Code.

## Protect children during COVID recovery

The COVID-19 pandemic has also weakened protection mechanisms in CAR while school closures have heightened children’s vulnerability, particularly surrounding recruitment and sexual violence.

“As countries around the world continue to focus on their response to the pandemic and rollout vaccination programmes, we need to stand ready to respond to the urgent needs of children, particularly in the regions where the situation is the most critical”, said Ms. Gamba, calling on the Government and parties to the conflict to develop a national strategy to prevent grave violations against children.

**Why 'decades of developments in African human rights law' is at risk (News24)** By Lenin Ndebele  
November 15, 2021

**African Union (AU) member states have been blamed for putting politics ahead of human rights as the last African Commission on Human and Peoples' Rights (ACHPR) session of the year gets under way in Banjul, Gambia.**

The ACHPR's 69th ordinary session, starting on Monday, comes at a critical time with pockets of upheavals across the continent, particularly the conflict in Ethiopia taking centre stage.

Carine Kaneza Nantulya, the Africa advocacy director within the Africa division at Human Rights Watch, in a statement, said decades of hard work in human rights risk being undermined.

She said: "The growing gap between the AU political organs and African human rights institutions is threatening to undo decades of developments in African human rights law."

She added that a people-centred human rights policy with adherence to country focused recommendations should be adhered to by the AU and its member states.

The United Nations High Commission for Refugees (UNHCR) said because of conflict in the first half of 2021 the number of refugees had increased on the continent.

Of note, the biggest figures were in the Central African Republic (71 800), South Sudan and Nigeria (20 300).

Filippo Grandi, the UN High Commissioner for Refugees, said the international community should increase support in poor countries especially in Africa.

"The international community must redouble its efforts to make peace, and at the same time must ensure resources are available to displaced communities and their hosts. It is the communities and countries with the fewest resources that continue to shoulder the greatest burden in protecting and caring for the forcibly displaced, and they must be better supported by the rest of the international community," he said.

Ethiopia's Tigray region, according to that country's Human Rights Commission, saw the killing of more than 150 civilians between July and August this year in the Amhara region on suspicion of being informants or offering aid to federal forces.

Human Rights Watch (HRW) a global think tank specialising in human rights issues said the AU could have acted early to address the situation in Ethiopia.

However, it noted a positive attitude although a bit late.

"In this regard, the AU Peace and Security Council's decision to finally call on the AU chairperson to provide periodic updates on the crisis - while belated - offers an opportunity for the AU chairperson to publicly report on regional efforts to avert further atrocities and hold those responsible accountable," HRW said in a statement.

The ACHPR's 69th ordinary session ends on 6 December.

### **At least 11 killed as CAR troops clash with rebels (Al-Jazeera)**

November 16, 2021

#### **At least 11 civilians have been killed and several others wounded during fighting between rebels and soldiers in northwestern Central African Republic, the local prefect has said.**

Rebels "infiltrated the weekly market at around 10am (09:00 GMT) on Sunday" near Mann, a town about 600km (370 miles) northwest of Bangui, Dieudonne Yougaina, prefect of Ouham-Pende, told the AFP news agency on Tuesday.

"Central African forces intervened ... and the exchange of fire left 11 civilians dead, nine men and two women, as well as eight wounded," he said.

Yougaina blamed elements of the 3R (Return, Reclamation, Rehabilitation) rebels. The 3R, which is mainly composed of fighters from the Fulani ethnic group, is one of the most powerful armed groups in the country.

Last December, they joined in the rebel coalition that sought to overthrow President Faustin-Archange Touadera and prevent his re-election.

Touadera declared a unilateral ceasefire in the fight against the rebels on October 15, in order to facilitate the opening of a national dialogue. The main armed groups had said that they would respect the truce.

On November 9, several opposition parties denounced a ceasefire violation by 3R members after an attack on a village in the northwest that left two soldiers and a civilian dead.

Ranked the second-least developed country in the world by the United Nations, the Central African Republic was plunged into a bloody civil war after a coup in 2013.

The conflict has calmed considerably during the past three years, although large swaths of territory remain outside central government control.

A week before the December 27, 2020, presidential election, six of the most powerful armed groups that together held most of the country at the time formed the Coalition of Patriots for Change and launched an offensive to prevent Touadera's re-election.

Government forces supported by Rwandan soldiers and hundreds of Russian mercenaries have retaken the towns and much of the two-thirds of the country that the rebels had controlled.

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## **Sudan & South Sudan**

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

**Sweden charges 2 oil executives for war crimes in Sudan (Associated Press)** By Jan M. Olsen  
November 11, 2021

**Sweden has charged two executives of a Swedish oil exploration and production company for complicity in the military's war crimes in Sudan from 1999 to 2003, including in its dealings with the country's regime to secure the company's oil operations in the African nation.**

The two, who were not identified by the Swedish Prosecution Authority, had "a decisive influence" on the business of Stockholm-based Lundin Oil AB in Sudan, the prosecutors said, adding one was indicted for complicity for the period May 1999-March 2003, and the other for the period October 2000-March 2003. Lundin Oil later became Lundin Petroleum and is now known as Lundin Energy.

From 1983 to 2005, Sudan was torn apart by a civil war between the Muslim-dominated north and Christian south. A separate conflict in Darfur, the war-scarred region of western Sudan, began in 2003. Thousands of people were killed and nearly 200,000 displaced.

A 2010 report by an activist group, the European Coalition on Oil in Sudan, alleged that Lundin Oil and three other oil companies helped exacerbate the war in southern Sudan by signing an oil exploration deal with the Sudanese government for an area the regime didn't fully control.

That led the Swedish prosecutors to open a criminal investigation into the company. Six years later, its chairman, Ian H. Lundin, and then CEO Alex Schreiber, were informed that they were the suspects of the investigation.

Lundin was the operator of a consortium of companies exploring site Block 5A, including Malaysia's Petronas Carigali Overseas, OMV (Sudan) Exploration GmbH of Austria, and the Sudanese state-owned oil company Sudapet Ltd.

Our "investigation shows that the military and its allied militia systematically attacked civilians or carried out indiscriminate attacks," Public Prosecutor Henrik Attorps said in a statement.

In a reaction, Lundin spokesman Robert Eriksson said the Swedish prosecutors decision to issue charges was "incomprehensible" and called the investigation "unfounded and fundamentally flawed."

"Both Ian and Alex strongly deny the charges, and we know that Lundin did nothing wrong. There is no evidence linking any representatives of Lundin to the alleged primary crimes in this case," said Eriksson, head of Lundin's media communications, said.

After the Sudanese military went into Block 5A in May 1999, Lundin Oil "changed its view of who should be responsible for the

security around the company's operations," the prosecution said, and added that the company requested that the military should now be made responsible for the security, knowing that this meant that the military would then need to take control of Block 5A via military force.

"What constitutes complicity in a criminal sense is that they made these demands despite understanding or, in any case being indifferent to the military and the militia carrying out the war in a way that was forbidden according to international humanitarian law", the Chief Public Prosecutor Krister Petersson said.

Eriksson said that Lundin operated in Block 5A "responsibly, as part of an international consortium, and in full alignment with the policy of constructive engagement endorsed by the United Nations, European Union and Sweden at the time."

The authority said that there also was a claim to confiscate an amount of 1.4 billion kronor (\$161 million) from Lundin Energy AB, which, according to the prosecutor, is the equivalent value of the profit of 720 million kronor (\$83 million) which the company made on the sale of the business in 2003.

"It is important that these serious crimes are not forgotten. War crimes are one of the most serious crimes that Sweden has an international obligation to investigate and bring to justice," Attorps said.

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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**

**Women kidnapped from Congo are suing Belgium's government for crimes against humanity (ABC News)** By Aicha El Hammar Castano and Guy Davies

November 7, 2021

**It was not until 2017 that Monique Bitu Bingi felt strong enough to tell the full story of what happened during her childhood in the Belgian-ruled Congo.**

Even her husband, who died years earlier, didn't know the full details. But her children, who suspected she'd suffered severe trauma, were aware of her recurring nightmares, a living testament to one of the darkest chapters of post-war colonial history.

Born to a Black Congolese 15-year-old and a white Belgian father, Bingi was snatched from her family by the colonial authorities when she was 4. Marriages between white Belgians and Black Congolese were illegal under a regime that saw biracial people as a "threat for white race supremacy and consequently a threat for the Belgian colony," Bingi's lawyer told ABC News.

In a rare acknowledgment of the crimes of Belgium's colonial past, then-Prime Minister Charles Michel apologized for the policy that formally separated biracial children, known as "metis," from their families and placed them into religious institutions. The Catholic Church had apologized for its role the year before, which saw thousands of children sent to Belgium when civil war broke out in Congo after it gained independence in 1960. Many are still unable to trace their lineage.

Bingi and four other biracial women are now suing the Belgian state for crimes against humanity, with the women seeking compensation of \$55,000. The other women in the suit -- Noelle Verbeken, Simone Ngalula Lea Tavares Mujinga and Marie-Jose Loshi – also were taken from their families in the 1950s and 1960s. The sum they seek is largely symbolic, but with it they hope to appoint an independent expert to evaluate the extent to which their upbringing constituted the "emotional destruction of a life." That, they hope, will be a source of hope for thousands of others who similarly suffered.

"In 2019, Charles Michel, PM of the Belgian government, apologized for the state role in taking thousands of babies from their mothers," Michele Hirsch, the group's lawyer, told ABC News. "But we are asking the state to go to take full responsibility for these crimes." That apology, for Bingi and for the other survivors, is "not enough," she said. "His apology was symbolic, but my life, our lives, are not symbolic. They destroyed us morally and physically."

The lawsuit comes at a time of growing pressure for the Belgian government to come to terms with its colonial history.

During the Black Lives Matter protests, sparked by the killing of George Floyd in the summer of 2020, statues of King Leopold I, who ruled the Congo as his private colony from 1885 to 1908, were defaced and emblazoned with Congolese flags. According to the historian Adam Hochschild, who wrote a renowned book on the topic, "King Leopold's Ghosts," millions died as the monarch exploited the country. In 1908, the country was renamed the Belgian Congo and ruled as a colony until 1960. The country served as the setting of Joseph Conrad's 1899 novel "Heart of Darkness," which detailed some of the brutal aspects of colonial rule -- forced labor, torture, starvation and disease.

In a letter sent last year to President Félix Tshisekedi of the Democratic Republic of Congo, Belgium's King Phillippe expressed his "deepest regrets" for the "acts of violence and cruelty" in the Belgian Congo, although he stopped short of a formal apology.

A U.N. report into race relations in Belgium, authored in 2019, claimed that Belgium's colonial past could be directly seen to this day. The national curriculum in particular was roundly criticized, as 1 in 4 children reportedly were unaware Congo was once a Belgian colony.

"There is clear evidence that racial discrimination is endemic in institutions in Belgium," the report said. "Civil society reported common manifestations of racial discrimination, xenophobia, Afrophobia and related intolerance faced by people of African descent. The root causes of present day human rights violations lie in the lack of recognition of the true scope of violence and injustice of colonization."

While two months after that Michel went on to apologize for the colonial policy that saw Bingi and so many others separated from their families, at the time of the report he suggested the U.N.'s conclusions were "strange."

'Sin children'

The fragments of life Bingi remembers with her mother are of a loving home in the village of Babadi, before she was ripped away by a Belgian state agent to an orphanage more than 70 miles away. She described life at the Katende Catholic mission as "a nightmare."

"I was not white, I was not Black, they told us we were evil children," she said. "It was an abduction, a real kidnapping. We were not orphans. They destroyed something in us forever. It is still in me."

As a biracial person, Bingi was designated a "mulatto" by the Belgian state, a group derided as "Sin Children."

When Congo declared independence from Belgium in 1960, years of violence and civil war followed. Bing was just 10 years old.

At the time, the Belgian state empowered the Catholic Church to evacuate children from the former colony. But in the chaos many were abandoned at an airport, captured again by a militia, and subjected to sexual abuse before they were finally rescued.

Legal documents claim the children were abandoned by both the state and the church after Congo declared independence, and some were sexually molested by militia fighters.

"The right to reparations for past atrocities," according to the 2019 U.N. report, "is not subject to any statute of limitations."

A judgment in the lawsuit is expected Nov. 11.

### **Congo-Kinshasa: First Trial in Kasai for Crimes of the Kamuina Nsapu Rebellion (All Africa)** By

Ephrem Rugiririza

November 8, 2021

**For the first time in the Democratic Republic of Congo's Kasai province, a former militia leader was on October 30 convicted of war crimes by Congolese military justice. This took place in one of the villages set on fire in 2017 during the conflict between the Kamuina Nsapu militias and the Congolese army.**

True to form, Congolese military justice conducted this trial in record time. The trial opened on October 25 at the site of the alleged events in the village of Mayi Munene, some 30 kilometres from the provincial capital Tshikapa, and ended on Saturday, October 30.

The case concerns actions of a militia that set fire to several villages in the region, particularly those of Mayi Munene and Lusuku, in 2017. Summary executions by decapitation, looting and burning houses: these are the abuses for which Tshimputu Mandefu and Annie Ntumba were prosecuted. According to the prosecution, Tshimputu Mandefu was a village chief and militia leader, while his wife Annie Ntumba was guardian of the militia's fetishes. They were charged with war crimes of

murder and participation in an insurrectionary movement.

Mandefu was found guilty on all charges and was sentenced to death. Ntumba was found guilty only of participation in an insurrectional movement. The court found a number of mitigating circumstances in her case, and she was sentenced to only four years in prison. Of the 60 or so victims who filed civil suits, only 18 were recognized as such by the court. Chief Tshimputu was ordered to pay them a collective sum of 80,000 US dollars.

"Before the trial, victims felt forgotten"

"The victims welcomed this judgment with real enthusiasm, there was applause in the villages," said Isaac Tambwe, President of the Bar of Tshikapa, who coordinated the team of civil party lawyers. "This judgment is a first in Kasai. There are other cases being prepared. We have identified about ten priority cases. We have opted for hearings at the scene of the events, so criminals understand that impunity can no longer be tolerated." Tambwe doubts that the convict Tshimputu has the means to pay the amount ordered by the judges, but nevertheless expressed satisfaction. "Before the trial, the victims felt they had been forgotten. Now justice has been done."

Defence lawyer François Ngalamulume only half believes this. He says he is satisfied for Annie Ntumba, because she was released after the judgment, having already spent the four years of her sentence in pre-trial detention. "However, it should be noted that there was no evidence of fetishism at the trial. We did not see these fetishes. What colour are they? What size are they? It's all in people's imagination," he said in a telephone interview. As for his client Tshimputu, "the court went too far, the sentence is too severe," he says. "No witness testified that he saw Tshimputu commit these crimes. Moreover, our client was never a village chief." He asked the court go to the scene, to the village, to confirm or deny this, but the judges refused. The lawyer is therefore appealing.

Kamuina Nsapu, a nebulous group of militias

While at least one trial for serious crimes committed during the so-called Kamuina Nsapu conflict has been held in the neighbouring province of Kasai Central, this is the first to be held in Kasai province. The Kamuina Nsapu movement was not a single homogeneous group but a nebulous collection of militias in the different territories and provinces of Kasai, all of which claimed to be Kamuina Nsapu but were not necessarily organizationally and hierarchically linked.

The origin of this insurgency dates back to August 22, 2016, when Jean-Pierre Mpandi, the "Kamuina Nsapu" or leader of the Bajila Kasanga clan in Kasai Central province, was shot and killed during an operation by the national security forces. To avenge their leader, militiamen now known as "Kamuina Nsapu" burned down administrative buildings, attacked and killed soldiers, police and other central government officials. The violence spread, as many young people from other ethnic groups and other neighbouring regions joined the rebellion. Tshimputu and his wife thus belonged to a militia created locally in the context of this insurrection.

The conflict quickly took on an inter-ethnic connotation. In their reprisals, the defence and security forces relied on another militia, the Bana Mura, composed of members of the Tchokwe, Pende and Tetela ethnic groups. Clashes between Kamuina Nsapu militiamen and security forces and Bana Mura militias left more than 3,000 people dead and 1.4 million displaced between 2016 and 2017, according to the United Nations.

What about army responsibility?

But what about the prosecution of crimes committed by the Congolese military during the conflict in Kasai? "The files are being prepared. Justice is doing its job and no criminal, whatever his rank, will be spared," says Tambwe optimistically.

"There are other investigations underway, both in Kasai province and Central Kasai province, for crimes committed in the Kamuina Nsapu conflict. These investigations target militiamen and elements of the Congolese security forces," says Daniele Perissi of the Swiss NGO TRIAL International, which has already been involved in trials in eastern DRC and has just begun work in the Kasai. "We hope that these investigations will be successful and that other trials will be held in the coming months and years."

Marie-Thérèse Keita-Bocoum, member of a UN team of international experts on the situation in Kasai, recommended at a press conference in Geneva on October 6 that a transitional justice mechanism be set up. She said this should "necessarily include criminal justice" but "also other non-judicial mechanisms that will make it possible to repair the harm done to the victims" and "will also allow for collective reparation". For the moment, the work rests mainly on the shoulders of the military justice system, as is already the case in the east of the country, in the Kivu regions.

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## 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: ISWAP attacks Borno town (Sun News)** By Timothy Olanrewaju Maiduguri  
November 13, 2021

**Boko Haram and its splinter group, ISWAP invaded Askira, a Borno town early Saturday in about 12 gun trucks, residents and security sources, said.**

Some residents said the insurgents came at about 6am firing guns “indiscriminately on the streets as the convoy moves.”

Scores of residents fled into the bush while many were trapped in their houses.

“The situation is bad but the insurgents’ are withdrawing now,” Adamu Saleh told The Sun.

Askira is about 151 kilometres south of Maiduguri, the state capital.

**Nigerian Army general killed in Boko Haram ambush (Peoples Gazette)** By Oyindamola Olubajo  
November 13, 2021

**Commander of 28 Task Force Brigade, Chibok, Kennedy Zirkushu, has been killed in an ambush by Boko Haram terrorists in Askira Local Government Area of Borno State.**

The Nigerian military said the incident occurred on Saturday afternoon after Mr Zirkushu led a reinforcement team to repel an attack on Askira town.

According to military sources, the terrorists stormed the town on motorcycles around 8:35 a.m. and looted valuables.

They broke into two groups, one of which attacked Askira town in Borno State, as the other overwhelmed troops. Three other soldiers were also killed in the process.

The spokesperson for the Nigerian Army, Onyema Nwachukwu also confirmed the incident in a statement.

“A gallant senior officer Brigadier General Dzarma Zirkusu and three soldiers paid the supreme sacrifice in a very rare display of gallantry as they provided reinforcement in a counteroffensive against the terrorists, and successfully defended the location,” he said.

Mr Nwachukwu said that troops of Joint Task Force, North East Operation HADIN KAI neutralised the terrorists.

“In the fierce encounter which is still raging as at the time of filing this report, troops supported by the Air Component of OPHK have destroyed five A-Jet, two A-29, two Dragon combat vehicles and nine Gun Trucks,” he added.

Mr Zirkushu was killed a day after the military confirmed killing many Boko Haram commanders as part of the decade-long counter-insurgency operation.



## **Houses On Fire As ISWAP Hits Borno Again (Daily Trust)** By Olatunji Omirin

November 15, 2021

### **The fighters have reportedly set houses ablaze in Dille village in the Local Government Area that was attacked during the weekend.**

A source told Daily Trust that the terrorists stormed the village around 5:30pm.

He said they looted many stores, carting away food items, adding that they torched the houses they stole from.

Details of the casualties are yet to be known as of the time of filing this report.

The incident comes 48 hours after an intense battle between troops and terrorists in Askira Uba.

Brig-Gen Dzarma Zirkusu and some soldiers were killed in the weekend attacks but the army retaliated by reportedly killing 50 terrorist commanders.

Spokesman of the Nigerian Army, Brig.-Gen. Onyema Nwachukwu, in a statement, explained that troops of 115 Task Force Battalion conducted dawn exploitation towards Leho village and environs.

He noted that troops also discovered corpses of the fleeing terrorists and also recovered 2,560 rounds of 7.62mm Special and 29 rounds of 7.62mm NATO ammunition abandoned by the terrorists.

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## **Mali**

### **ECOWAS sanctions Mali coup leaders and their families (Africa Feeds)** By Isaac Kaledzi

November 7, 2021

#### **The Economic Community of West African States (ECOWAS) on Sunday announced new sanctions on Mali's coup leaders.**

At the end of their extra ordinary meeting in Ghana's capital, Accra, the ECOWAS leaders resolved to impose travel ban and financial asset freeze against the entire members of the Transition Authorities and the other transition institutions.

These sanctions will also be imposed on the members of their families, according to a communique issued on Sunday.

"The sanctions include a travel ban and a freeze on their financial assets. It further instructs the President of the Commission to consider and propose additional sanctions at its next Ordinary Session in December 2021, should the situation persist.

Furthermore, the Authority calls on the African Union, the European Union, the United Nations, and the bilateral and other multilateral partners to endorse and support the implementations of these sanctions," the communique stated.

The statement also condemned the expulsion of the "ECOWAS Permanent Representative to Mali in this critical context and calls on the Transition Authorities to uphold the spirit of dialogue and collaboration with the ECOWAS Commission to ensure a successful transition."

Meanwhile ECOWAS said it was concerned about the deterioration of the security situation in Mali, as a result of the heightened political uncertainties in the country.

The West African leaders called "on the Transition Authorities to intensify their efforts to improve the security situation, especially by ensuring effective state presence in the affected areas.

In this context, the Authority calls on the neighbouring countries to step up security presence along their borders with Mali and instructs the ECOWAS Commission to deepen the ongoing discussions with the African Union Commission with a view to enhancing the security situation in the Sahel."

The ECOWAS leaders also demanded that Mali transitional team adhered to “the transition timetable in respect of the elections scheduled for 27th February 2022 and calls on the Transition Authorities to act accordingly to ensure expeditious return to constitutional order.

Accordingly, the Authority calls on the International Community to take the necessary measures to ensure that the Transition Authorities respect their commitment to an expeditious return to constitutional order.”

Mali’s coup leader Colonel Assimi Goita was sworn in as the transitional president in June this year– that’s an elevation from his previous vice president role.

Goita carried out a second coup in May leading to the resignation of the previous interim president and prime minister who were accused of working against the transitional road map.

The interim president however assured that he was committed to the road map towards a peaceful and credible transition, but Ecowas leaders are not happy with progress so far.

Goita guaranteed that elections will take place next year to return Mali to a civilian rule as pressure mounts from international community.

The African Union and Ecowas have all suspended Mali following the latest military coup, the second time in nine months.

**Russia shrugs off French concerns on possible mercenary deal with Mali (Reuters)** By Maria Tsvetkova  
November 11, 2021

**Russia on Thursday dismissed French concerns about a potential deal between Mali and a Russian private military contractor and said it planned to continue supplying Mali with weapons, military hardware and ammunition.**

Diplomatic and security sources have told Reuters that Mali's military junta is close to recruiting mercenaries from the Russia Wagner Group- a worry for France, which has thousands of troops fighting Islamist militants in West Africa.

But Russian Foreign Minister Sergei Lavrov set out an uncompromising line ahead of talks in Paris on Friday at which France has said it will raise the issue. [read more](#)

"Regarding the nervousness that the French and some other Western officials are showing about the reports of the Mali government's plans to seek the services of a private military company from the Russian Federation ... this is the exclusive competence of the legitimate government of Mali," he said.

Speaking alongside his Malian counterpart Abdoulaye Diop after talks in Moscow, he said Moscow had nothing to do with any such private deals.

"If these contracts are concluded with the legitimate governments of sovereign states, I do not understand what can be seen as negative here."

Reuters has not been able to reach the Wagner Group for comment on the possible deal. More than a dozen people with ties to the group have previously told Reuters it has carried out clandestine combat missions on the Kremlin’s behalf in Ukraine, Libya and Syria, something the Kremlin denied.

The putative Mali contract is especially sensitive because the former French colony is run by a military junta that has delayed a promised transition back to democracy.

West Africa's main political and economic bloc, ECOWAS, on Sunday imposed sanctions against the interim government.

Diop said before the talks that Mali was in crisis and may need Russian assistance.

"We are now in such a difficult situation that we may turn to our friend (Russia) for help," he said. "The very existence of the Malian state is under threat."

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# Liberia

**Victims of Liberia's civil war are still waiting for justice (The Economist)** November 13, 2021

**"There was a lot of blood all over the place," remembers Patricia, her voice cracking. She survived the night in 1990 when government soldiers shot and chopped to death about 600 civilians who had been sheltering from Liberia's civil war in the Lutheran Church in Monrovia, the capital. "We saw the pregnant women, their stomachs open, the children on their mother, sucking, crying."**

Today, not far from the bullet-scarred church, gold letters on the Temple of Justice declare: "Let Justice Be Done To All". Yet not a single person has been convicted in Liberia for the massacre—or for any war crimes committed during the back-to-back civil wars between 1989 and 2003, in which about 250,000 people were killed.

Much has changed since the conflict ended. Clinics and schools have sprung up, tarred roads hum with traffic and, above all, peace has endured. Yet Afrobarometer, a pollster, found that in 2018 half the population had paid a bribe in the previous year. Rapes of women and children are all too common. So are murders. Two sons of former presidents have been killed since September. Some human-rights activists blame a culture of impunity that dates back to the wars.

Impunity is not hard to spot. Prince Johnson, an influential senator, is a former warlord who, in a video available on YouTube, can be seen drinking a Budweiser beer and barking instructions as his men cut off the ear of a former president, Samuel Doe, in 1990. Mr Johnson, who has admitted that his men killed Doe, has declined to comment beyond saying, "There is no need to dwell in the past."

George Boley, a congressman, is another former rebel leader who was deported from America because of allegations that his men had burned captives alive and raped villagers before slitting their throats. Charles Taylor, a warlord and former president, was convicted of war crimes at the International Criminal Court in The Hague for atrocities in neighbouring Sierra Leone's civil war. He is now in prison in Britain. But he has never faced justice for his alleged crimes in Liberia itself.

In 2009 the country's Truth and Reconciliation Commission (trc) recommended that some of the most violent warlords face trial. But that recommendation was not acted upon by the government of Ellen Johnson Sirleaf, who was then president. Activists and politicians, including Rustonlyn Dennis, a congresswoman, are trying to revive the idea, through protest and by proposing draft legislation. "This country will never go forward if people don't take responsibility," says Ms Dennis. Others say a court is needed to deter people from taking up arms again. "In absence of punishment there will not be peace," says Dempster Brown of Liberia's Independent National Human Rights Commission.

Yet not everyone favours trials. Sam Walker of Liberia Peace and Reconciliation Forum, a group opposing the tribunal, says it would be a "witch hunt" and even claims it could renew conflict. He prefers alternatives, such as getting victims and perpetrators to talk. Others worry about the price tag, given that Sierra Leone's special court cost about \$300m. "What do we prioritise?" asks Meo Beyan, the assistant minister of justice, listing pressing needs such as jobs, education and health care.

Still, many suspect President George Weah's own worries are the real barrier. His run for president in 2017 was backed by Mr Johnson, whose support Mr Weah is thought to want in the next election, in 2023. In 2019 he tried to kick the question of a tribunal to the Senate, which advised against "reopening old wounds".

Though the government drags its feet, a tribunal has some odd supporters. Joshua Blahyi (pictured), known as General Butt Naked, led a group of drugged child soldiers who often fought wearing nothing but sneakers and charms. He told the trc he was responsible for the deaths of 20,000 people. Today he claims to be a repentant Christian and, despite his documented history of almost incomprehensible violence, is entirely at liberty. Is he in favour of a war-crimes court, even if it might jail him for the rest of his life? "Definitely," he says. "It's Liberia's only hope."

**LIBERIA: WONGOSOL's Calls For Women's Involvement In Advocating – For TRC Recommendation (GNN Liberia)** By Cholo Brooks

November 13, 2021

**A local Civil Society group in the country known as " Women's NGO Secretariat of Liberia,(WONGOSOL) established in 1998, with a mission to empower women through active participation at all levels of society, and end gender-based discrimination is calling for more women involvement in advocating for the implementation of The Liberian Truth and Reconciliation Commission (TRC) recommendation .**

She expressed the belief that this can be done if women organizations pressurize their lawmakers to sign for the implementation of The Liberian Truth and Reconciliation Commission (TRC) recommendation.

The Truth and Reconciliation Commission (TRC) is a Parliament-enacted organization created in May 2005 under the Transitional Government. The Commission worked throughout the first mandate of Ellen Johnson Sirleaf after her election as President of Liberia in November 2005.

The TRC recommendation contains major findings on: the root causes of the conflict, the impact of the conflict on women, children and the generality of the Liberian society; responsibility for the massive commission of Gross Human Rights Violations (GHRV), and violations of International Humanitarian Law (IHL), International Human Rights Law (IHRL) as well as Egregious Domestic Law Violations (EDLV).

The report also determined and recommended that Criminal Prosecution for these violations, Reparations and a “Palava Hut” Forum is necessary and desirable to redress impunity, promote peace, justice, security, unity and genuine national reconciliation.

Findings and recommendations of the report and a summary of the major findings, determinations and recommendations will be published in at least three major local daily newspapers shortly.

The TRC was agreed upon in the August 2003 Comprehensive Peace Agreement in Accra and created by the TRC Act of 2005. The TRC was established to “promote national peace, security, unity and reconciliation,” and at the same time make it possible to hold perpetrators accountable for gross human rights violations and violations of international humanitarian law that occurred in Liberia between January 1979 and October 2003.

The TRC recommended that the Government of Liberia assumes its full responsibility under international law to provide reparations for all those individuals and communities victimized by the years of instability and war, especially women and children.

Speaking at the start of a four days capacity building Training of the Truth and Reconciliation Commission (TRC) recommendation, advocating and Monitoring of the TRC the Executive Director of WONGOSOL, Madam Esther S. Davies Yango, said the establishment of war crimes court will provide justice for many women, who were victimized as the result of the war.

Madam Yango disclosed that the capacity building training on the Truth and Reconciliation Commission’s recommendations, advocacy and monitoring of the TRC is currently implementing a project intended to “Enhance Women’s Meaningful Participation in National Advocacy for Accountability for War Crimes in Liberia”.

She emphasized that the project, which is on-going in six counties: Lofa, Nimba, Bong, Bomi, Montserrado and Grand Bassa, will empower women who were affected greatly to advocate in their districts and counties for lawmakers to enact into law a bill for the establishment of the court.

She maintained that too many women are living with bullets in their bodies, and the establishment of the war crimes court will allow them to explain their stories, which would be documented.

According to her, WONGOSOL is partnering with seven local civil society organizations in these counties, and providing intensive training to enhance the participation of local women in the advocacy to ensure that those who committed human rights are brought to book.

She said she believes that the war crimes court will serve as a deterrent for would-be human rights abusers to rethink themselves before engaging into any act of war in Liberia in the future.

Yango explained that the project, which is expected to last for five months, is being supported by the Women Peace Humanitarian Fund of the United Nations.

“The project’s overall goal is to build on the current international and local momentum to increase women’s voices, representation and meaningfully participate in on-going advocacy, aimed at generating the political will for the Liberian government to prioritize the establishment of a war crimes court for Liberia,” she stated.

She clarified that the project will also provide support for women CSOs initiatives in creating awareness about the importance of establishing a war crimes court to address the knowledge gap amongst women and girls concerning the TRC’s recommendations, advocacy steps and monitoring framework.

**“War crimes court will serve as a deterrent for would-be human rights abusers”-Says WARE**

November 15, 2021

**The Executive Director of a women group in the country known as' Women's Action For Rights and Empowerment (WARE), Madam Maima D. Robinson, has disclosed that the establishment of war and Economic crimes court in Liberia will serve as a deterrent for would-be human rights abusers to rethink themselves before engaging into any act of war in Liberia in the future.**

She said that despite the Truth and Reconciliation Commission's conclusions that atrocity crimes and serious violations of international law were committed, the Liberian government continues to waver over the creation of a recommended war crimes court to hold perpetrators to account for their actions in the Liberia's civil war.

Madam Robinson, made the statement over the weekend in an interview with the Independent Newspaper at the closed of a four days capacity building Training of the Truth and Reconciliation Commission (TRC) recommendation, advocating and Monitoring of the TRC, organized by a local Civil Society group in the country known as Women's NGO Secretariat of Liberia, (WONGOSOL) with funding from the Women Peace and Humanitarian Fund, United Nations Civil Society Partnership.

Madam Robinson indicated that some even see an accountability mechanism as an essential step for Liberia to heal from the wounds of the past and to address Liberia's culture of impunity.

She stressed that others, however, worry that a court will reignite old tensions, that it could be misused for political purposes, and that it would be too costly given Liberia's struggling economy.

Madam Robinson added that people must be held accountable for the accountable for crimes, are practices that have kept the country and its citizens backward for far too long.

Madam Robinson, maintained that too many women are living with bullets in their bodies, and the establishment of the war crimes court will allow them to explain their stories, which would be documented.

According to Madam Robinson. her organization will encourage more women groups to partner with them to provide them intensive training that will enhance their participation in the advocacy that will equip them to get more involve in ensuring that those who committed human rights violations in th3e country are brought to book.

"This is why I support the establishment of a war and economic crimes court in Liberia because this courts will help us find justice for victims hopefully, they will lay painful memories of loved ones, and innocent souls to deserved eternal rest, she stressed

The Women's Action for Rights and Empowerment Boss expressed the believe that the establishment of war and Economic crimes court in Liberia will also lift the weight off the shoulders of accused persons who believe that themselves to be innocent or wrongly accused.

She added that a court is not just a place to seek punishment. It is a place to find the truth, to award justice, and to set the innocent or wrongly accused, free."

Madam Robinson clarify that the court will help Liberians heal and reconcile, it should not be limited to the crimes committed during the war but it should have the jurisdiction for the trying of current and future crimes such as "stealing from the people, and passing deals that cheats Liberia and Liberians.

She then used the occasion to call for more women involvement in advocating for the implementation of The Liberian Truth and Reconciliation Commission (TRC) recommendations.

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## **EAST AFRICA**

### **Uganda**

**2 Explosions Hit Ugandan Capital, Killing 3 (The Associated Press)** November 16, 2021

**Two explosions rocked Uganda's capital, Kampala, early Tuesday, killing at least three civilians in what the police described as a coordinated attack by extremists.**

Three suicide bombers also died in the blasts, the police said, with witnesses reporting that one was near a police station and the other on a street near Parliament. The explosions caused chaos in Kampala as terrified residents fled the city's center.

"The bomb threats are still active, especially from suicide attackers," said a police spokesman, Fred Enanga, attributing the blasts to the Allied Democratic Forces, an extremist group affiliated with the Islamic State.

The group claimed responsibility for the blasts, according to SITE, which tracks the online activities of extremist organizations.

The twin explosions occurred within three minutes of each other. Both were carried out by attackers carrying explosives. A possible attack on a third target was foiled by police who pursued and disarmed a suspected suicide bomber, Mr. Enanga said.

The explosion near Parliament appeared to hit closer to a building housing an insurance company, and the subsequent fire engulfed cars parked outside. Body parts were seen scattered in the street, and later some lawmakers were seen evacuating the parliamentary building nearby.

At least 33 people were being treated at the city's main public referral hospital, Mr. Enanga told reporters. Five are critically injured, he said.

People scampered to leave the city in the aftermath of the attacks, many on passenger motorcycles, as police cordoned off wide areas near the blast scenes, videos posted on social media showed.

Ugandan officials have been urging vigilance in the wake of a string of bomb explosions in recent weeks.

One person was killed and at least seven others wounded in an explosion at a restaurant in a suburb of Kampala on Oct. 23.

Two days later, another blast on a passenger bus killed only the suicide bomber, according to the police.

Even before those attacks, the British government had updated its Uganda travel advisory to warn that extremists "are very likely to try to carry out attacks" in the East African country.

The Allied Democratic Forces, an affiliate of the Islamic State group in central Africa, claimed responsibility for the attack on the restaurant.

That group has long been opposed to the rule of President Yoweri Museveni, a U.S. security ally who was the first African leader to deploy peacekeepers in Somalia to protect the federal government from the extremist group Al Shabab.

In retaliation for Uganda's deployment of troops to Somalia, Al Shabab carried out attacks in 2010 that killed at least 70 people who had assembled in public places in Kampala to watch a World Cup soccer game.

But the Allied Democratic Forces, with its local roots, has proved more of a headache to Mr. Museveni.

The group was established in the early 1990s by Ugandan Muslims who said that they had been sidelined by Mr. Museveni's policies. At the time, the rebel group staged deadly terrorist attacks in Ugandan villages as well as in the capital, including a 1998 attack in which 80 students were massacred in a frontier town near the border with the Democratic Republic of Congo.

A Ugandan military assault later forced the rebels into eastern Congo, where many rebel groups are able to roam free because the central government has limited control there.

Reports of an alliance between the Allied Democratic Forces and the Islamic State first emerged in 2019, according to the SITE Intelligence Group, which tracks the online activities of extremist organizations.

**Hundreds Flee To Uganda Amid Fighting In Eastern Congo (mymotherlode)** By Jean-Yves Kamale and Rodney Muhumuza  
November 8, 2021

## **Congo's military says that members of the M23 rebellion group have attacked a base in eastern Congo's Rutshuru area and that fighting is ongoing.**

"The M23 insurrection movement attacked the FARDC positions in Rutshuru with the intention of destabilizing the province. At present, the fighting is underway and the loyalist forces are determined to put an end to this armed group once and for all," said Gen. Sylvain Ekenge, deputy spokesman for Congo's military, also known as FARDC.

The rebels attacked the remote villages of Runyonyi and Chanzu, on the strategic hills of North Kivu province near the borders with Rwanda and Uganda, he said. The rebels had taken over lands near there in 2012 and were pushed from the area into Uganda and Rwanda in 2013 by Congolese and United Nations forces.

The M23 group, however, denied that they are behind the attacks or fighting with the military or government in a statement Monday.

The fighting has caused large numbers of people to flee to Uganda, according to the Uganda Red Cross.

The group said Monday it deployed a team to assess needs among people fleeing the fighting overnight. Hundreds are camping at the border post of Bunagana, seeking shelter in Uganda, spokeswoman Irene Nakasiita said.

Ugandan authorities didn't immediately comment. The East African country is home to 1.3 million refugees who fled violence in neighboring countries such as South Sudan.

Eastern Congo is prone to insecurity with fighting between rival armed groups, including rebels opposed to the government in the capital, Kinshasa. In recent years an armed group with roots in Uganda has been blamed for a series of attacks on civilians in the region.

In a security alert Sunday, the U.S. Embassy in Congo noted "reports of a potential attack in Goma," the capital of North Kivu province. "There is increased security presence throughout the city," the advisory said, adding that U.S. government personnel in the area were advised to shelter in place.

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## **Kenya**

### **Official Website of the International Criminal Court ICC Public Documents - Situation in the Republic of Kenya**

**One more body in the septic tank that is British colonial history (Aljazeera)** By Patrick Gathara  
November 8, 2021

**The killing of Agnes Wanjiru, allegedly by a British soldier, in 2012 is once again back in the news. The body of the 21-year-old sex worker and mother of one was found dumped in a septic tank two months after she disappeared following a night out with a group of soldiers in the central Kenyan town of Nanyuki, where the British army has a permanent garrison. By then, the soldiers had already left the country and her family's attempts to secure justice had been frustrated by both the Kenyan and British authorities.**

However, reports in the British press indicating that a British soldier had confessed to killing Wanjiru and showed comrades where he dumped her body, as well as exposing social media posts where the soldiers were laughing at the murder, have galvanised a renewed investigation from the Kenyan police with promises of cooperation from the British.

While the fresh probe is welcome, it must be stressed that the prospects for justice are not as clear-cut as one may presume. Kenya has a terrible record of delivering justice to foreigners who commit abuses against its own citizens. For many, this case will bring to mind the similar case in August 1980 when 19-year-old Frank Sundstrom, a US Navy sailor, confessed to killing 29-year-old Monica Njeri, a mother of two daughters, whom he had paid \$23 for sex while on shore leave at the coastal town of Mombasa. Sundstrom pleaded guilty to manslaughter and was released on a \$70, two-year "good behaviour" bond and

promptly returned to the US. Three years later, the US government would agree to an out-of-court settlement with Njeri's family of nearly \$17,000.

At the time of the killing, 17 years after independence, Kenya's judiciary was still dominated by the British and the case was prosecuted by Nicholas Harwood and heard by Justice L G Harris, both British, who conspired to reduce the charge from murder, which carried a mandatory death sentence, to manslaughter on the spurious basis that Sundstrom had confessed.

The case caused a firestorm in Parliament where MPs believed the US had arm-twisted the Kenyan judiciary to liberate Sundstrom. In an eerie precursor of things to come, the then-Attorney General James Karugu shocked legislators by declaring himself "legally impotent" to appeal the ruling. The statement presaged that of the current Kenyan minister of defence, Eugene Wamalwa, who this week told a parliamentary committee that Kenya essentially needed British permission to prosecute crimes committed by British soldiers on its own territory. "The defense cooperation agreement that gives us jurisdiction to deal with [the murder of Wanjiru]... has lapsed," he said on Tuesday.

The Kenyan government's callousness and recalcitrance in dealing with crimes against Kenyans is a reflection both of its own commission of similar crimes against them and of its colonial roots. The report of the Truth, Justice and Reconciliation Commission which looked into abuses committed against Kenyans between 1963 and 2008 concluded that the pre- and post-independence governments were guilty of gross human rights violations, few of which have been prosecuted. President Uhuru Kenyatta, whose government tampered with the report to remove mention of his father's abuses and theft as Kenya's first post-independence ruler and has subsequently done its best to bury it, has continued in the same vein as his predecessors. In 2017, he commended the police for actions taken during that year's general election, in which they killed dozens of opposition supporters and even stoned the motorcade of then-opposition leader and current Kenyatta ally Raila Odinga.

The attempt to cover up the Wanjiru case by both the Kenyan and British governments is also a potent reminder that no British settlers, officials, troops, or police officers have ever been held to account for the brutal murder and torture of thousands, and the incarceration of up to 1.5 million people in concentration camps, during the 7-year State of Emergency declared in 1952 at the height of the Mau Mau rebellion against colonial rule. In fact, for more than half a century, the British government stole, destroyed and hid any documents that might, as reported by the Guardian, "embarrass [the British government] or other government' or cause problems for any colonial policeman, civil servant or member of the armed forces". It was only with the filing of a case by victims of the atrocities, and through the work of Dr Caroline Elkins, author of *The British Gulag*, that the British government would admit to the existence of a hidden archive of embarrassing documents detailing the abuse. However, nearly a decade later, not a single perpetrator has been brought to book. As Elkins wrote, "there would be no prosecutions against former loyalists and certainly not against any of the British officers or settlers, many of whom continued to live a very privileged life in Kenya".

In his book, *Mau Mau: An African Crucible*, Robert E Edgerton details first-hand accounts of the horrendous crimes committed by the British settlers during the Emergency, with many mirroring the attitudes towards African lives displayed by present-day British soldiers. He cites one settler who derided those "too 'chicken-hearted' to deal with the Mau Mau because they called 'halt' before firing at a suspect. 'We just take out our sten guns and vee-vee-vee, vee-vee-vee, we let the bloody vermin have it'. He added approvingly that a friend of his had killed 26 suspicious men on his farm in one night". In another chillingly brutal episode, he records an Australian's recollection of the murder of two children by British settlers:

"We was joined by two of [a settler named] Bill's mates in another Land Rover and just about dawn we seen two Africans crossing the road ahead. Bill fired a shot across their bow and they put their hands up. I tried to tell Bill that those lads, hardly more than boys they was, didn't look like Miceys (Mau Mau) to me but he says, 'They're Kukes and that's enough for me'. Well he roughs them up some but they say they don't know where the gang of Miceys went to, so he gets some rope and ties one to the rear bumper of his Land Rover by his ankles. He drives off a little ways, not too fast you know, and the poor black bastard is trying to keep from ploughing the road with his nose. The other cobbles are laughing and saying, 'put it in high gear Bill' and such as that, but Bill gets out and says, 'Last chance, Nugu (baboon), where's that gang?' The African boy keeps saying he's not Mau Mau, but Bill takes off like a bat out of hell. When he comes back, the nigger wasn't much more than pulp. He didn't have any face left at all. So Bill and his mates tie the other one to the bumper and ask him the same question. He's begging them to let him go but old Bill takes off again and after a while he comes back with another dead Mickey. They just left the two of them there in the road".

Caroline Elkins' book contains even more graphic descriptions of the wanton and horrific violence and torture Kenyans were subjected to inside the Pipeline, the network of camps established by the British to "screen" Mau Mau suspects. In an era when Germany is prosecuting a 100-year-old former concentration camp guard for assisting in the murder of 3,518 prisoners during World War II, it is unconscionable that the people who committed similarly terrible crimes in Kenya, both Kenyans and British, continue to enjoy a comfortable retirement unbothered by worries over impending justice.

As the British government belatedly vows to assist in the punishment of Wanjiru's killer (and his friends), we must not forget that there are many, many more bodies waiting to be discovered in the septic tank that is British colonial history. There are



many more families the British government, with Kenyan collusion, is denying justice. One way to begin addressing this is to repatriate the entire stolen archive to Kenya – and to digitise and publish it online – so local researchers and ordinary Kenyans have access to it. Then there should be a serious attempt to find and punish the still living architects and perpetrators of crimes and to provide adequate compensation to all victims and their families.

By 2020, Germany had paid nearly \$92 billion in reparations to Jewish and non-Jewish victims of its World War II crimes. To this day, the country continues to pay stipends to survivors, last year agreeing to provide nearly \$700 million to aid 240,000 Holocaust survivors struggling under the burdens of the coronavirus pandemic. By comparison, the British agreement to compensate 5,000 victims of its torture camps at the rate of \$4,000 per victim, without even having to offer an apology, is a travesty and speaks to racism and power imbalance that continued to devalue African lives and suffering. And not a penny has been paid to the vast majority of the tens of millions it terrorised and brutalised across the world under its Empire.

At the COP26 global climate talks in Glasgow, where yet again delegates from the global south are reduced to appeals to the rich nations of the world which continue to profit from their suffering, Kenya's Elizabeth Wathuti, in her address to the assembled potentates, noted that such appeals have limited utility if the shared humanity is not accepted. "My story will only move you if you can open up your hearts. I can urge you act at the pace and scale necessary, but in the end, your will to act must come from deep within". Similarly, Wanjiru and other Kenyan victims are unlikely to see justice unless the British and Kenyan governments can recognise their humanity. Only with that will come an appreciation of the enormity of the injustices perpetrated upon them, and a concomitant "pace and scale" of response.

### **UNMISS empowers rule of law actors in Jonglei State to investigate and prosecute cases related to violence against women (APO Importer) November 15, 2021**

**"I urge both formal and informal justice chain actors to embrace the principles of fair trial and include human rights considerations in dealing with suspects and survivors of violence against women," said the Justice Joh Yiel Aleu, President of the High Court at the conclusion of the workshop.**

Participants were sensitized on a wide range of issues related to different forms of abuse against women, including interviewing survivors, evidence gathering, related South Sudanese laws and protections offered.

The forum recommended advocacy among communities on SGBV; mobilizing community leaders, youth and women representatives to campaign against early and forced marriages; and promoting gender equality by ensuring women's voices are included in political participation and peace negotiations.

Other suggestions that came up were establishing additional police posts and revamping Police Community Relations Committees as a mechanism to prevent women's abuse; establishing a specific desk dealing with sexually-motivated crimes against women at every police station; and empowering investigators with accurate tools and skills to ensure confidentiality, thorough evidence gathering and victim support, even at the community levels.

"Progress is being registered particularly when it comes to rule of law and accountability. This is one of those interventions that has been designed to support state actors particularly those working in areas related to accountability, rule of law and security," said Sambujang Fatty, UNMISS Rule of Law Adviser in Jonglei.

Women and girls have been disproportionately impacted and are particularly vulnerable because due to ongoing conflict in South Sudan.

Such trainings are the part of the UN Peacekeeping mission's ongoing efforts to bridge gaps and weaknesses in the security and justice sectors. They are designed to enhance a productive nexus between customary and formal rule of law and justice actors in investigating and prosecuting cases related to violence against women across Jonglei and the Greater Pibor Administrative Area.

### **Kenyan Muslim leaders demand government action on unexplained disappearances (Religious News) By Fredrick Nzwili November 16, 2021**

**A string of unexplained abductions and killings of Muslims is worrying faith leaders, who now demand action and answers from the government. At least 40 members of the Muslim faith have been abducted by unknown assailants since January, and only 10 have returned to their families, according to the Supreme Council of Kenya Muslims. These numbers do not include those kidnapped in the predominantly Islamic northeast.**

Muslim leaders say the government's campaign against terrorism has transformed into war against Islam and Muslims. "We are witnessing a deliberate strategy of instilling fear among Muslims and discouraging them from going to the mosques, which are supposed to be sanctified places," said Sheikh Hassan Ole Naado, the chairman of the Supreme Council of Kenya Muslims.

"Despite numerous calls on the government to investigate and put an end to these violations ... the state has opted to remain silent," said Ole Naado. The government denies the allegations.

The incidents are attracting the attention of Christian leaders, who have been collaborating with Muslims in Kenya in peace and interfaith dialogue, development and humanitarian work. "This should be a concern of all Kenyans," Roman Catholic Bishop Wilybard Lagho, of the Diocese of Malindi, told Religion News Service. The kidnappings, which have focused on Muslim scholars and businessmen, have left some of those abducted traumatized after they resurfaced after a few days; others have disappeared without a trace. Recently, Kenya experienced a series of bloody attacks on churches, government installations and public places, for which al-Shabab, the Somalia-based al-Qaida affiliate in East Africa, has taken responsibility. In response, the government has moved to strengthen counterterrorism efforts. Muslim leaders and human rights groups in the country accuse the government of extrajudicial killing, torture, arbitrary arrests and forced disappearances and of interfering with the freedom of assembly and worship, as it implements its anti-terrorism activities. Lagho does not rule out the involvement of al-Shabab. "Terrorism has a very big network," the bishop said, and the terrorist organizations may have reasons to abduct people "if they think the people have a lot of information or they think they have betrayed the organization," he said. But those kidnapped don't fit any consistent profile. In the latest incident, Hassan Nandwa, an Islamic scholar, academician and lawyer, was abducted Oct. 28 after leaving prayers at the Jamia Mosque in Nairobi. Ten days later, he was dropped in Mwingi, a town about 100 miles away. Earlier, in September, Sheikh Abdiwahab Abdisamad, a religious scholar and regional security analyst, was kidnapped, only to reappear 12 days later.

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## Rwanda (International Criminal Tribunal for Rwanda)

### Official Website of the ICTR

**Should a Woman Be Penalized for Having a Genocidal Husband? (All Africa)** By Ephrem Rugiririza  
November 15, 2021

**In a recent article, a professor of public law analyses a French court decision to deny naturalization to a Rwandan woman because of her marital relationship with a man convicted of genocide. Behind the decision is the saga of an infamous Rwandan family: the Kabugas. How far are family relationships "dangerous liaisons"?**

Jules Lepoutre is a professor of public law at the University of Corsica in France. He is a specialist in nationality law. His doctoral thesis was entitled "nationality and sovereignty". So not surprisingly his attention was drawn to an April 8, 2021 ruling of the State Council, France's highest administrative court, confirming rejection of a naturalization application by a Rwandan woman who had been living in France for 27 years, on grounds that her husband had been convicted for his role in the 1994 genocide of Tutsis in Rwanda and that she had not broken up with him.

In their decision, the judges noted that the initial rejection of her naturalization application was "based on the circumstance that her husband, Mr. D., had, in his capacity as Planning Minister of Rwanda, directly and publicly incited genocide in 1994 genocide, for which he was found guilty and sentenced to 30 years in prison by the International Criminal Tribunal for Rwanda on December 18, 2014." They then note "that Mrs. C. was still married to Mr. D. and continued to maintain relations with him", which had led the Interior Ministry to reject her naturalization application. The State Council concluded that there was "no error in law".

Does being married mean sharing ideology?

In a solid analysis of the decision, entitled "Spouse of a genocide convict and naturalization request: dangerous liaisons" published in the administrative law journal AJDA (Editions Dalloz), Professor Lepoutre wonders what conclusions should be drawn. "It is considered that by remaining married to a man convicted of genocide, she would have 'shared' or 'validated' the acts committed by her husband that led to his conviction for genocide. But neither the decision by the State Council nor the conclusions of the public rapporteur report any positive acts or behaviours that could lead to such an affirmation. The reasons

for the decision are based solely on her marital status and on the maintenance of the relationship after the conviction.” This is what particularly troubles the law professor: “It is undoubtedly the applicant’s choice to maintain her marital ties despite her husband’s conviction” that led the French authorities to consider her naturalization application undesirable. In short, a divorce might have made the matter easier. “Everything suggests that, in the minds of the administration and then the judges, this was what was expected of the applicant when she applied for naturalization,” writes Lepoutre.

For the scholar, “the decision thus reveals, in the context of access to nationality, that the merits of a woman to become French are assessed according to her ability to break with a husband convicted of a mass crime”. The jurist questions the logic behind such a conclusion. “Does the maintenance of the marital relationship necessarily imply first of all a ‘validation’ of the acts committed by the husband?” he asks. “How much of the woman’s autonomy is recognized in this case? Without questioning her relationship to the acts committed by her husband, the judges suggest that marriage implies a harmony of views between spouses. However, communal life does not mean thinking alike and it is not inconceivable that the applicant does not ‘share’ or ‘validate’ the acts committed by her husband – without nevertheless life together and maintaining the marital bond appearing to be unbearable to her.”

#### Wife and daughter of genocide defendants

Lepoutre dwells on this case because he considers it contains an unprecedented assertion in France, destined to become a precedent: the public authority, in order to pronounce naturalization, can “take into consideration the particular ties of the applicant with a third party, in particular the spouse”, in order to evaluate whether “such ties are likely to affect the interest that the granting of French nationality to the applicant would present for the country”. Here, the State considered that it was contrary to the interest of France to grant naturalization to this lady.

The young professor’s article is rich in historical reflections, and enlightening on the dilemmas posed. But there is something he does not reveal: the identity of the applicant. And it appears she is at the heart of an extraordinary family and judicial saga.

The rejected applicant’s name is Félicité Mukademali. She is the wife of Augustin Ndirabatware, who was Planning Minister in the interim government in place from April to July 1994 during the genocide in Rwanda and who was sentenced by the ICTR to 30 years in jail. She is also the daughter of Félicien Kabuga, a former Rwandan billionaire who managed to evade international criminal justice for 25 years before being arrested in France, near Paris, in May 2020. Kabuga’s children are suspected of having aided and abetted his many years in hiding from justice.

#### French Protection

After the violence began in the Rwandan capital Kigali on the evening of April 6, 1994, Félicité Mukademali took refuge in the French embassy, as did several other dignitaries. On April 12, she was evacuated by plane to Burundi. While her husband remained in Rwanda for the next few weeks, it is unclear whether his wife joined him or not. According to Peter Robinson, a lawyer for Kabuga’s children, Mukademali left Rwanda in June 1994 and arrived in France the same month. According to this American lawyer, Ndirabatware’s wife “has lived and worked in France for more than 25 years without ever being arrested for any crime, has two children and two grandchildren who are all French citizens”. He therefore thinks the decision to reject her naturalization application is “quite unfair”.

This rejection contrasts with the support French authorities gave her husband for a long time after his departure from Rwanda in 1994. This support is discussed by French researcher André Guichaoua in his book “Rwanda: from war to genocide”. In an appendix entitled “The long years on the run ‘under protection’ of Augustin Ndirabatware, Planning Minister in the interim government and under an ICTR arrest warrant”, the sociologist mentions, among other things, the fact that the Chief of Protocol of the French Foreign Ministry granted Ndirabatware on April 20, 1998 a “special card from the Immunities and Privileges Service acting as a residency permit valid up to and including April 2000”. A copy of this “special card” is published at the bottom of the annex.” Intense lobbying was then carried out by Foreign Ministry staff to help Ndirabatware obtain a status that could protect him from prosecution by the ICTR,” continues Professor Guichaoua.

The indictment against Ndirabatware was signed by the ICTR Deputy Prosecutor on September 27, 1999 and an arrest warrant was filed at the French Embassy in Tanzania on October 11. According to Guichaoua, the arrest was scheduled for November 24 in Paris. However, he reports, “the accused, who had been present a few days earlier, had opportunely returned to Gabon...”

#### The shadow of Kabuga

It was not until September 17, 2007 that Ndirabatware was arrested by German police in the Frankfurt area. According to some media reports, his father-in-law Félicien Kabuga, the man most wanted by the ICTR, was in the same house at the time. According to a judicial source, it was also shortly after this that Kabuga secretly moved to the suburbs of Paris, where he remained in hiding until May 2020 with the help of his children.

In the meantime, the protections of yesteryear have disappeared and the French government's main concern today is to restore good relations with Rwanda. The State Council's decision in the Mukademali case therefore comes in a context that is politically – and even judicially – highly unfavourable to the applicant.

Could the reasoning of the top administrative court be used to withdraw citizenship from naturalized persons whose spouses have subsequently been convicted of international crimes? This is unlikely, says Professor Lepoutre. "The conditions for withdrawal of citizenship are strict and the occurrence of a fact subsequent to naturalization can never justify a withdrawal. Withdrawal can only be justified by the administration's discovery of a fact prior to naturalization that had been hidden by the candidate for nationality. So there is no risk in this respect," Lepoutre told Justice Info. "This case is fairly emblematic of the administration's discretionary power in naturalization matters – that is, its ability to assess an individual situation as it sees fit, beyond the criteria set by law. The legislation on withdrawal of nationality does not recognize such a wide discretionary power. Once you become French, your situation is generally protected." This should appease other Rwandans who might be potentially concerned.

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## Somalia

### **Three dead, many injured as suicide bomber hits peacekeepers in Somalia (Middle East Monitor)**

November 11, 2021

**At least three people were killed and several others wounded when a suicide bomber rammed his car into a security convoy in the Somali capital, Mogadishu, on Thursday, officials said.**

The attack took place at a busy intersection near Villa Baidoa, the Somali military's second headquarter in Mogadishu.

Abdifatah Hassan, a police officer in Mogadishu, told Anadolu Agency over the phone that the suicide car bomb blast targeted a convoy carrying personnel of the African Union Mission in Somalia (AMISOM). "We don't know if there are AMISOM casualties."

The wounded were transported to nearby Madina hospital, he added.

Yasin Adan, a paramedic, told Anadolu Agency that he saw several wounded civilians lying on the ground crying, before they were taken to the hospital.

No group has yet claimed responsibility for the attack but Somali-based Al-Qaeda affiliated terrorist group, Al-Shabaab, has owned many recent attacks in the Horn of Africa country.

The attack comes hours after a roadside bomb blast wounded at least three policemen in Mogadishu.

### **Two Ugandan soldiers sentenced to death in Somalia (BBC) November 14, 2021**

**Five Ugandan soldiers serving with African Union troops in Somalia have been found guilty of killing seven civilians there in August.**

Two of the soldiers have been sentenced to death, while three others have been given 39-year prison sentences.

The three will be repatriated to Uganda to serve their sentences there.

The civilians were unlawfully killed during a gun battle in Golweyn between its troops and al-Shabab militants, the AU says.

The AU's Amisom force has been in Somalia for 14 years.

It has been fighting the al-Shabab Islamists who retain a stronghold on parts of the country. Almost a third of Amisom's 20,000 troops are from Uganda - making it the biggest national contingent.

Saturday's court martial ruling by Uganda comes a month after the AU announced it wanted to expand its military operation

in Somalia, pending approval from the UN and the Somali government.

"Our mission in Somalia is to degrade al-Shabab and other armed groups. In doing so, we absolutely have every responsibility to protect the civilian population", said commander of the Ugandan contingent commander Brig Gen Don Nabasa in a statement on Saturday.

VOA reports that some of the victims' families attended the court hearings organised by Uganda in the Somali capital, Mogadishu.

"We are very happy with the court decision and expect compensation to be awarded to the families of those killed," Hussein Osman Wasuge - a spokesman for the bereaved relatives - is quoted as saying.

He told local media that one of the bereaved and six Ugandan soldiers were allowed to testify.

**Somali Families Demand UN, Somali Gov't Inquiry Into Killings During Bush Clearance (Voice of America)** By Harun Maruf  
November 16, 2021

**The families of nine Somali workers shot dead while working on a bush clearance project funded by the United Nations are calling for a full and a transparent investigation into the incident.**

The families say their relatives were instructed to carry out semi-military activities without proper security protection. Guards recruited to give them protection were on a breakfast break at the time of attack. The victims have received death threats according to documents seen by VOA Somali. According to the coordinator of the workers, the threats were coming from people claiming to be al-Shabab militants.

"We did not get justice," says Jama, the son of one of the workers killed. "We need a thorough investigation and accountability."

The incident occurred on February 25, 2019, when gunmen believed to be al-Shabab militants attacked the workers as they cleared the bush from the sides of the Mogadishu-Afgoye corridor.

Al-Shabab uses the bushes to hide improvised explosive devices. Cutting the bush was specifically intended to remove trees to deny Al-Shabab the opportunity to plant IEDs.

The multimillion-dollar project was funded by the United Nations Mine Action Services (UNMAS), which subcontracted a Ukrainian company, Ukroboronservice (UOS) to carry out the work. The families say the project was risky, and they allege negligence on the part of the United Nations and the Ukrainian company.

Families say the incident was kept under wraps until a VOA report aired the grievances of the victims' relatives in July 2020.

The U.N. now says it has conducted a review of the incident and held discussions with the contractor. The contractor completed providing "financial aid" to the families of those killed and those injured in the attack, the U.N. told VOA Somali.

On June 5 this year, UOS officers met with the victims and their families in the office of the district commissioner in Afgoye, UNSOM spokesperson Ari Gaitanis told VOA Somali.

"They also explained the process of payment of the financial compensation, the amount that was to be paid to those injured and to the families of the deceased, as well as the documentation that would be required from the injured and the family members of the deceased to proceed with the payments," he said.

Documents seen by VOA show UOS decided to pay \$7,920 to each of the nine families who lost loved ones, and \$3,960 to each of the four people injured in the attack. The families condemned the payment figures as an "insult." Families say they do not know how the amount was determined.

Gaitanis says compensation money was "determined in line with international insurance practice for death and injury benefits, as applied to Somalia's context."

Legal expert Dahir Mohamed Ali disputed the money can be characterized as "compensation." He said in the absence of a written contract between the employer and the casual workers, as in this case, the two parties have to negotiate a settlement. If they cannot reach an agreement, they may approach a local court to make a determination. In this context, the law existing in the area of operation — Somalia — applies, Ali said.

He said Islamic law, which usually is applied by Somali courts, awards the killing of a male person 100 camels (\$100,000) while the blood money for a female person is 50 camels (\$50,000).

Abshir Ahmed Mohamed, a Somali lawmaker who is supporting the families' case, says he has received a letter from the program director of UNMAS in Somalia, Qurat-ul-Ain Sadozai, about the incident and the payment. Mohamed says Sadozai told him that payments by UOS do not constitute admission of responsibility or liability on the part of UOS, or U.N. organizations.

Mohamed, who is the deputy speaker of the Somalia's upper house of parliament, says he wants to see Somali families receive their "full rights." He said an investigation that includes the Somali government and the United Nations is necessary in order to find out what happened and who was responsible for the negligence.

Despite lingering questions about the incident, the U.N. in July awarded a new contract to UOS to undertake "Explosive Hazard Mitigation Services" in Somalia, Gaitanis said.

Gaitanis defends the new contract and says it was awarded through a competitive bidding process. He says the new contract does not include any bush clearance activity.

UOS did not respond to repeated requests for comment.

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## EUROPE

### **The Court of Bosnia and Herzegovina, War Crimes Chamber**

**Official Court Website [English translation]**

**Two Bosnian Serb Ex-Soldiers Convicted of Inhumane Treatment (Balkan Transitional Justice) By**  
Marija Tausan  
November 16, 2021

**The Bosnian state court on Tuesday sentenced former Bosnian Serb Army soldiers Bratislav Bilbija and Djuro Adamovic to two and three years in prison respectively for committing a war crime against civilians in the hamlet of Bukvik, near Prijedor, in August 1992.**

The court acquitted Bilbija and Adamovic, and third defendant Ranko Babic, of murder, torture and forced disappearances.

Tuesday's first-instance verdict said that Adamovic kicked, punched and hit a man in Bukvik with a rifle butt, and continued hitting him, together with others, until he fell down and lost consciousness. He also sentenced hit another man afterwards.

Bilbija was found guilty of kicking, punching and hitting another man in Bukvik with a rifle butt.

Both Bilbija and Adamovic were cleared of hitting a man on his head with an axe and taking him to a pre-dug hole where another soldier killed him.

The court also acquitted Babic of accusations that, as the most senior officer at the scene, he failed to prevent the crime being committed and, by his presence, encouraged others.

"The prosecution has in no way proved that Babic was superior to the soldiers and that he encouraged them. On the contrary, some witnesses said that he tried to calm down the situation and that some persons cursed him," said presiding judge Mira

Smajlovic.

The defendants were also cleared of taking away the three men they assaulted to an unknown location. Smajlovic said that it was impossible to speak about forced disappearances from Bukvik as some witnesses said that they saw the individuals who allegedly disappeared in other places later.

The verdict can be appealed.

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## **International Criminal Tribunal for the Former Yugoslavia** **(ICTY)**

### **Official Website of the ICTY**

#### **Bosnian Wartime Sexual Violence Survivors 'Feel Betrayed by System' (Balkan Transitional Justice)** By Emina Dizdarevic

November 4, 2021

**Most survivors of wartime sexual violence in Bosnia and Herzegovina see the obstacles they face if they try to get compensation as an additional punishment, according to the findings of a new survey.**

The majority of survivors of sexual violence during the war in Bosnia and Herzegovina feel abandoned and betrayed by the system because the statute of limitations is often invoked when they bring civil suits for compensation against the authorities, causing the cases to be dismissed, according to the preliminary findings of a new survey.

Wartime sexual violence survivors see this practice as “an additional punishment for them”, say the findings published on Thursday by TRIAL International in cooperation with the Global Survivors Fund and the Vive Zene association.

Survivors who do manage to win compensation in court face problems in actually getting the money because many perpetrators insist that they cannot afford to pay.

“This, coupled with the fact that prosecutors do not take an active role and conduct timely investigations of perpetrators’ property in order to facilitate the effective payment of compensation, results in survivors not receiving the compensation they are due,” the preliminary findings state.

Sexual violence in the 1992-95 Bosnian war was systemic and institutionalised, as confirmed by the judgments of the International Criminal Tribunal for the Former Yugoslavia, ICTY, according to the findings.

Around 20,000 women and men were raped or sexually abused during the Bosnian war and the ICTY verdicts indicate that the motive for the sexual violence was ethnic intolerance.

Social stigma still makes it difficult for many survivors to speak about their trauma which, coupled with a lack of adequate support, leads to a fear of seeking justice and reparations.

“Many survivors, and especially men, feel shame and hide what happened from their family. The vast majority of the survivors hide their trauma from their children because of fear about how the children would respond to it. This also affects family relations,” says the findings of the TRIAL International survey.

Although Bosnia and Herzegovina has established a domestic reparations programme, including survivors of war-related sexual violence, the country is still far from providing adequate, prompt and effective reparation to survivors according to international standards.

“Many of the survivors are dissatisfied with the level of prosecution of war crimes in Bosnia and Herzegovina, which they

deem to be low and inconsistent, highlighting that many perpetrators still live freely both abroad and in Bosnia and Herzegovina, while survivors and their families are deprived of justice,” the survey’s preliminary findings say.

“Although the courts have adopted the ground-breaking practice of awarding compensation to survivors in criminal proceedings, it is only accessible to those who have testified in the proceedings. Many survivors fear that they will not live to see their perpetrators prosecuted and that they will therefore not have the opportunity to seek redress through such proceedings,” the findings add.

They also express concern that the fragmented legal framework across the country results in uneven procedures and the unequal treatment of victims of war-related sexual violence.

### **The case of Mladić mural shows that authorities in Serbia have no intention to deal with war crimes (European Western Balkans)** By Sofija Popović

November 12, 2021

**This week’s events in Serbia have shown that state is willing to defend the mural of convicted war criminal Ratko Mladić, which only exposes the government’s close ties with right-wing and hooligan organisations, EWB interlocutors assess. Apart from the criticism of some Members of the European Parliament, there have been no sharper reactions from Brussels.**

Serbian police arrested civic activist Aida Ćorović and illustrator Jelena Jaćimović on Tuesday for throwing eggs at a mural of Bosnian Serb wartime general Ratko Mladić, painted on the wall of a residential building in downtown Belgrade. The story of the mural started in July, when an unknown group of hooligans illegally painted mural on the wall with the slogan “General, your mother should be thanked”. The graffiti has been damaged several times ever since it appeared, but it has been repaired within hours every time.

On 9 November, dozens of policemen blocked the access to the area around the mural after human rights groups and other activists vowed to paint over it to mark the International Day Against Fascism and Antisemitism. Authorities said afterward that police were not protecting the mural but ensuring “public order and peace from all those who want to endanger it, regardless of whether they are in favor of removing the mural or oppose this”.

Critics of the anonymous tribute say Interior Minister Aleksandar Vulin’s ban on a gathering to remove the Mladić mural and the heavy police deployment signal tacit endorsement of a person behind one of the most horrific atrocities in Europe since World War II, Radio Free Europe (RFE) reported.

Florian Bieber, Professor from University of Graz and coordinator of the Balkans in Europe Policy Advisory Group (BiEPAG), assesses for European Western Balkans that the recent events have revealed that the government clearly protects hooligans and tries to keep ordinary citizens away.

“Shocking difference in the behaviour of the police between the attempt to cover or disfigure the mural and the thugs and hooligans who clean and guard it means that the government both supports and collaborates with this nationalist hooligans and does not want to confront a mural which not only depicts a war criminal (who was extradited by Serbia after all) but is also illegal”, says Bieber

According to him, this is just the latest manifestation of the government obstructing a critical reflection on the past.

“There have been numerous similar signs and steps, from promoting war criminals who return in the ruling party to constant praise of war criminals in some media close to the government to the lack of effort to reduce hate speech in the public space”, underlines Bieber.

Srđan Cvijić, BiEPAG member and a Senior Policy Analyst at the Open Society European Policy Institute in Brussels, says that a decision of the regime to engage police to protect the graffiti made to honour the war criminal Ratko Mladić is only an external manifestation of the relationship between the regime and hooligan groups involved in organised crime.

“The relationship between the Serbian regime and the organised crime hooligan groups was established several years ago without any doubt. If someone had doubts before, this relationship became obvious in May 2017 during the inauguration of the then newly elected President of Serbia Aleksandar Vučić, when prominent members of the organised crime hooligan groups acted as security of the inauguration and physically attacked and unlawfully detained, journalists from independent media who came to report on the event and citizens who came to peacefully protest against the President“, Cvijić explains.

He adds that a consistent policy of Aleksandar Vučić, ever since he “came to power in 2012, is to normalise the nationalist values that reigned in Serbia in dark 1990s while simultaneously trying to make peace with its neighbours and to put the



perpetrators of horrendous war crimes committed in the name of the Serbian people on trial”.

Should the EU pay more attention towards the attitude to war crimes in Serbia?

Serbia is still far from making real progress regarding war crimes trials, although this issue is part of Chapter 23, which is key for the accession of Serbia to the European Union.

This-year EC report assessed that Serbia has a very weak track record in the processing of war crimes cases.

“Overall, Serbia needs to show a genuine commitment for investigating and adjudicating war crimes cases. This is also a requirement for effectively dealing with the legacy of the past and for fostering reconciliation. Serbia should prioritize complex cases and those involving senior ranking officials and provide a clear legal approach to resolve the issue of command responsibility”, EC Report on Serbia assessed.

A joint statement by several Members of the European Parliament from the Progressive Alliance of Socialists and Democrats, Renew Europe and Greens/European Free Alliance, condemned the authorities and President Aleksandar Vučić, saying it was unacceptable for the police to guard a mural of a convicted war criminal in the country, which is a candidate for the European Union membership.

The statement pointed out the murals of Ratko Mladić, a Bosnian Serb general convicted of war crimes in Bosnia and Herzegovina and genocide in Srebrenica before the International Criminal Tribunal for the former Yugoslavia and others like him can be found throughout Serbia.

“It is utterly unacceptable for an EU candidate country to deploy its police to protect a mural of a convicted war criminal, who is directly responsible for atrocities and mass killings in and around Srebrenica in July 1995, thus directly contributing to the re-traumatization of the victims. We urge Serbian authorities to stop denying the Srebrenica genocide and glorifying convicted war criminals as it goes against all European and universal values of fundamental and human rights“, the MEPs statement reads.

Srdan Cvijic says that this regime has absolutely no intention to deal with the war crimes and the murderous legacy of Milošević’s regime.

“Ever since 2012, when Vučić’s party came to power, pro-government media feed the population with a daily dosage of anti-Western, pro-Russian, and nationalistic propaganda. The difference with the period before they came to power is striking. While the pre-2012 government extradited war criminals such as Ratko Mladić and Radovan Karadžić to the International Criminal Tribunal for the former Yugoslavia (ICTY) in the Hague, this government is honouring convicted war criminals, as we see with recent deployment of the police to protect the graffiti of Ratko Mladić”, says Cvijic.

He adds that it is difficult to say whether recent events will prevent the EU from opening new negotiating clusters with the Serbian regime.

“Since we are witnessing only regression in the rule of law and democratisation fields in Serbia, this decision was not justified even before the recent events over the graffiti. Yet, the recommendation to open the clusters was issued from a desire to ‘encourage’ the authorities in Serbia to reform, but more so to kick start a seemingly moribund EU accession negotiations process. Whether recent events will make it difficult for some EU member states to agree with the opening of the clusters it is difficult to judge, but I am just afraid that the regime in Serbia will spin a potentially negative decision as ‘anti-Serbian’ and not as a logical consequence of the consistent ‘Orbanisation’ of Serbia by the Vučić regime in the last decade”, underlines Cvijic.

Florian Bieber assesses that the events and also the citizen’s protest highlight that one has to take a larger view on the issue.

“I am surprised how technocratic the understanding of reforms by Commission still is. I am not seeing the progress that von der Leyen recently noted during her visit or the report suggests which would merit the opening of new clusters. Maybe the events and also the citizen’s protests highlight that one has to take a larger view on the issue. It would be understandable if the government was struggling with confronting hooligans and extreme nationalists, but the recent events show that they are collaborating and there is no honest effort visible by the government to deal with revisionism and denial of war crimes”, Bieber concluded.

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# Domestic Prosecutions In The Former Yugoslavia

## **Bosnian Serb Fighter's Wartime Assault, Robbery Conviction Upheld (Balkan Transitional Justice)**

By Milica Stojanovic

November 9, 2021

**Belgrade's Court of Appeals has confirmed the two-year sentence handed down to Bosnian Serb ex-fighter Zeljko Budimir for beating up a civilian and stealing his money in the village of Rejzovici in Bosnia's Kljuc municipality in November 1992.**

The appeal decision, which was made on October 7 and published on the court's website on Monday, accepted the mitigating circumstances that the first-instance court took into account when deciding to impose a two-year sentence, the minimum punishment available.

It said that "the first-instance court correctly assessed the fact that the defendant was 21 years old at the time of committing the crime, and that he has no convictions".

It said that the first-instance court acted correctly by imposing the minimum sentence, which would "achieve the purpose of punishment".

According to the indictment, Budimir was one of three fighters who broke into the house of a man called Ale Strkonjic in Rejzovici at around 11pm on November 21, 1992, and beat him up and stabbed him.

Strkonjic gave the men the money they were demanding – some 5,800 German marks – and then escaped.

One of the two other fighters who was with Budimir approached Strkonjic's wife Fatima, pulled out his gun and shot her in the head, then killed her mother, Fata Koljic, with a knife, the indictment alleged.

But during a retrial in February, the court acquitted Budimir of participating in the murders of Ale Strkonjic's wife and mother-in-law.

The indictment did not specify to which military group or unit the defendant belonged.

In his initial trial in September 2019, Budimir was also sentenced to two years in prison for assaulting and robbing Strkonjic and acquitted of participating in the murders of his wife and her mother. But in March 2020, the Court of Appeals quashed the verdict and ordered a retrial.

Two other fighters, Predrag Bajic and Mladenko Vrtunic, were convicted of the murders of the two women and the attack on Strkonjic by the cantonal court in Bihac in Bosnia and Herzegovina in 2014.

As Budimir lives in Serbia, his case was transferred from Bosnia to Belgrade, where his trial started in April 2018.

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## Turkey

### **SDC leader Ilham Ahmad condemns Turkish drone attack (Kurdistan24)** By Wladimir van Wigenburg

November 10, 2021

**Ilham Ahmed, the president of the Executive Committee of the Syrian Democratic Council (SDC), condemned a Turkish drone strike that killed three civilians from the same family late on Tuesday evening.**

"The Turkish army committed a massacre resulting in the death of 3 civilians from the same family in Qamishli," Ahmed tweeted on Wednesday.

"Why the international community remains silent on crimes committed by Turkey. I call on all our friends to hold Turkey accountable for its war crimes," she added.

A Turkish drone strike on Wednesday killed 82-year-old Yousef Gulo, Mazloun Gulo, and Mihemed Gulo.

They were direct relatives of a former defense official in the local administration.

Even though there have been separate ceasefire agreements between Turkey and Russia and Turkey and the United States since Oct. 2019, Turkish-backed groups and the Turkish Army regularly target SDF-held areas.

The SDF has previously called on Russia and the United States to pressure Turkey to uphold its agreement.

Recently, Turkey has again threatened to launch a new operation against the SDF.

On Wednesday, the Autonomous Administration of North and East Syria (AANES) also condemned the drone strike, saying it had targeted a "patriotic family".

The AANES called on Russia and the US to take a clear role to prevent such attacks and Turkish aggression.

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## **Kosovo Specialist Chambers**

**Kosovo Veterans' Leaders Denounce War Crimes Court as 'Biased' (Balkan Transitional Justice)** By

Perparim Isufi

November 8, 2021

**The heads of the Kosovo Liberation Army Veterans' Association called the Hague-based war crimes court 'biased' and said they had done nothing wrong by revealing confidential court documents to media.**

The leader of the KLA War Veterans' Association, Hysni Gucati, and his deputy Nasim Haradinaj insisted on Monday that they are innocent of obstruction of justice and witness intimidation, and denounced the Kosovo Specialist Chambers, which was set up to prosecute crimes committed during the Kosovo war.

"As a proud citizen of the Republic of Kosovo, I declare today that I am being subjected to a [trial] process by a biased and selective prosecution," Haradinaj told the court in The Hague.

"We haven't committed any sin... It is my legitimate right to protect the values of my people and the Republic of Kosovo. I am obliged to protect the rights and freedoms of my people for a better life like every nation on our continent," Gucati said.

Gucati and Haradinaj were arrested in September after they received allegedly leaked case file documents from the Kosovo Specialist Chambers which contained confidential information about protected witnesses in the Hague-based court's cases against KLA ex-guerrillas, and urged media to publish extracts from them.

The indictment alleges that between September 7 and 25, 2020, "on the occasion of three press conferences and other broadcasted events, as well as through... social media statements, Mr. Gucati and Mr. Haradinaj revealed, without authorisation" lawfully protected information.

It also claims that they identified "details of certain (potential) witnesses".

The Specialist Chambers were set up to try former KLA guerrillas for crimes allegedly committed during and just after the Kosovo war from 1998 to 2000. They are part of Kosovo's judicial system but located in the Netherlands and staffed by internationals.

The so-called 'special court', widely resented by Kosovo Albanians who see it as an insult to the KLA's war for liberation from Serbian rule, was set up under pressure from Kosovo's Western allies.

Those awaiting trial for wartime crimes include Kosovo's recently-resigned President Hashim Thaci and former Democratic Party of Kosovo leader Kadri Veseli alongside two other guerrillas turned politicians, Jakup Krasniqi and Rexhep Selimi. They have all pleaded not guilty.

The trial of former KLA commander Salih Mustafa is already underway. Mustafa is charged with the arbitrary detention, cruel treatment, torture and murder of civilian prisoners. He has pleaded not guilty.

## **Kosovo War Trial Witness 'Saw Guerrillas Beating Prisoner' (Balkan Transitional Justice) By**

Perparim Isufi

November 10, 2021

### **A protected witness told the war crimes trial of former Kosovo Liberation Army fighter Salih Mustafa in The Hague that he saw a prisoner being beaten up in a cowshed where he was detained by guerrillas in 1999.**

A protected witness told the Kosovo Specialist Chambers in The Hague on Tuesday that he saw five or six people beating a prisoner who was being held in an improvised detention facility in the village of Zllash/Zlas, some 30 kilometres east of Kosovo's capital Pristina, during the war in 1999.

The witness, who was testifying at the trial of former Kosovo Liberation Army guerrilla Salih Mustafa, said that he and four other people who were detained there were able to see the violence "through the holes of a cowshed" where the prisoner was assaulted.

"The second time they brought him to the cowshed, he was almost dead. He barely stood up... When they finished the beating, they brought him where we were staying. Every time they brought him [at the cowshed] they told us to say 'Death to traitors', 'Death to thieves' and 'Glory to the KLA'," the witness said.

His testimony echoed a previous witness who said last month that he was detained by KLA fighters in a cowshed, beaten up, urinated upon and given electric shocks.

Mustafa is accused of involvement in murder, torture, cruel treatment and arbitrary detentions during the Kosovo war in April 1999 at a KLA-run detention compound in Zllash/Zlas, which was allegedly run by a unit that he commanded.

He allegedly committed his crimes against prisoners accused by the guerrilla fighters of collaborating with enemy Serbs or not supporting the KLA's cause. He has pleaded not guilty.

The Kosovo Specialist Chambers were established to prosecute KLA fighters for crimes committed during the guerrilla force's 1998-99 war of resistance against Yugoslav leader Slobodan Milosevic's repressive rule. Mustafa is the first ex-KLA fighter to be tried there.

The Specialist Chambers are part of Kosovo's justice system but are located in The Hague and staffed by internationals. They were set up under pressure from Kosovo's Western allies, who feared that Kosovo's justice system was not robust enough to try KLA cases and protect witnesses from interference.

But the so-called 'special court' is widely resented by Kosovo Albanians who see it as an insult to the KLA's war for liberation.

The trial continues.

## **The Right To Know (Transitions) November 11, 2021**

### **Access to public documents in Kosovo: Verbal refusal and administrative silence.**

Besnik Boletini waited six months for access to official documents in the Kosovo Education Ministry, only to have his request ignored.

The request was related to a ministry inspection report on Juridica, a private college that had exceeded by more than 100 percent the ministry-set quota for the number of students permitted to enroll. As a result, the ministry did not recognize the diplomas of dozens of students from the school.

In addition to examining the report, Boletini, a journalist for the Kosovo Center for Investigative Journalism (KCIJ), wanted to shed light on whether the ministry had undertaken any action to prevent the violation. The college had declared it registered 54 students when it apparently registered 80 more. By law, the ministry can intervene to check the validity of diplomas and fine schools that violate the rules.

"The Ministry of Education did not grant me access to the report, but I managed to obtain it in an unofficial way," Boletini told Transitions. "They did not want to disclose the exact figures relating to how many students were enrolled unlawfully – more than allowed by the quota."

Who Controls the Freedom of Information?

Many journalists in Kosovo have been denied access to official documents, especially those related to major contracts, alleged

misuse of tenders, expenditures by public bodies and officials, and public money spent for war crimes defendants.

The Law on Access to Public Documents, adopted in 2007 and amended in 2010 and 2019, ensures the right of citizens to access public information. In the eyes of many journalists, however, the Information and Privacy Agency, charged with safeguarding this right and helping the public get access to documents, has long been dysfunctional, making implementation of the law and access to public documents problematic and dependent on the whims of officials.

Five years after the parliament in effect blocked the Information and Privacy Agency by failing to appoint a commissioner to head it, Krenare Sogojeva Dermaku was named to the post last summer. She personally started an information campaign by meeting with journalists and even people in the street, to try to convince them that access to public documents is possible.

She walked along the main square of Kosovo's capital, Pristina, asking people if they needed access to official documents and if they were aware that the Information and Privacy Agency can help them to get access.

The difficulties journalists face in obtaining information often fuel speculation and fake news, Dermaku told Transitions. "We have started to get things moving so as to uproot the irresponsibility of officials that has corroded public trust," she said. Fines are one tool available for that, she added.

When a public institution, including a judicial body, denies access to a public document, the Information and Privacy Agency can order the institution to provide access. If the decision is not respected, the agency can fine the institution up to 10,000 euros. To date, it has never issued a fine.

Access can depend on changes in government. "Usually, access is easier at the beginning of the mandate of a new government or mayor," Boletini said. "But things change for the worse later on."

#### Public Access Law Repeatedly Violated: Ombudsman

The public documents law grants the ombudsman's office the power to assist citizens who seek access to public documents. In the past three years, the ombudsman has looked into more than 270 complaints of violations of the right of access to public documents; most were filed by media and civil society organizations.

According to the ombudsman's office, in many instances, rejection of a request for access to public documents violates the law.

In 2010, the GAP Institute think tank twice asked the Infrastructure Ministry for access to the contract for the Ibrahim Rugova highway, which links Kosovo with Albania and Serbia, but never received a response. In 2018, GAP's request for access to the contract for the Arben Xhaferi highway between Kosovo and North Macedonia was turned down.

The 2018 denial was contested in court; the case has not been resolved, but it sparked speculation in the media, with hundreds of reports citing different cost figures for the highway.

"If you seek documents, any specific report or contract, there are difficulties to gaining access or it gets refused," Boletini said. "This makes the flow of an investigation very difficult."

A persistent case backlog in the courts also has hindered their ability to adequately respond to complaints concerning access to public documents.

Mexhide Demolli Nimani, head of FOL (Speak Up), a Pristina-based NGO which promotes good governance and accountability, says her organization has waited eight years for access to the Ibrahim Rugova highway tender. A court had decided in favor of FOL, but the ministry appealed, and the matter has languished at the appeals court level since 2018.

"To hold institutions' feet to the fire over transparency, the judiciary also needs to increase its efficiency in order to support citizens' right to public documents," Demolli Nimani said.

The ombudsman's press office said the lack of will to respect the law among institutions charged with enforcing the law "results in the violation of the right of access to public documents."

Also, contrary to public documents law, the ombudsman's office said it is common for institutions to permit individuals to only view documents and not allow them to obtain hard copies or photograph them.

Jeton Mehmeti, a professor of communications at the American University of Kosovo, said public institutions are selective in offering access to public information. "We have encountered a new approach by public officials that falls somewhere between access and denial of information. This was the case when an official allowed us to see a document but not to take a copy, citing its confidentiality."

## Reporter's Desperate Plea

Press officers mostly lack the authority to fulfill requests for access to public documents and often fail to provide legal justification for denying or restricting access. Sometimes higher officials personally try to prevent access to documents. In a notorious instance last year, the director of the road infrastructure department at the Ministry of Infrastructure and Transportation, Rame Qupeva, refused to give Jeta Xharra, head of the Balkan Investigative Reporting Network's (BIRN) Kosovo bureau, documents pertaining to an agreement between Kosovo and Serbia on air, rail, and road travel. "I don't dare to give you these documents," he told her. "I am not permitted by the presidency."

Xharra grabbed the documents, dodged Qupeva, ran down three flights of stairs, and shot out of the building. "We need to put our foot down and say no to this practice, even physically if necessary, because the law is on our side," she declared.

Dermaku said she hopes access to public information will become easier. "Where access to a document is granted, the applicant has the right to receive a copy in any available form," she said.

Another issue she flagged is public bodies not indicating whether documents are public or classified.

Last year, for instance, the Justice Ministry refused BIRN access to the contracts for two law firms hired to do "legal counseling and presenting Kosovo's legal position" to the Hague-based Kosovo Specialist Chambers, set up to try former Kosovo guerrillas for crimes against humanity. The ministry said the contract was classified, without explaining why.

"We will leave no stone unturned to make possible access to every public document, even those which were unreasonably classified," Dermaku said.

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## Azerbaijan

### **Senate Armed Services Committee set to consider amendments on Azerbaijani war crimes, Turkish killer drones (Public Radio of Armenia) By Siranush Ghazanchyan**

November 11, 2021

#### **Senate Armed Services Committee, chaired by Rhode Island Senator Jack Reed, is set to consider three key amendments: 1) Cutting off US aid to Azerbaijan (enforcing Section 907) 2) Investigating U.S. parts/technology in Turkey's killer drones 3) Mandating a U.S. Department of State war crimes report**

Earlier this month Senate Foreign Relations Committee Chairman Robert Menendez (D-NJ) introduced a powerful amendment that would end U.S. presidential waiver authority of Section 907 of the FREEDOM Support Act, an Armenian National Committee of America (ANCA) -backed measure that would effectively block U.S. military aid to Azerbaijan.

The amendment (#4177) is one of three amendments to the Senate version of the National Defense Authorization Act (NDAA) that deals with U.S. aid to Azerbaijan as well as Azerbaijani and Turkish war crimes committed against Artsakh and Armenia during the 2020 war. The amendment removes all references to presidential waiver authority of Section 907, a provision first put in place in 2001, and utilized by successive U.S. presidents – including President Biden, even in the wake of Azerbaijan's 2020 brutal aggression against Artsakh in Armenia. Since 2016, the U.S. has provided over \$120 million in U.S. military assistance to Azerbaijan, in the face of objections by Members of Congress and the ANCA, which has long raised alarms about the Aliyev regime's belligerence in region.

Senator Menendez also offered a second amendment (#4150) to the NDAA which calls for a joint State Department and Defense Department report on Turkey's use of U.S. technology in its Bayraktar drones, with a special focus on whether their sale to third countries, like Azerbaijan, violates U.S. export laws. The ANCA has identified a number of U.S. parts used in Bayraktar drones that targeted Artsakh and Armenian civilians during the 2020 Artsakh war. In addition to the ANCA, Amendment #4150 also has the support of a coalition of ethnic, civic, and faith-based groups including the Hellenic American Leadership Council, American Friends of Kurdistan, the Hindu American Foundation, and the Middle East Forum.

A third amendment (#4251) introduced by California Senator Alex Padilla (D) calls for a joint State Department and Defense Department report, in response to Azerbaijani war crimes during the 2020 Artsakh war, including the use of U.S. technology during the attacks; the use of white phosphorous, cluster bombs, and other prohibited munitions; and the hiring of foreign mercenaries.

**Armenia and Azerbaijan reported military clashes on their shared border Tuesday and blamed each other for starting the conflict amid tensions between the two ex-Soviet nations that have simmered since a six-week war last year over Nagorno-Karabakh.**

The Armenian Defense Ministry accused Azerbaijan's military of opening fire on Armenian positions, killing one person and capturing 12 servicemen. The Azerbaijani government, meanwhile, accused Armenia of a "large-scale provocation" on the border.

Armenian lawmaker Eduard Aghajanyan told reporters that 15 Armenian soldiers were killed in Tuesday's clash, but so far there has been no official confirmation. The Azerbaijani military said two of its servicemen were wounded.

Armenia and Azerbaijan have been locked in a decades-old dispute over the separatist region of Nagorno-Karabakh, a region that lies within Azerbaijan but was under the control of ethnic Armenian forces backed by Armenia since a separatist war there ended in 1994.

Moscow brokered a peace deal last November to end six weeks of fighting over the territory, during which more than 6,600 people were killed. The Russia-brokered truce allowed Azerbaijan to reclaim control over large parts of Nagorno-Karabakh and surrounding areas that the Armenia-backed separatists controlled.

Tensions on the two nations' border have been building since May, when Armenia protested what it described as an incursion by Azerbaijani troops into its territory. Azerbaijan has insisted that its soldiers were deployed to what it considers its territory in areas where the border has yet to be demarcated. Clashes have been reported ever since.

On Monday, Armenian Prime Minister Nikol Pashinyan accused Azerbaijani forces of an incursion into his country's territory, and reports of fighting, with the use of artillery, followed Tuesday from both countries.

Armenia's Security Council has called on Russia to help protect the country's territorial integrity.

Russian Defense Minister Sergei Shoigu spoke on the phone with his Armenian and Azerbaijani counterparts Tuesday, urging "both sides to cease activities that provoke the escalation of the situation," the Russian Defense Ministry said.

Pashinyan also spoke by phone to Russian President Vladimir Putin about the situation on the border, according to the Kremlin.

European Council President Charles Michel called Azerbaijani President Ilham Aliyev and voiced concerns over the escalating tensions on the Armenian-Azerbaijani border, according to Aliyev's press service.

Later Tuesday, Russia's Defense Ministry reported that hostilities on the Armenian-Azerbaijani border had ceased, following talks with Moscow. Armenia's Defense Ministry confirmed that report.

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## MIDDLE-EAST

### Iraq

**Grotian Moment: The International War Crimes Trial Blog**

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## Syria

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## Yemen

### **Yemen: Ferocious Marib fighting engulfs residential areas as Houthis advance (Middle East Eye)**

November 8, 2021

#### **Yemenis swept up in the fighting need to make a choice: stay and risk death or flee to displacement and uncertainty**

The father of five children, Salem al-Muradi was born and spent his whole life in a village in Marib's al-Juba district, making a living as a daily worker, either building houses or working on farms.

He never thought about leaving his village. But as battles between Houthi rebels and pro- government forces in al-Juba moved closer and closer to his home, al-Muradi and his family were forced to move to safer territory.

“We have been hearing the fighting for around two months, but we didn't flee as it is difficult for people to leave their homes. Two weeks ago the Houthis advanced towards us and the fighting came nearer but also we didn't flee,” he told Middle East Eye.

“Last Sunday, the Houthis advanced towards our village using all kinds of weapons, and they were targeting the area by missiles and shelling.”

Al-Muradi confirmed that there was no option at this point but to leave the area, heading in the direction of al-Nugea camp of displaced families, where many other fleeing families have ended up in recent months.

“The Houthis were advancing in a dramatic way so we left everything and fled on foot. Some were late to gather their belongings - those [that did] put themselves in danger and some of them were killed by missiles or shelling,” he said.

“Conflict doesn't differ between civilian or fighter and when it moves to an area, families must flee.”

Al-Muradi told MEE that some families preferred to stay in their homes to protect their property. However, he feels as though this was a mistake, as those who remained quickly found themselves caught in the crossfire.

“Lives are more important than belongings, but many people don't think well and they put themselves in danger,” he said. “Two days after our displacement, a neighbour arrived at the camp and told us that one of our neighbours was killed with his child inside their home.” Bloodiest days

On Sunday, the Saudi-led coalition, which has been launching air strikes in support of the government against the Houthis since 2015, said that it had killed 138 Houthi rebels over the previous 24 hours in raids near Marib.

Despite these claims, which cannot be independently verified by MEE, the Iran-aligned rebels have continued their advance towards the city, the government's last remaining stronghold in the north of Yemen.

Al-Muradi also heard about the attack on a mosque and school in al-Juba district, in which reportedly at least 29 people were killed or injured after the area was struck by a Houthi ballistic missile attack.

“The frontlines are now in residential areas and the disaster is that there are casualties from civilians every day. The Houthis are advancing towards residential areas and definitely, there will be more civilian casualties in the coming days,” he said.



At least 29 people, many of them students, were killed or injured in the attack in Marib late on Sunday, according to a statement by Save the Children, which confirmed that October was the deadliest month for civilians so far this year in the province.

The statement said there were more than 54 incidents of armed violence that affected people in and around Marib in October, resulting in more than 119 casualties, including at least 23 deaths, of which at least five were children - more than double the number of casualties recorded in any other month this year.

“We are speechless when facing this level of horror witnessed by civilians in Yemen. The world needs to come together to make sure that civilians in Yemen do not continue to pay a heavy toll for the hostilities in the country,” said Save the Children’s country director for Yemen, Xavier Joubert.

Families have continued to arrive at al-Nugea camp, around 40 minutes outside Marib city, despite a severe lack of basic services. Aid organisations have also so far yet to arrive at the camp.

Out of four million displaced people in Yemen, an estimated one million are in Marib, and more than 55,000 have been displaced since September 2021.

Ready to flee

Abdullah, who preferred to give only his first name, has been on the move since 2016. He eventually returned to his original home in Sanaa's Nihm district, but fled again in January 2020. He described life in displacement as a “wasted life”.

“This is our life and this is the situation we live in, in addition to the other kinds of suffering like lack of food and basic services,” Abdullah told MEE.

“In Nihm, I didn’t flee with the first group but when I saw a neighbour killed in front of me by a shell, I decided to flee and since then I have fled four times as the Houthis are advancing towards Marib.”

Abdullah stated that usually they walk and hire a car for the nearest safe area and then this area becomes a new frontline, so they keep moving on towards Marib city.

“The last displacement was last Saturday from al-Juba to al-Nugea after the Houthis were targeting the area around the last camp,” he said. “After we fled the Houthis took over the area where we were, so I’m happy that I fled in the proper time.”

Abdullah said they weren’t comfortable in the new camp and hoped that aid organisations could help them to settle down and stay in an area far away from the fighting.

“In the beginning I was hoping to return to my home, but now I [have] lost hope and I only hope to settle down in a place where we don’t think about the next displacement” he said.

Some residents of Marib were terrified when they heard about the fighting in al-Juba and other areas, as civilians became casualties of the violence.

Sultan, a resident of Marib, confirmed that he would flee the city as soon as the fighting got near. He wasn't prepared to put himself or his family in danger.

“I heard that civilians in al-Juba fell victim of the fighting and it isn’t a populated area like the city,” he said. “If battles arrive in the city, I’m sure there will be a huge number of civilian victims.”

**Yemen: pregnant journalist killed in Aden on way to maternity ward (Middle East Monitor)**  
November 10, 2021

**A pregnant Yemeni journalist was killed in a car bomb attack in the southern port city of Aden yesterday. It is the latest such killing to have afflicted the interim capital of the recognised government.**

An explosive device was reportedly attached to the vehicle carrying Rasha Abdullah Al-Harazi and her husband Mahmoud Al-Atmi, who was taking her to the hospital to give birth to their second child. The unborn baby was also killed. Three passers-by were wounded.

Al-Atmi is also a journalist and was injured in the attack. Both husband and wife are said to have worked for a Gulf television channel. Some reports named it the UAE-based Asharq.

Although no group has claimed responsibility, Al-Atmi suspects that Houthi forces were behind the explosion. "They were trying to find out my home address," he told AFP. Yemeni Prime Minister Maeen Abdulmalik Saeed has called the incident a "terrorist attack".

The explosion came almost three weeks after six people died in a similar attack against the city's governor, who survived.

Aden has been beset by targeted killings and instability amid a power struggle between the internationally-recognised government, supported by Saudi Arabia, and the UAE-backed Southern Transitional Council (STC), which seized the city in 2019. The STC and the government have accused each other of being behind assassinations and instigating armed clashes involving their respective armed militias.

### **Yemen's Houthi forces breach U.S. Embassy compound, detain local employees (Washington Post)**

By Siobhán O'Grady and Amy Cheng

November 11, 2021

#### **Yemeni security employees of the U.S. government have been detained in Sanaa, Yemen, after the compound that once housed the American Embassy was breached by Iran-backed Houthi forces, the State Department said.**

For years, the Houthis have controlled Sanaa, the capital of Yemen, and much of the country's north. The U.S. diplomatic mission suspended operations there in 2015, near the start of the country's civil war between the Saudi-backed government and the Houthis, who receive support from Iran. The American ambassador and key staff were relocated to Saudi Arabia, a major U.S. ally in the region.

A spokesperson for the State Department said Thursday that a "majority" of the U.S. Embassy staff members who were detained have been released and that Washington was engaging in "unceasing" diplomatic efforts to free the security guards still in custody. The security personnel had been guarding the outside of the facility, according to a State Department official. It is not clear why the Yemeni employees were detained.

The State Department also called on Houthi forces to "immediately vacate" the embassy compound and to "return all seized property."

A bipartisan group of U.S. lawmakers on Friday condemned the action and said that a failure by Houthi authorities to release U.S. staff would have unspecified consequences. "Breaching the sovereign territory of a foreign embassy and threatening and detaining its staff clearly demonstrate the Houthis have no interest in peace, nor in making the changes necessary to become legitimate members of the international community," Sens. Robert Menendez (D-N.J.) and Jim Risch (R-Idaho), who lead the Senate Foreign Relations Committee, and Reps. Gregory Meeks (D-N.Y.) and Michael McCaul (R-Tex.), who lead the House Foreign Affairs Committee, said in a statement.

Saudi Arabia is staunchly opposed to the Houthi forces and launched a military intervention in Yemen in 2015, ostensibly seeking to restore Yemen's internationally recognized government to power. The conflict is also a regional one, in which the Saudis and their allies are seeking to prevent Iran from expanding its influence.

Houthi forces have also directly attacked Saudi Arabia, targeting the kingdom's airports and oil production facilities. The Saudi government had imposed a near-total blockade on Yemen, exacerbating a severe humanitarian crisis.

The U.N. Security Council imposed sanctions this week on three Houthi rebel leaders who it said helped orchestrate attacks on Saudi Arabia and Yemen's remote Marib province, a stronghold of the internationally backed government. At least 1,700 government troops were killed in Marib in the first nine months of this year. The Houthis are also believed to have suffered serious casualties but do not release official tolls.

In recent weeks, the Houthis have made some significant territorial gains in Marib. If they were to seize control of the resource-rich province, they would gain near-total control of the country's north. The Saudi-led coalition is supporting government troops and allied local forces in Marib with airstrikes, but regular shelling, drone and missile attacks have led to high numbers of casualties among government troops. Recent attacks have also killed civilians, including children, in Marib.

The international community is pushing for talks to put an end to the conflict. The Houthis have said they are unwilling to negotiate until port restrictions are lifted and the airport in Sanaa is reopened.

In February, the Biden administration removed the Houthis from a foreign terrorist watch list and announced the end of U.S. support for the Saudi-led coalition's offensive operations, pledging instead to ramp up diplomatic efforts by naming diplomat Timothy Lenderking as special envoy to Yemen.

Lenderking traveled to the region in recent days, in part to try to convince the “Houthis to stop their offensive on Marib and repeated attacks against civilian areas, which are exacerbating the humanitarian crisis,” the State Department said in a statement.

He also planned to “press the parties to implement critical economic reforms, secure regular imports and distribution of fuel, and resume commercial flights to Sana’a airport,” the statement said.

Lenderking previously called Marib the “stumbling block” in negotiations between the sides.

In conservative circles, the detentions and compound breach spurred criticism of President Biden’s foreign policies. U.S. “enemies sense weakness when certain people hold office,” Rep. Dan Crenshaw (R-Tex.) said in a tweet that compared the events in Sanaa to events such as the 1979 seizure of the U.S. Embassy in Tehran and the deadly 2012 attack on American facilities in Benghazi, Libya, despite the lack of involvement of American personnel in the current case.

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## **Special Tribunal for Lebanon**

**Official Website of the Special Tribunal for Lebanon**  
**In Focus: Special Tribunal for Lebanon (UN)**

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## **Israel and Palestine**

**State Business: Israel’s misappropriation of land in the West Bank through settler violence (B’Tselem)**

November, 2021

**Israel has built more than 280 settlements in the West Bank, which are home to more than 440,000 settlers. Of these settlements, 138 were officially established and recognized by the state (not including the 12 neighborhoods Israel built in the areas it annexed to Jerusalem), and some 150 are outposts not officially recognized by the state. About a third of the outposts have been built over the past decade, most of them referred to as “farms”.**

West Bank settlements dominate hundreds of thousands of dunams [1 dunam = 1,000 square meters] to which Palestinians have limited access or none at all. Israel has taken over some of these areas using official means: issuing military orders, declaring the area “state land,” a “firing zone” or a “nature reserve”, and expropriating land. Other areas have been effectively taken over by settlers through daily acts of violence, including attacks on Palestinians and their property.

The two tracks appear unrelated: The state takes over land openly, using official methods sanctioned by legal advisors and judges, while the settlers, who are also interested in taking over land to further their agenda, initiate violence against Palestinians for their own reasons. Yet in truth, there is only one track: Settler violence against Palestinians serves as a major informal tool at the hands of the state to take over more and more West Bank land. The state fully supports and assists these acts of violence, and its agents sometimes participate in them directly. As such, settler violence is a form of government policy, aided and abetted by official state authorities with their active participation.

The state legitimizes this reality in two complementary ways:

## A. Legalizing land takeover

violently taken from Palestinians. Dozens of outposts and “farms” – settlements for all intents and purposes, which were built without formal authorization by the government and without plans that enable construction in them – receive support from the Israeli authorities and remain standing. Israel has ordered the military to defend the outposts or paid for their security, as well as paved roads and laid down water and electricity infrastructure for most of them. It has provided support through various government ministries, the Settlement Division of the World Zionist Organization and regional councils in the West Bank. It has also subsidized financial endeavors in the outposts, including agricultural facilities, provided support for new farmers and for shepherding, allocated water and legally defended outposts in petitions for their removal.

In the past, the state announced its intention to enforce the law on outposts in the future and evengave the international community assurances to that effect. In March 2011, the state announced it would, from now on, make an official distinction between outposts built on land recognized as privately owned by Palestinians and land Israel considers “state land” or “survey land” (land that can be declared “state land”, although the declaration has not yet been issued). The state claimed it had only intended to remove outposts built on privately owned Palestinian land. This distinction, which has no legal basis, was accepted by Israel’s Supreme Court. At the end of the day, nearly all the outposts remain in place.

## B. Legitimizing physical violence against Palestinians

Violence committed by settlers against Palestinians has been documented since the very early days of the occupation in countless government documents and dossiers, thousands of testimonies from Palestinians and soldiers, books, reports by Palestinian, Israeli and international human rights organizations, and thousands of media stories. This broad, consistent documentation has had almost no effect on settler violence against Palestinians, which has long since become part and parcel of life under the occupation in the West Bank.

The violent acts include beating, throwing stones, issuing threats, torching fields, destroying trees and crops, stealing crops, using live fire, damaging homes and cars, and, in rare cases, homicide. In recent years, settlers in so-called farms have been violently chasing Palestinian farmers and shepherds away from their fields and from pastureland and water sources they used for generations. They initiate violent altercations on a daily basis and intimidate flocks belonging to Palestinians in order to scatter them.

The military avoids confronting violent settlers as a matter of policy, although soldiers have the authority and duty to detain and arrest them. As a rule, the military prefers to remove Palestinians from their own farmland or pastureland rather than confront settlers, using various tactics such as issuing closed military zone orders that apply to Palestinians only, or firing tear gas, stun grenades, rubber-coated metal bullets and even live rounds. Sometimes, soldiers actively participate in the settler attacks or look on from the sidelines.

Israel’s inaction continues after settler attacks on Palestinians have taken place, with enforcement authorities doing their utmost to avoid responding to these incidents. Complaints are difficult to file, and in the very few cases in which investigations are in fact opened, the system quickly whitewashes them. Indictments are hardly ever filed against settlers who harm Palestinians and when they do, usually cite minor offenses, with token penalties to match in the rare instance of a conviction.

The report presents five case studies that illustrate how continuous, systemic violence meted out by settlers is part of Israel’s official policy, driving massive takeover of Palestinian farmland and pastureland. In the testimonies collected as part of the research, Palestinians describe how this violence undermines the bedrock of Palestinian communities’ lives and diminishes their income.

Residents describe how without protection, under the pressure of violence and fear and with no other choice, Palestinian communities abandon or scale back traditional vocations such as sheep and goat farming or various seasonal crops, which allowed them to make a dignified living and live comfortably for generations. Palestinian residents stay away from pastureland and water sources that once served their communities, and limit cultivation of farmland. At that point, the state can take over their land for its own purposes.

State violence – official and otherwise – is part and parcel of Israel’s apartheid regime, which aims to create a Jewish-only space between the Jordan River and the Mediterranean Sea. The regime treats land as a resource designed to serve the Jewish public, and accordingly uses it almost exclusively to develop and expand existing Jewish residential communities and to build new ones. At the same time, the regime fragments Palestinian space, dispossesses Palestinians of their land and relegates them to living in small, over-populated enclaves.

The apartheid regime is based on organized, systemic violence against Palestinians, which is carried out by numerous

agents: the government, the military, the Civil Administration, the Supreme Court, the Israel Police, the Israel Security Agency, the Israel Prison Service, the Israel Nature and Parks Authority, and others. Settlers are another item on this list, and the state incorporates their violence into its own official acts of violence. Settler violence sometimes precedes instances of official violence by Israeli authorities, and at other times is incorporated into them. Like state violence, settler violence is organized, institutionalized, well-equipped and implemented in order to achieve a defined strategic goal.

The combination of state violence and nominally unofficial violence allows Israel to have it both ways: maintain plausible deniability and blame the violence on settlers rather than on the military, the courts or the Civil Administration while advancing Palestinian dispossession. The facts, however, blow plausible deniability out of the water: When the violence occurs with permission and assistance from the Israeli authorities and under its auspices, it is state violence.

The settlers are not defying the state; they are doing its bidding.

**Israel escalates surveillance of Palestinians with facial recognition program in West Bank (Washington Post)** By Elizabeth Dwoskin

November 8, 2021

**The Israeli military has been conducting a broad surveillance effort in the occupied West Bank to monitor Palestinians by integrating facial recognition with a growing network of cameras and smartphones, according to descriptions of the program by recent Israeli soldiers.**

The surveillance initiative, rolled out over the past two years, involves in part a smartphone technology called Blue Wolf that captures photos of Palestinians' faces and matches them to a database of images so extensive that one former soldier described it as the army's secret "Facebook for Palestinians." The phone app flashes in different colors to alert soldiers if a person is to be detained, arrested or left alone.

To build the database used by Blue Wolf, soldiers competed last year in photographing Palestinians, including children and the elderly, with prizes for the most pictures collected by each unit. The total number of people photographed is unclear but, at a minimum, ran well into the thousands.

The surveillance program was described in interviews conducted by The Post with two former Israeli soldiers and in separate accounts that they and four other recently discharged soldiers gave to the Israeli advocacy group Breaking the Silence and were later shared with The Post.

Much of the program has not been previously reported. While the Israeli military has acknowledged the existence of the initiative in an online brochure, the interviews with former soldiers offer the first public description of the program's scope and operations.

In addition to Blue Wolf, the Israeli military has installed face-scanning cameras in the divided city of Hebron to help soldiers at checkpoints identify Palestinians even before they present their ID cards. A wider network of closed-circuit television cameras, dubbed "Hebron Smart City," provides real-time monitoring of the city's population and, one former soldier said, can sometimes see into private homes.

The former soldiers who were interviewed for this article and who spoke with Breaking the Silence, an advocacy group composed of Israeli army veterans that opposes the occupation, discussed the surveillance program on the condition of anonymity for fear of social and professional repercussions. The group says it plans to publish its research.

They said they were told by the military that the efforts were a powerful augmentation of its capabilities to defend Israel against terrorists. But the program also demonstrates how

surveillance technologies that are hotly debated in Western democracies are already being used behind the scenes in places where people have fewer freedoms.

"I wouldn't feel comfortable if they used it in the mall in [my hometown], let's put it that way," said a recently discharged Israeli soldier who served in an intelligence unit. "People worry about fingerprinting, but this is that several times over." She told The Post that she was motivated to speak out because the surveillance system in Hebron was a "total violation of privacy of an entire people."

Israel's use of surveillance and facial recognition appear to be among the most elaborate deployments of such technology by a country seeking to control a subject population, according to experts with the digital civil rights organization AccessNow.

In response to questions about the surveillance program, the Israel Defense Forces (IDF) said “routine security operations” were “part of the fight against terrorism and the efforts to improve the quality of life for the Palestinian population in Judea and Samaria.” (Judea and Samaria is the official Israeli name for the West Bank.)

“Naturally, we cannot comment on the IDF’s operational capabilities in this context,” the statement added.

Official use of facial recognition technology has been banned by at least a dozen U.S. cities, including Boston and San Francisco, according to the advocacy group the Surveillance Technology Oversight Project. And this month the European Parliament called for a ban on police use of facial recognition in public places.

But a study this summer by the U.S. Government Accountability Office found that 20 federal agencies said they use facial recognition systems, with six law enforcement agencies reporting that the technology helped identify people suspected of lawbreaking during civil unrest. And the Information Technology and Innovation Foundation, a trade group that represents technology companies, took issue with the proposed European ban, saying it would undermine efforts by law enforcement to “effectively respond to crime and terrorism.”

Inside Israel, a proposal by law enforcement officials to introduce facial recognition cameras in public spaces has drawn substantial opposition, and the government agency in charge of protecting privacy has come out against the proposal. But Israel applies different standards in the occupied territories.

“While developed countries around the world impose restrictions on photography, facial recognition and surveillance, the situation described [in Hebron] constitutes a severe violation of basic rights, such as the right to privacy, as soldiers are incentivized to collect as many photos of Palestinian men, women and children as possible in a sort of competition,” said Roni Pelli, a lawyer with the Association for Civil Rights in Israel, after being told about the surveillance effort. She said the “military must immediately desist.”

#### Last vestiges of privacy

Yaser Abu Markhyah, a 49-year-old Palestinian father of four, said his family has lived in Hebron for five generations and has learned to cope with checkpoints, restrictions on movement and frequent questioning by soldiers after Israel captured the city during the Six-Day War in 1967. But, more recently, he said, surveillance has been stripping people of the last vestiges of their privacy.

“We no longer feel comfortable socializing because cameras are always filming us,” said Abu Markhyah. He said he no longer lets his children play outside in front of the house, and relatives who live in less-monitored neighborhoods avoid visiting him.

Hebron has long been a flash point for violence, with an enclave of hard line, heavily protected Israeli settlers near the Old City surrounded by hundreds of thousands of Palestinians and security divided between the Israeli military and the Palestinian administration.

In his quarter of Hebron, close to the Cave of the Patriarchs, a site that is sacred to Muslims and Jews alike, surveillance cameras have been mounted about every 300 feet, including on the roofs of homes. And he said the real-time monitoring appears to be increasing. A few months ago, he said, his 6-year-old daughter dropped a teaspoon from the family’s roof deck, and although the street seemed empty, soldiers came to his home soon after and said he was going to be cited for throwing stones.

Issa Amro, a neighbor and activist who runs the group Friends of Hebron, pointed to several empty houses on his block. He said Palestinian families had moved out because of restrictions and surveillance.

“They want to make our lives so hard so that we will just leave on our own, so more settlers can move in,” Amro said.

“The cameras,” he said, “only have one eye — to see Palestinians. From the moment you leave your house to the moment you get home, you are on camera.”

#### Incentives for photos

The Blue Wolf initiative combines a smartphone app with a database of personal information accessible via mobile devices, according to six former soldiers who were interviewed by The Post and Breaking the Silence.

One of them told The Post that this database is a pared-down version of another, vast database, called Wolf Pack, which contains profiles of virtually every Palestinian in the West Bank, including photographs of the individuals, their family histories, education and a security rating for each person. This recent soldier was personally familiar with Wolf Pack,

which is accessible only on desktop computers in more secure environments. (While this former soldier described the database as “Facebook for Palestinians,” it is not connected to Facebook.)

Another former soldier told The Post that his unit, which patrolled the streets of Hebron in 2020, was tasked with collecting as many photographs of Palestinians as possible in a given week using an old army-issued smartphone, taking the pictures during daily missions that often lasted eight hours. The soldiers uploaded the photos via the Blue Wolf app installed on the phones.

This former soldier said Palestinian children tended to pose for the photographs, while elderly people — and particularly older women — often would resist. He described the experience of forcing people to be photographed against their will as traumatic for him.

The photos taken by each unit would number in the hundreds each week, with one former soldier saying the unit was expected to take at least 1,500. Army units across the West Bank would compete for prizes, such as a night off, given to those who took the most photographs, former soldiers said.

Often, when a soldier takes someone’s photograph, the app registers a match for an existing profile in the Blue Wolf system. The app then flashes yellow, red or green to indicate whether the person should be detained, arrested immediately or allowed to pass, according to five soldiers and a screenshot of the system obtained by The Post.

The big push to build out the Blue Wolf database with images has slowed in recent months, but troops continue to use Blue Wolf to identify Palestinians, one former soldier said.

A separate smartphone app, called White Wolf, has been developed for use by Jewish settlers in the West Bank, a former soldier told Breaking the Silence. Although settlers are not allowed to detain people, security volunteers can use White Wolf to scan a Palestinian’s identification card before that person enters a settlement, for example, to work in construction. The military in 2019 acknowledged existence of White Wolf in a right-wing Israeli publication.

"Rights are simply irrelevant"

The Israeli military, in the only known instance, referred to the Blue Wolf technology in June in an online brochure inviting soldiers to be part of “a new platoon” that “will turn you into a Blue Wolf.” The brochure said that the “advanced technology” featured “smart cameras with sophisticated analytics” and “sensors that can detect and alert suspicious activity in real-time and the movement of wanted people.”

The military also has mentioned “Hebron Smart City” in a 2020 article on the army’s website. The article, which showed a group of female soldiers called “scouts” in front of computer monitors and wearing virtual-reality goggles, described the initiative as a “major milestone” and a “breakthrough” technology for security in the West Bank. The article said “a new system of cameras and radars had been installed throughout the city” that can document “everything that happens around it” and “recognize any movement or unfamiliar noise.”

In 2019, Microsoft invested in an Israeli facial recognition start-up called AnyVision, which NBC and the Israeli business publication the Marker reported was working with the army to build a network of smart security cameras using face-scanning technology throughout the West Bank. (Microsoft said it pulled out of its investment in AnyVision during fighting in May between Israel and the Hamas militant group in Gaza.)

Also in 2019, the Israeli military announced the introduction of a public facial recognition program, powered by AnyVision, at major checkpoints where Palestinians cross into Israel from the West Bank. The program uses kiosks to scan IDs and faces, similar to airport kiosks used at airports to screen travelers entering the United States. The Israeli system is used to check whether a Palestinian has a permit to enter Israel, for example to work or to visit relatives, and to keep track of who is entering the country, according to news reports. This check is obligatory for Palestinians, as is the check at American airports for foreigners.

Unlike the border checks, the monitoring in Hebron is happening in a Palestinian city without notification to the local populace, according to one former soldier who was involved in the program and four Palestinian residents. These checkpoint cameras also can recognize vehicles, even without registering license plates, and match them with their owners, the former soldier told The Post.

In addition to privacy concerns, one of the main reasons that facial recognition surveillance has been restricted in some other countries is that many of these systems have exhibited widely varying accuracy, with individuals being put in jeopardy by being misidentified. The Israeli military did not comment on concerns raised about the use of facial recognition technology.

The Information Technology and Innovation Foundation has said that studies showing that the technology is inaccurate have been overblown. In objecting to the proposed European ban, the group said time would be better spent developing safeguards for the appropriate use of the technology by law enforcement and performance standards for facial recognition systems used by the government.

In the West Bank, however, this technology is merely “another instrument of oppression and subjugation of the Palestinian people,” said Avner Gvanyahu, executive director of Breaking the Silence. “Whilst surveillance and privacy are at the forefront of the global public discourse, we

see here another disgraceful assumption by the Israeli government and military that when it comes to Palestinians, basic human rights are simply irrelevant.”

### **Pegasus: Palestine says NSO spyware found on phones of three senior officials (Middle East Eye)**

November 11, 2021

#### **Ministry of foreign affairs tells MEE the find is a dangerous development that will not pass without repercussions**

Palestine's ministry of foreign affairs has said that it has found Pegasus spyware on the phones of three senior officials, accusing "the [Israeli] occupation authorities" of being behind the hacking.

The statement came as Itzik Benbenisti, the chief executive of NSO, the Israeli firm behind the spyware, resigned from his role on Thursday after only two weeks in the position.

Sources said Benbenisti quit after the US commerce department announced it was blacklisting the company for harming "national security interests".

The announcement by the ministry of foreign affairs marks the first time Palestinian officials have accused Israel of using Pegasus to spy on them.

The Palestinian rights group Al-Haq had previously reported that some foreign ministry employees had also been hacked, but the Palestinian Authority (PA) had not officially commented until now.

“We always expected that our telephones were infiltrated by the occupation authorities and that all we said and sent was listened to and monitored,” the ministry of foreign affairs said in a statement on Wednesday.

“But now, we have evidence and legal documents that acknowledge the existence of this Israeli intrusion.”

‘We will hold everyone behind it to account’ Ahmed al-Deek, a political advisor at the ministry of foreign affairs, told MEE on Thursday that the ministry was studying and consulting with specialised legal experts to determine its next step.

“We have a complete file on the matter, and we have all the legal evidence that indicates that the phones of the three officials were hacked and spied on,” said Deek, who refused to name the officials.

“We will follow up this matter vigorously and urgently at the international level and in the international criminal courts, and we will hold everyone behind it to account, whether the company itself or Israel,” he added.

Deek described the hacking as a dangerous development that will not pass without repercussions.

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Deek described the hacking as a dangerous development that will not pass without repercussions.

“We consider this extremely dangerous and consider this a major violation of international law and human rights laws,” he



said.

"We completely reject what happened, regardless of its outcome. It is a violation not only of officials, but also threatens the Palestinian citizen in general."

PA officials told Israel's Haaretz newspaper that the phones belonged to people working at the ministry who were in charge of preparing complaints against Israel to the International Criminal Court.

#### Global surveillance scandal

On Monday, Front Line Defenders (FDL) reported that it had found that the phones of Palestinians working for human rights organisations recently designated by Israel as "terrorist organisations" were hacked using Pegasus, spyware which is at the heart of a global surveillance scandal.

The Dublin-based rights group examined 75 phones belonging to Palestinian human rights workers and detected that six were infected with Pegasus spyware between July 2020 and April 2021.

Earlier this year, Amnesty International, Forbidden Stories and a group of international media organisations found that Pegasus had been used in hacks of smartphones belonging to journalists, officials, human rights activists and political leaders.

The investigative group said it had acquired a list of 50,000 phone numbers that appeared to be targets identified by NSO's clients to be spied upon using Pegasus.

The numbers of French President Emmanuel Macron, Morocco's King Mohammed VI, Iraqi President Barham Salih and Pakistani Prime Minister Imran Khan were among the apparent targets.

**Israel-Palestine: To end torture, Shin Bet interrogations must be filmed (Middle East Eye)** By Tal Steiner

November 15, 2021

#### **Despite 1,300 torture complaints in the past two decades, no Shin Bet interrogator has been indicted**

Haaretz recently published a sensational article, which could have been ripped straight out of a television courtroom drama: Israeli prosecutors dropped all charges against three Arab residents of Jaffa, who had confessed during a Shin Bet interrogation to a serious attack on a soldier, after security-camera footage proved they were not even at the site of the assault.

What could have compelled these innocent people to confess to a crime they did not commit, which might have landed them in jail for many years? For those of us who routinely deal with the operational methods of the Shin Bet, the answer was clear: torture.

An investigative report that aired on Hamakor last week only confirmed what we had already deduced by connecting the dots. The detainees were suspected of security offences at the height of a national crisis; they are Palestinian citizens of Israel; they were placed in detention and interrogated by the Shin Bet; therefore, they were tortured.

How was this so obvious to us? Inasmuch as Shin Bet interrogators know very well that the Israeli justice system, including its courts, will cover up their wrongdoing, torture is always an option. Of 1,300 complaints of torture submitted against Shin Bet interrogators since 2001, only two have led to criminal investigations, and none have produced indictments.

Investigations were closed in the two most serious cases known to us in recent years: that of Samer Arbid, nearly tortured to death, and that of a young Palestinian woman who was forcibly and invasively strip-searched. Those responsible were not charged.

#### Disgraceful statistics

The use of torture, once confined to dealing with Palestinians in the occupied territories, has inevitably found its way into interrogations of Palestinian citizens of Israel, and even of Jews, as in the case of Amiram Ben-Uliel, whose conviction for the murder of members of the Dawabshe family was allegedly based on a confession extracted under torture.

A world where torture is possible is ultimately a world where no one is safe from it. This lesson has been learned in the harshest possible manner by the formerly accused residents of Jaffa, alongside many other Palestinian citizens of Israel

during the blood-soaked month of May.

The methods of torture revealed in this latest investigation are no different from those used in dozens of testimonies collected by the Public Committee Against Torture in Israel annually: beatings, painful restraints, sleep deprivation, withholding of food, threats to harm a detainee's family, isolation, and prevention of access to a lawyer. All are well-known components of the Shin Bet's repertoire.

But what can be done to end this? How can we begin changing these disgraceful statistics - zero indictments after 1,300 complaints? Firstly, lawmakers must pass legislation that unequivocally prohibits the use of torture, whether against citizens of Israel or non-citizens. The legislation must stipulate that Israeli society absolutely rejects torture, while ensuring accountability for those who employ such methods.

#### Full documentation

Secondly, Shin Bet interrogations must be recorded on video. While Israeli law requires audiovisual documentation of police interrogations for serious crimes, the Shin Bet is exempt from this rule. Thus, nearly all complaints become "he said, she said" situations, and investigators invariably take the word of Shin Bet agents over the testimonies of prisoners who dare to lodge a complaint.

It wasn't by chance that in the two isolated cases cited above, the use of torture was revealed for all to see, and resulted in criminal investigations rather than being closed after superficial "preliminary reviews". In the Jaffa case, were it not for the resourcefulness of the accused's legal team in obtaining video footage, the men would likely be set to serve long prison sentences for a crime they did not commit.

Only full documentation of Shin Bet interrogations will enable those who allege torture to prove their cases. Without this type of full documentation, regrettably, the next false confession is only a matter of time.

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## Gulf Region

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## ASIA

## Afghanistan

**Alleged massacres of Afghans by SAS not properly investigated, court told (the Guardian)** By Dan Sabbagh  
November 9, 2021

**British soldiers and Ministry of Defence officials were aware of – and failed to properly investigate – a series of alleged massacres of 33 Afghan men by SAS soldiers at the peak of the conflict about a decade ago, a court has heard.**

The claim is being made on behalf of Saifullah Yar, four of whose male relatives were killed in a special forces night

raid, and whose lawyers raised a string of questions as to whether the British military had concealed what happened.

Richard Hermer QC, representing Yar, told the high court on Tuesday that there had been allegations of “patterns of unlawful killings and a cover-up” as he sought to obtain further records relating to alleged SAS executions of “fighting-age males”.

Yar’s father, two brothers and a cousin were killed in an SAS raid on a compound in Helmand, southern Afghanistan in February 2011. The soldiers said they acted in self defence against men who carried assault rifles and grenades, but the family deny they possessed the weapons.

Lawyers representing Yar want Mr Justice Swift to order the MoD to release further official documents – but the department said that Ben Wallace, the defence secretary, had adopted “a duty of candour” and had released 1,800 pages of material so far.

“This is not a public inquiry and there is not a duty to provide any document that might look embarrassing,” said Lisa Giovannetti QC, acting for the minister.

The court hearing was part of a wider judicial review claim, in which a judge will have to decide if the MoD broke human rights law by failing to commence a “prompt investigation” into the Yar family killings – and whether it failed to investigate “systemic issues”, to see if there was a pattern of battlefield executions.

Other disputed killings took place in the week before the deadly raid on the Yar family compound, Hermer told the court. In one incident nine people were killed in similar circumstances, while in a second a single person died.

Emails revealed that “senior officers were raising concern about the way the SAS was operating”, Hermer said, and that there were “implausible explanations that Afghans were shot and killed after going to their homes and returning with weapons”.

Other emails released by the MoD in relation to the Yar family case showed two British officers discussing the incident later that day on email, under the heading “EJK” – extrajudicial killings. “They express astonishment that those involved seemed to be beyond reproach,” he told the court.

“Why are we the only one who see this bollocks for what it is?” one of the officers wrote at the time.

Further deadly incidents took place in the weeks following, prompting another officer to set down their concerns in a statement written in March 2011, writing: “During these operations it was said that all fighting age males are killed on target regardless of the threat they posed. this included those not holding weapons...”

“It was implied that photos would be taken of the deceased alongside weapons that the fighting age male may not have had in their position when they were killed.”

A short internal military review of 11 separate incidents took place April 2011. Officers did recommend that service police investigate, but it spent only a week on the ground, and was accused of “uncritically accepting” accounts provided by soldiers involved.

The 11 incidents were referred to Operation Northmoor in 2014, which was responsible for investigating alleged war crimes by British forces in Afghanistan, but it was closed in 2020 without any prosecutions being made. Investigators did not review video footage, which could have been been of relevant incidents, the court heard.

The MoD said it did not intend to respond to Hermer’s version of events. Giovannetti said “that shouldn’t be taken as agreement or that it is accepted”.

The hearing is due to last four days, some parts of which may be held in private, with a judgment expected at a later date. The full case will also be heard at a later date.

**Federal police face difficulties in war crime probe due to Taliban takeover (The West Australian)** By Courtney Gould  
November 14, 2021

**A probe into alleged war crimes by Australian soldiers in Afghanistan could face difficulties moving forward as federal police cease contact with the Taliban and their police forces.**

In a submission to a senate inquiry into Australia’s engagement in Afghanistan, the AFP warned the Taliban’s takeover

of the nation could be a impediment on its ability to continue its investigations.

“The security situation in Afghanistan may affect the ongoing investigation of war crimes allegedly perpetrated by ADF personnel, in that obtaining evidence and assessing potentially witnesses residing there is likely to be more difficult,” the submission said.

“Any further engagement in Afghanistan would require an assessment of the security situation ...with the safety of investigators and Afghan nationals remaining the paramount concern.”

Deputy commissioner of investigations Ian McCartney told the hearing on Monday while the probe was still ongoing, no new witnesses were being sought.

“(The investigations) are still ongoing and nearing completion and we are not seeking anymore witnesses,” Mr McCartney,” he said.

He added the credibility of Afghan witnesses could present a problem for prosecutors if criminal charges are laid following the inquiry.

Later, the Department of Foreign Affairs and Trade told the inquiry that almost 200 Australians and permanent residents remain in Afghanistan.

Acting deputy secretary Simon Newnham confirmed that as of last Friday there were 82 citizens and 87 permanent residents who still in the Middle Eastern nation.

He noted the total number of people in those categories has decreased since the department’s last appearance before the committee in October – down from 286 to 170. However, he was unable to disclose how many visa holders who have been unable to make the journey to Australia.

It comes as the number of the people who Australia has assisted to leave Afghanistan has risen to over 5150.

Mr Newnham said DFAT expected to see an increase in the number of people departing on flights as the Kabul airport becomes more commercially viable.

“We've had some success already ... with three flights chartered by the Qatari government with co-ordination from DFAT and colleagues here to help fill a number of seats.”

He added just under 900 individuals have been able to cross the border with Pakistan and have been assisted by the High Commission in Islamabad.

About 80 people with Australian citizenship, permanent residency or visas had arrived via capital cities across Europe.

Earlier, Afghanistan’s former Acting Minister for Women’s Affairs Hasina Safi told the inquiry Australia must apply pressure on the Taliban to make clear what their “definition of participation and involvement” for women would be.

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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**

**Cambodian king promulgates law to end Khmer Rouge tribunal (UCA News)**

November 5, 2021

**Cambodia’s King Norodom Sihamoni has signed off on legislation which will**

## **enable the United Nations-backed Khmer Rouge tribunal to wind down and finalize its mission within the next three years.**

The tribunal, known as the Extraordinary Chambers in the Courts of Cambodia (ECCC), was charged with prosecuting those most responsible for the 1975-79 genocide committed under Pol Pot's ruthless rule when about two million perished.

It secured convictions against senior leaders Nuon Chea, Khieu Samphan and Kaing Guek Eav, also known as Duch, but others died behind bars before a verdict could be reached. Pol Pot died in 1998 as Cambodia's 30-year war came to an end.

It was only then that a war crimes tribunal became a serious prospect, leading to the establishment in 2006 of the ECCC, which to date has cost about US\$330 million.

Further prosecutions did not proceed amid infighting within the hybrid court between local and international judges and prosecutors. The last public hearings were held in August.

The legislation was promulgated by the monarch after it was passed by the National Assembly in late October and an agreement was reached with the UN, but assembly member Chheang Vun recently said the ECCC still had to conclude its administrative work.

"It was long overdue to recognize the crimes that had taken place here, crimes against humanity, genocide. It needed to be done. I think it has been done"

"Much work still remains, so the ECCC will be resized and streamlined to be made smaller but their daily tasks will continue," he told The Phnom Penh Post.

Chheang Vun said further initiatives needed to be undertaken in regards to educating young people about Cambodia's history in order to prevent a recurrence of such crimes.

"We still need to prepare an archive of all tribunal documents and set up a place for them to be stored and displayed for the benefit of the younger generations of Cambodians who will one day themselves take up the responsibility of preventing genocide's return," he said.

Khmer Rouge history is now written into the school curriculum and their atrocities recorded into international law. Families torn apart by the ultra-Maoist regime and the civil war have been reunited and one of the darkest chapters of the 20th century consigned to history. Helen Jarvis, a former chief of the court's public affairs and victim support sections, recently said it took a "Herculean" effort to get the tribunal up and running amid wrangling with the UN and over funding issues.

"It was a very important historical event that needed to be done," she said. "It was long overdue to recognize the crimes that had taken place here, crimes against humanity, genocide. It needed to be done. I think it has been done."

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## **Bangladesh International Crimes Tribunal**

### **Bangladesh: Protests Erupt Over Rape Verdict (Human Rights Watch)**

November 16, 2021

**Women's rights activists are protesting following the acquittal of all five men accused in an alleged gang-rape of two women in Dhaka in 2017, Human Rights Watch said today. The judge said that the police had failed to provide credible evidence. The conviction rate for rape in Bangladesh is below 1 percent.**

On November 11, 2021, Judge Mosammat Kamrunnahar, presiding over the Women and Children Repression Prevention Tribunal-7, appeared to blame the victims for taking a month to report the crime, and, extraordinarily, recommended that the police refuse any rape case that comes in over 72 hours after the incident. In response, Chief Justice Syed Mahmud Hossain suspended the judge on November 14. Law Minister Anisul Huq told the media that “the observation made by Judge Mosammat Kamrunnahar is absolutely unlawful and illegal as there is no time limit in the criminal justice system for recording case for committing this criminal offense.”

“The Law Ministry’s clarification that there are no time limits for investigating rape cases was a positive step,” said Meenakshi Ganguly, South Asia director at Human Rights Watch. “It is already nearly impossible to obtain justice for rape in Bangladesh, and rulings such as the one handed down on November 11 can only further discourage others from coming forward.”

Two men were accused of raping two women in a Dhaka hotel in 2017, while the three other men were accused of assisting in the assault.

Media reports said that Judge Kamrunnahar referred to a medical report that alleged the victims “were habituated to having physical relations and that their physical condition was similar to that of someone who engages in regular sexual relations.”

The description of the victims has renewed calls for the parliament to repeal section 155(4) of the Evidence Act 1872, which states that, “When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.” This provision encourages defense lawyers to denigrate the character of women if they pursue criminal charges, a clear disincentive to survivors to step forward, Human Rights Watch said.

The Law Ministry should immediately put forward proposals to parliament to repeal section 155(4) of the Evidence Act 1872, Human Rights Watch said.

The ruling comes more than a year after activists held protests across the country calling for the government to address an alarming rise in sexual violence against women and girls.

In January 2020, the High Court ordered the Law Ministry to form a commission within 30 days to address the troubling rise of sexual violence in the country. Almost two years later, it is unclear whether the commission even exists and is functioning. The government has yet to pass long-promised laws against sexual harassment and to provide witness protection. Survivors continue to face stigma, and do not have adequate access to psychosocial and mental health services when they seek help. The Bangladesh government should create the High Court-ordered commission on sexual violence and publish its recommendations, Human Rights Watch said.

In 2018, the Bangladesh High Court ruled that police had delayed recording the complaint of a woman who was gang raped on a microbus in Dhaka in 2015, and the court issued guidelines for handling rape cases. These included taking the victim’s statement in the presence of a social worker, designating female officers at police stations to receive complaints, providing support for victims with disabilities, and criminalizing police failure to register a case without sufficient cause. But these guidelines are rarely followed and there appears to be no system to hold police who ignore them accountable.

The government should provide training to all law enforcement and court officials on working with victims of gender-based violence, Human Rights Watch said. It should ensure that adequate and accessible resources for psychosocial support are available and accessible and should heed activists’ calls to finally pass a sexual harassment bill, provide witness protection, and reform discriminatory legislation.

“The government should listen to women’s rights activists and legal experts who for years have been calling for serious reform to address Bangladesh’s rape problem and to ensure that the justice system is a safe place for survivors of sexual violence,” Ganguly said. “Law Minister Huq can start the process of repealing section 155(4) of the Evidence Act.”

### **Incarcerated war criminal dies at DMCH (United News of Bangladesh)**

November 16, 2021

#### **An incarcerated war criminal died on Monday while undergoing treatment at Dhaka Medical College Hospital.**

The deceased was identified as Shah Newaz, 95, a resident of Durgapur upazila in Netrokona.

Enamul, a jail guard of Dhaka Central Jail in Keraniganj, said Shah Newaz was imprisoned for his crimes during the

liberation war of Bangladesh.

As he fell sick today the jail authority sent Shah Newaz to DMCH where the duty doctors announced his death at 8:50 after conducting some tests.

DMCH police outpost's in charge Inspector Bacchu Mia said the body was sent for an autopsy.

According to the investigation agency of the International Crimes Tribunal, which was set up to try the war crimes and crimes against humanity committed during 1971, Shah Newaz alongwith four others others had allegedly killed 22 people, raped a woman and destroyed 15 houses in Komlakanda and Durgapur upazila of the district in 1971. With one of them deceased, four of them were later arrested in 2017 to swtand trial for their crimes.

The tribunal however did not pass a verdict in the case.

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## **War Crimes Investigation in Myanmar**

**UN Security Council implores Myanmar military to immediately end violence (Jurist)** By Nadia Murray-Ragg  
November 12, 2021

### **The UN Security Council issued a statement Wednesday urging for the immediate end of violence in Myanmar.**

Myanmar is currently under the control of the military junta, which overthrew the democratic government in February in a coup d'état. The Security Council supports the return to democracy and political independence in the country.

The Security Council highlighted that the country is in a humanitarian crisis. It stressed the importance of "facilitat[ing] the equitable, safe and unhindered delivery and distribution of COVID-19 vaccines." The Security Council also implored Myanmar forces to allow humanitarian aid uninhibited access to people in need.

The violence perpetrated by the military junta appears to be escalating of late. Prisoners are subjected to "methodical and systematic" torture. The UN Office of the Human Rights High Commissioner expressed concern over a "spike of atrocities" in October. Serious contraventions of human rights law and international humanitarian law have been documented.

According to the statement, the "recent developments pose particular serious challenges for the voluntary, safe, dignified and sustainable return of Rohingya refugees and internally displaced persons."

The statement urged "the swift and full implementation" of a five-point consensus set out by the Association of Southeast Asian Nations (ASEAN) in April. The consensus calls for an immediate end to the violence in the country, working towards a peaceful resolution, provision of humanitarian aid, and for the UN Special Envoy to be instrumental in facilitating resolution. Wednesday's statement echoes an earlier statement published by the Security Council in February urging for democratic transition in Myanmar.

While the action that the Security Council can take is limited, it will be closely monitoring Myanmar as the military junta retains its grip over the country.

**I've called for Myanmar's military leaders to be brought to justice for years – finally this is our chance (Independent)** By Yanghee Lee  
November 15, 2021

**A crude but deliberate strategy of slaughter and arson has been unleashed by Myanmar's military across the rural north-west of the country. Terrorised communities are being woken by machine gun fire. Soldiers descend on the**

**selected village. People are interrogated, beaten, tortured and killed. Sexual violence is routinely used. Homes are searched, looted and burned. Survivors are forced to flee their smouldering homes for the jungle.**

The military, or Tatmadaw as it is known, is notorious for these “scorched earth” campaigns. The armed forces attacked Rohingya villages in this way in northern Rakhine state in late August 2017, forcing three quarters of a million people to flee their homes in a matter of weeks. But I could also be describing the same military’s attacks on the Kachin in north-east Myanmar, or on the Karen in the south-east in the 2000s, or on the Shan in the 1990s. The list goes on. The objective is to terrorise, punish and destroy any community thought to have links to groups opposing the military. These include ethnic armed groups defending their right to self-determination, and now the nationwide democratic movement resisting military rule following the attempted coup in February.

Myanmar’s borders to the north, east and west are packed with millions of refugees of these brutal campaigns, the vast majority of them from Myanmar’s ethnic and religious minorities. Many have spent close to their entire lives in refugee camps, unable to return to their homelands as the Tatmadaw’s violence continues. Others have arrived in the past few months, and their numbers will keep rising.

A massive scorched earth campaign is currently underway in north-west Myanmar. Thantlang town in Chin state has been the worst hit so far, with images of smoke billowing from the hilltop town shocking social media – just as scenes of burning Rohingya villages did four years ago. Alarming levels of troop deployments indicate that the full scale of this new operation could be unprecedented.

The military’s widespread and systematic attacks on civilian populations are crimes against humanity and war crimes, and may even amount to genocide. They continue to escalate because no one is stopping them.

As UN special rapporteur on human rights in Myanmar, I repeatedly called for the leaders of the Tatmadaw to be brought to justice in international courts, because Myanmar’s own justice system is unable to hold fair proceedings and deliver accountability. The high-profile charging and sentencing of journalist Danny Fenster this week (he was subsequently freed today), along with all arbitrary detention, sham trials and unfair convictions since the coup, are testament to the Myanmar courts’ total lack of independence. My colleagues on the Special Advisory Council for Myanmar were members of the UN fact-finding mission that called in 2018 for the investigation and prosecution of junta leader, senior general Min Aung Hlaing, for genocide, crimes against humanity and war crimes.

The fact-finding mission completed its mandate in 2019 and handed over information to the Independent Investigative Mechanism for Myanmar, or IIMM. Established by the UN Human Rights Council in 2018 on my recommendation, the Mechanism is collecting evidence of the most serious international crimes and violations of international law in Myanmar and preparing files for criminal prosecution. The UK contributed half a million pounds of funding to the IIMM this year to increase its evidence gathering capabilities.

But the Mechanism is not a court or a prosecution service. Without a court with the requisite jurisdiction – and the willingness to use it – the Mechanism will continue collecting evidence indefinitely while Myanmar burns.

The IIMM is cooperating closely with several international justice processes that are already underway, such as the case brought by The Gambia under the Genocide Convention currently before the International Court of Justice. The proceedings are an important step towards justice for the Rohingya but, as the International Court of Justice is tasked with settling disputes between states, will not result in criminal prosecution of those responsible for the atrocities.

That is the role of the International Criminal Court, or ICC. The ICC also has an investigation open into the situation in Myanmar, but it is extremely limited. Myanmar has not signed the Rome statute of the ICC and so the court only has jurisdiction over crimes where part of the criminal conduct took place on the territory of a country that has, such as neighbouring Bangladesh, where there are currently one million Rohingya refugees from Myanmar. In this way, the ICC is able to investigate the crime of deportation, which necessarily has a cross-border element to it. Although another important step towards justice for the Rohingya, under such constraints the investigation cannot deliver accountability for the full extent of the Tatmadaw’s crimes.

This can change. A National Unity Government of Myanmar (NUG) was formed by elected parliamentarians in April to lead Myanmar through the crisis caused by Min Aung Hlaing’s violent attempt to seize power. The NUG lodged a declaration with the ICC in July accepting the court’s jurisdiction in Myanmar dating back to 2002, when the court was established. For the first time the lead prosecutor of the ICC – the UK’s Karim Khan QC – can investigate the Myanmar military’s persistent crimes against people up and down the country – and the IIMM has two million pieces of evidence to help him do it.



This is the best chance for justice that Myanmar has ever had. As Min Aung Hlaing's scorched earth campaigns continue to rage, every effort must be made to ensure this chance is not lost.

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## AMERICAS

### North & Central America

**Analysis: Can the ICC deliver justice in Afghanistan? (Aljazeera)** By Federica Marsi  
November 4, 2021

**The International Criminal Court's (ICC) decision last year to launch an investigation into alleged war crimes had raised hopes that grave atrocities committed during decades of conflict in Afghanistan would not be swept under the rug.**

The investigation announced by the ICC in March 2020, after more than two years of legal wrangling, covered the Afghan forces, the US troops, CIA operatives and the Taliban armed group.

But its efforts to bring justice to Afghan victims drew a swift US rebuke, while the West-backed Kabul administration showed little sincerity in pursuing the cases.

The inquiry entered uncharted legal terrain in August, when the Taliban – one of the main groups under scrutiny for committing a long list of atrocities – retook power after the government of President Ashraf Ghani collapsed.

It has left the court and the international community at large to grapple with one pressing question: who is the legitimate representative in Afghanistan?

The ICC has made squaring the circle central to its ability to move forward with the investigation. Earlier this month, the Hague-based court's Pre-Trial Chamber II requested the secretary-general of the United Nations to submit information on the identification of the authorities currently representing the Islamic Republic of Afghanistan. The UN has been asked to respond by November 8.

Mehdi Hakimi, director of the Rule of Law Program at Stanford Law School, told Al Jazeera that the ICC was being "vigilant and cautious" to avoid setting a dubious legal precedent at a time of great uncertainty.

"The court is being extremely mindful of the fact that it has to give the authorised representatives a chance to respond to the request from the prosecutor to start an investigation," Hakimi said.

As a court of last resort governed by the principle of complementarity, the ICC may only assert jurisdiction when the state fails to act, including if it is unwilling or unable to carry out genuine proceedings.

States have the right to file a request for deferral and submit evidence that they are effectively investigating the alleged crimes domestically.

Ghani's government requested a deferral shortly after the office of the prosecutor launched the investigation in March 2020. It then submitted documents related to more than 150 cases as evidence that the Afghan justice system was robustly investigating and prosecuting war crimes.

But Human Rights Watch (HRW) accused the Afghan government of failing to bring officials accused of committing atrocities to justice.

A follow-up meeting held at the ICC headquarters in The Hague earlier this year ended without deliberation on the part of Prosecutor Fatou Bensouda, leaving the deferral request pending.

In September, Karim Khan – who succeeded Bensouda in June – sought the authorisation to dismiss the deferral and resume the investigation on the grounds that Afghanistan had no credible authority to conduct an independent inquiry.

“I have reached the conclusion that, at this time, there is no longer the prospect of genuine and effective domestic investigations,” Khan told the Pre-Trial Chamber II in his request.

“This is not to suggest that there can never be any prospect of adequate and effective proceedings in Afghanistan ... They are not, however, available in Afghanistan at this time,” he added.

Khan’s request was rejected by the Pre-Trial Chamber II, which said statements or assumptions of political nature had no place in a court of law, and asked the UN to name the legitimate representatives of Afghanistan.

The international community has so far been unwilling to recognise the Taliban-led government, as the group is labelled as a “terrorist” organisation under US law.

Yet, should a Taliban government be recognised, it could hypothetically file a deferral request and claim to be willing and able to internally investigate the crimes by its own members.

“Anything is possible,” Hakimi said. “We are in uncharted territory.”

From a practical perspective, the position adopted by the Pre-Trial Chamber II threatens to undermine the court’s ability to investigate, legal experts say.

“We have to keep in mind what the purpose of the International Criminal Court is: to ensure that the most heinous criminal acts do not go unpunished,” Hakimi said. “So these procedural issues should not prevent the court from prosecuting those who have committed crimes against humanity.”

Ehsan Qaane, a researcher with the Afghanistan Analysts Network (AAN), expressed frustration at the position adopted by the Pre-Trial Chamber II.

“It’s very clear that a domestic investigation is not going to happen in Afghanistan and that the request the Afghan government made to the office of the prosecutor is no longer valid,” Qaane said.

“I don’t think this is a matter of complementarity,” he said, adding that whoever the UN names as a legitimate representative cannot be expected to have the capacity to conduct a credible investigation.

While the Taliban could take advantage of the delay in resuming an investigation to destroy some of the evidence, Qaane said the fall of Kabul to the Taliban could paradoxically “make the investigation easier”.

Parts of the country are now more accessible than they had been in years and Taliban members have abandoned their hiding places and can be reached for questioning, he said, adding that some of the victims may also have fled Afghanistan for Europe, making them available to investigators.

When requesting authorisation from the Pre-Trial Chamber II to resume the inquiry in September, Khan also said he was “cognisant of the limited resources available to my office relative to the scale and nature of crimes within the jurisdiction of the court”.

To narrow the focus, he said he would prioritise crimes committed by the Taliban and the Islamic State in Khorasan Province, ISKP (ISIS-K), an affiliate of the ISIL (ISIS). It implied setting aside crimes committed by US forces and the Afghan government.

The British legal campaign group Reprieve is among those who submitted representations on behalf of clients claiming to have been tortured by the CIA in the infamous Bagram prison or of relatives of civilians allegedly killed in US drone attacks. Their claims risk being left out of the investigation.

“This was clearly a political decision – there’s really no other way it can be interpreted,” Jennifer Gibson, a US lawyer who leads Reprieve’s work on drones, told Al Jazeera. “It gave the US and their allies a get out of jail free card.”

According to Gibson, the ICC prosecutor is placing high up on the agenda attacks such as that on Kabul airport in the waning days of the US withdrawal, but ignoring instances like the US drone attack that killed a family of 10, including

seven children, soon afterwards. Reprieve claims this was one of many drone attacks taken on faulty intelligence.

“The damage his decision has caused is immense,” Gibson said. “It is devastating for the thousands of victims who have essentially been told you don’t count because the crimes against you were committed by the West and its allies. In delivering the message, [the prosecutor] has effectively slammed the door on the last hope many of these individuals had for some form of accountability.”

The US troops and its intelligence operatives have been accused of war crimes dating back to 2002, but no meaningful actions have been taken by US courts. The US withdrew its troops from Afghanistan in August after 20 years – ending its longest war.

According to the legal perspective, the office of the prosecutor has discretion over how to proceed in the interest of justice, including narrowing down the focus to the most heinous crimes.

Focusing the investigation on the Taliban and the ISIS-K could yield a stronger case, but the decision has been seen by some as a confirmation that the court could not investigate the world’s superpowers.

“All together, I think this is very bad for the reputation of the court,” Qaane said. Accusations of bias and pro-West sentiment had already been circulating and the prosecutor’s decision is likely to reinforce this view, according to the AAN analyst.

The United States is not a party to the ICC and has argued vehemently that its nationals are not bound by its jurisdiction. Under the administration of former President Donald Trump, Washington had exerted pressure on the ICC to drop the inquiry against its military by imposing sanctions against Bensouda.

US Secretary of State Antony Blinken lifted the sanctions earlier this year, but said he continued to “disagree strongly” with the ICC’s “efforts to assert jurisdiction over personnel of non-States Parties such as the United States and Israel”.

Stanford’s Hakimi said the court “must deal with some level of politics and is reliant on support of the international community”. However, expenditure limits and other legal considerations have played a role in the decision.

“It seems that the prosecutor has decided to focus on the actors who are responsible for the most crimes and for the most brutal violations in this matter,” Hakimi said.

The investigation will take years and some perpetrators are likely to try to flout an ICC indictment if or when it comes. Given these hurdles, analysts say the perceived success of the inquiry will depend significantly on the ICC’s ability to spend time in Afghanistan – provided the Taliban’s assent – and communicate its unfamiliar process to a disillusioned local population.

**Uncertain Future for the ICC’s Investigation into the CIA Torture Program (Just Security)** by Julian Elderfield  
November 12, 2021

**On Sept. 27, 2021, newly elected Prosecutor of the International Criminal Court Karim A. A. Khan QC released a statement signaling his intent to resume his office’s investigation in the Situation in Afghanistan. He announced that his priority would henceforth be the investigation of crimes allegedly committed by the Taliban and Islamic State – Khorasan Province (IS-K). Other crimes, including those allegedly committed by CIA personnel, would be deprioritized.**

While the Prosecutor is entitled to exercise his discretion in the selection of cases, the few reasons offered publicly to deprioritize the CIA investigation do not stand up to scrutiny. For this reason, if no further explanation is provided, the decision erodes the standing of the Office of the Prosecutor (OTP) as an independent and impartial body.

Following President George W. Bush’s post-9/11 authorization of expanded powers for the CIA, the agency arrested, detained, and interrogated approximately 119 alleged Taliban and al-Qaeda fighters and operatives. Interrogations were carried out at ‘black sites’ in Afghanistan, Romania, Lithuania, and Poland, which are States Parties to the Rome Statute of the International Criminal Court (ICC) (and in Morocco, Cuba, and Thailand, which are not States Parties).

From open-source evidence alone, there is a prima facie case that the CIA’s conduct vis-à-vis detainees on the territory of ICC State Parties amounts to the war crimes of torture and cruel treatment pursuant to article 8(2)(c)(i) of the Rome Statute, outrages upon personal dignity pursuant to article 8(2)(c)(ii), and rape and other forms of sexual violence pursuant to article 8(2)(e)(vi).

The same evidence suggests that senior U.S. government and intelligence officials including Vice President Dick Cheney, Secretary of State Colin Powell, Secretary of Defense Donald Rumsfeld, National Security Advisor Condoleezza Rice, Attorney General John Ashcroft, White House Counsel Alberto Gonzales, CIA Director George Tenet and CIA General Counsel Scott Muller ordered, facilitated the commission of, otherwise contributed to the commission of, or knew about but did nothing to prevent or punish, these alleged crimes, pursuant to articles 25(3)(b), (c) and (d), and 28(a) of the Rome Statute.

A summary of that open-source evidence follows.

On Jan. 28, 2003, then-CIA Director George Tenet signed the authorization for CIA officers to use so-called 'Enhanced Interrogation Techniques' (EITs) to obtain intelligence from detainees, including stress positions, deprivation of sleep beyond 72 hours, grasp, holding and slapping, confinement in cramped spaces containing insects, and water-boarding. In the same document, he formalized the existing practice of requiring specific CIA headquarters approvals prior to the application of EITs.

To complement the use of EITs, harsh conditions were imposed in detention, including the use of solitary confinement, hooding, black-out goggles and sound-blocking earphones, exposure to extreme cold and heat, use of dogs, enforced nudity, diapering, sexual humiliation, and so-called 'rectal rehydration' and 'feeding.' Approximately 39 of the 119 CIA detainees were subject to this treatment.

In a declassified 2015 letter to his lawyer, CIA detainee Ammar al-Baluchi, who had been transferred to Guantánamo Bay, Cuba, described what EITs meant in practice:

"When I was suspended to the ceiling (sic) there were 20 or more elements at play but before I get into that let me stop. When you read the list of EIT (There are more stuff which were never mentioned in the list) for example you would find prolonged standing or even suspension (sic) and it misleads to think that the US Gov agents were using one torture method at a time. Now back to suspension (sic), I wasn't just being suspended to the ceiling (sic) I was naked, starved, dehydrated, cold hooded, verbally threatened, in Pain from the beating and waterdrowning as my Head smashed by hitting against the wall for Dozen and Dozen of times my ears were exploding from the Blasting harsh music (which is still stuck in my Head) sleep deprived for weeks, I was shacking (sic) and trembling my legs barely supported my weight as my Hands were pulled even higher above my Head after I complained that the Handcuffs were so tight as if cutting through my wrists, then my legs start to swallow (sic) as a result of long suspension (sic) I start screaming and the Doctor came with a taPe measure, wrapped it around my leg and to my utmost shock the Doctor told the Interrogators NO that wasn't enough and my leg should get more swollen !!"

EITs and harsh conditions of detention were employed at the direction of senior CIA officials, and with the knowledge and approval of the highest echelons of the U.S. government. For example, on July 29, 2003, Vice President Dick Cheney, National Security Advisor Condoleezza Rice, Attorney General John Ashcroft, White House Counsel Alberto Gonzales, and CIA Director George Tenet met to discuss the CIA's current, past, and future use of EITs on detainees.

At the meeting, CIA General Counsel Scott Muller described the waterboard technique and stated it had been used against CIA detainees Khalid Sheik Mohammed 119 times and Abu Zubaydah 42 times. (These figures were wrong; Khalid Sheik Mohammed was actually waterboarded 183 times and Abu Zubaydah at least 83 times.) Vice President Cheney confirmed that the CIA was executing Bush administration policy by carrying out its interrogation program. At a later meeting, on Sept. 16, 2003, Secretary of State Colin Powell and Secretary of Defense Donald Rumsfeld were similarly briefed.

Admissions regarding the scope and nature of the program have been made publicly by the CIA. For example, in the CIA Inspector General John Helgerson's May 2004 review of the EIT program, CIA officers expressed to him – unsolicited – their concern about the possibility of legal action resulting from their participation in the interrogation program. One officer said that he feared that CIA officers would one day wind up on a "wanted list" to appear before the ICC for war crimes. Another said "ten years from now we are going to be sorry we're doing this... [but] it has to be done."

Multiple senior U.S. government and intelligence officials have also admitted their involvement, including in television interviews and in their own memoirs. President Obama admitted that the U.S. government, after the Sept. 11, 2001 attacks, "did some things that were wrong [...] we tortured some folks."

The CIA's conduct is supported by a wealth of publicly available information. Most importantly, the Executive Summary of the U.S. Senate Select Committee on Intelligence's December 2014 report on the CIA detention and interrogation program (SSCI report) contains forensic detail about the EIT program. It is based on more than six million pages of operational cables, intelligence reports, internal memos, emails, briefing materials, interview

transcripts, contracts, and other records. Its Appendix 2 contains the list of all CIA detainees and the length of time they spent in detention.

The CIA was given an opportunity to comment on the SSCI report before it was released. It made no suggestion that any of the information about the torture program summarized above was inaccurate. On the contrary, then-CIA Director, John Brennan, after a “comprehensive and thorough review of the Study,” acknowledged that EITs were used on detainees under CIA control, and confirmed that the “confinement conditions and treatment of high-profile detainees like Abu Zubaydah were closely scrutinized at all levels of management from the outset.”

There are also the meticulous European Court of Human Rights judgments *Al Nashiri v. Poland*, *Al Nashiri v. Romania* and *Abu Zubaydah v. Lithuania*, in which the Court concluded beyond a reasonable doubt that there had been “a violation of Article 3 of the Convention [the prohibition of torture] in its substantive aspect, on account of the respondent State’s complicity in the CIA High-Value Detainee Programme in that it enabled the U.S. authorities to subject the applicant to inhuman treatment on its territory.” Justice Elena Kagan of the U.S. Supreme Court said recently, “there’s plenty of evidence that [Abu Zubaydah] was tortured.”

Additional evidence has been gathered by non-state actors, including the painstaking investigation by The Rendition Project. Their report references not only the SSCI report, but also locational data from thousands of declassified CIA cables and records relating to CIA rendition operations, including company invoices, pilot logs, landing records and aircraft communications data, multiple first-hand accounts of torture from former CIA prisoners, and hundreds of additional declassified U.S. government documents. All of these are available to the OTP, on websites like the National Security Archive’s Torture Archive.

The OTP’s investigation in Afghanistan has progressed slowly from the start. The initial November 2017 request to open an investigation was rejected by a Pre-Trial Chamber of the ICC, after an unusually long delay of nearly 18 months. On March 5, 2020, the Appeals Chamber overturned the Pre-Trial Chamber’s decision, authorizing the OTP to investigate crimes committed within the context of the Afghanistan situation since July 1, 2002, including alleged CIA crimes.

On March 26, 2020, the government of Afghanistan requested the Prosecutor to defer the investigation. The OTP thereafter deferred its investigations as required by the Rome Statute.

On Sept. 27, 2021, the newly elected Prosecutor Khan announced that he had filed an application for an expedited order under article 18(2) of the Rome Statute. He requested to resume the OTP’s investigation in the Afghanistan situation, stating “there is no longer the prospect of genuine and effective domestic investigations into Article 5 crimes within Afghanistan,” due to the recent change in the Afghan government. He announced that his office would “focus [the OTP’s] investigations in Afghanistan on crimes allegedly committed by the Taliban and the Islamic State – Khorasan Province (‘IS-K’) and to deprioritize other aspects of this investigation.”

Although the OTP’s investigation against U.S. nationals, including members of the CIA, was not mentioned by name, Prosecutor Khan’s decision to “deprioritize other aspects of this investigation” effectively kills it off – at least temporarily – despite it having formed an integral basis of the OTP’s original request to the Pre-Trial Chamber in 2017, filed by the former Prosecutor Fatou Bensouda.

Shockwaves from the decision reverberated around the legal and academic community, and civil society. Observers have been uniformly critical. Katherine Gallagher, lawyer of alleged CIA torture victims Sharqawi Al Hajj and Guleed Duran, tweeted that she had not been informed prior to the announcement. She and other legal representatives of victims subsequently filed two joint responses (here and here) to the Prosecutor’s request, arguing forcefully that “such a widescale criminal enterprise, and the long-running impunity for those who bear the greatest responsibility, should remain of great concern to the Office of the Prosecutor.” Kate Clarke commented that this decision came as a shock: “Nobody was expecting [Prosecutor Khan] to narrow the focus of the investigation as he has done.” Foreign Affairs explained “why the Court shouldn’t let America off the hook.” Amnesty International was “deeply concerned by Prosecutor Khan’s willingness to bow to [S]tates’ political and resource pressure,” and issued a powerful statement condemning the decision.

In contrast, the U.S. State Department announced it was “pleased” with the decision.

On Nov. 8, 2021, the Afghanistan Pre-Trial Chamber weighed in on the Prosecutor’s Sept. 27, 2021 application (emphasis in original):

[...] the Chamber is aware that the selection of potential cases within a situation under investigation pertains exclusively to the Prosecutor’s purview. However, the Chamber reminds the Prosecutor that a proper investigation

should focus first on crimes, and then on identifying who the responsible persons of those crimes are. Not only impartiality, but also appearance of impartiality, is a sine qua non requirement for justice to contribute to peace and reconciliation. [...] the Chamber reminds the Prosecutor that the duties and obligations as regards victims should indeed inform its investigative and prosecuting action at all stages.

In his Sept. 27 statement, Prosecutor Khan suggested that gravity, resources, the need to “construct credible cases capable of being proved beyond reasonable doubt in the courtroom,” and the potential for complementarity were the bases for his decision. Under scrutiny, however, these do not appear to be credible justifications for the narrowing of the OTP’s investigation.

Gravity: The first of Prosecutor Khan’s justifications appeared to be the gravity of the alleged crimes. The statement suggests that the gravity of (ongoing) Taliban and IS-K crimes are greater than the others in the situation, justifying a narrow investigation.

ICC jurisprudence is clear that quantitative criteria, including the number of victims, do not alone determine the gravity of a given case. In the Abu Garda case, the Pre-Trial Chamber held that factors to be considered in determining the gravity of the case for admissibility purposes are similar to those taken into account for sentencing purposes: “The extent of damage caused, in particular, the harm caused to victims and their families, the nature of the unlawful behaviour and the means employed to execute the crime.” The OTP’s Case Selection Policy Paper also underscores that gravity is both a qualitative and quantitative assessment.

Although in one view torture might be considered a less grave criminal act than murder, for example, because its consequences are not irreversible, torture committed at the direction of the highest levels of the U.S. government is extremely grave. Such governmental abuse, facilitated by a sophisticated legal bureaucracy and masked by Orwellian doublespeak, amounts to a breach of trust – generally considered an aggravating factor in the sentencing of crimes.

Indeed, when the Appeals Chamber overturned the Afghanistan Pre-Trial Chamber’s decision to halt the investigation, it left undisturbed the Pre-Trial Chamber’s finding that the alleged crimes committed by CIA personnel were of sufficient gravity:

“86. In relation to the crimes allegedly committed by the ANSF, the US forces and CIA, the Chamber notes the gravity per se of the crime of torture, which is radically banned by international law, and the circumstance that the conducts have allegedly been committed by public officials in their functions.”

“87. Conclusively, the Chamber finds that the gravity threshold under article 17(l)(d) is met in respect of all the ‘categories’ of crimes for which the Prosecution requests authorisation to investigate.”

Once this gravity threshold is met, the OTP appears to be legally bound to pursue all investigative lines. The Appeals Chamber held in its March 5, 2020 judgment that:

“The Prosecutor’s duty, according to article 54(1) of the Statute, is ‘to establish the truth’. Therefore, in order to obtain a full picture of the relevant facts, their potential legal characterisation as specific crimes under the jurisdiction of the Court, and the responsibility of the various actors that may be involved, the Prosecutor must carry out an investigation into the situation as a whole.”

Essentially, although the Prosecutor may be at liberty to stagger its investigation, once a situation is grave enough, the Prosecutor must -- at some point -- follow the evidence and investigate all potential cases of sufficient gravity arising from the situation. Prosecutor Khan’s decision to deprioritize the CIA investigation and instead merely to “preserve evidence,” appears to disregard this binding jurisprudence and the OTP’s duty under Article 54 of the Rome Statute.

Resources:

The second of Prosecutor Khan’s barriers to conducting multiple sub-investigations in the Afghanistan situation was practical, namely the limited resources at his disposal.

In the proposed Budget for 2022, Prosecutor Khan outlined an exciting plan to shake things up at the OTP. This includes a restructured Immediate Office and new Public Information Office, as well as additional high-level positions. To implement these changes, he seeks an 8.4 percent budget increase.

This budget increase does not include any request, however, for investigative resources for the Afghanistan investigation. Indeed, consistent with his Sept. 27 statement, Prosecutor Khan informed the Assembly of States Parties (ASP) in the document that his “Office is not currently taking active investigative steps” into the situation in Afghanistan.

Although severe resource constraints are a reality at the OTP given the dozens of ongoing preliminary examinations, investigations, and prosecutions, it is difficult to credit the Prosecutor's resource justification when his 2022 budget proposal does not ask the ASP for additional funds for (cyber-) investigators or desk analysts.

#### Prospects of the Investigation:

The third rationale behind narrowing the OTP's activities in the Afghanistan situation was to focus on "construct[ing] credible cases capable of being proved beyond reasonable doubt in the courtroom." This suggests that Prosecutor Khan might be concerned about the courtroom prospects of the CIA investigation. It is eminently reasonable that for such a high-stakes decision, he would wish to be certain of a return on his investment of time and resources.

These concerns are likely to center around the prospect of securing evidence in the face of unprecedented U.S. hostility. As I've said elsewhere, State cooperation plays an integral role in the investigation and prosecution of crimes at international courts and tribunals. Without State cooperation, cases in Libya and (until recently) Sudan have not been able to proceed.

But this investigation is unique. U.S. cooperation to access witnesses and crime scenes is less critical, due to the global scale of the alleged crimes and the evidence that is available to prosecute the case. Multiple former CIA detainees now live outside the United States. Others' lawyers have already met with the OTP. Former black sites in Poland, Romania and Lithuania are a short flight away. Abundant open-source evidence, including copies of CIA Director George Tenet's signed orders authorizing EITs and flight plans of aircrafts transporting CIA detainees, is freely available. Based from a computer in The Hague, the investigation could rate among the OTP's quickest and cheapest.

For this reason, a lack of resources and the prospects of the investigation do not appear to be convincing justifications to deprioritize.

#### Complementarity:

The last of Prosecutor Khan's stated justifications was to "promote accountability efforts within the framework of the principle of complementarity" for the deprioritized investigations. This potentially signals a push by the new Prosecutor to breathe life into Rome Statute's complementary regime. Given the OTP's heavy case load and the ICC's mandate as "a court of last resort", this is certainly a positive development.

But the CIA investigation is clearly not the best choice to begin this new push. Inviting the United States to undertake domestic accountability efforts in relation to the CIA torture program is not feasible. The U.S. government – through successive administrations – has demonstrated its unwillingness to hold accountable former senior officials of the CIA and of the executive branch for acts committed during its intervention in Afghanistan. President Obama said in 2009 that he had "a belief that we need to look forward as opposed to looking backwards." There is no indication that a future U.S. government will change that position.

One argument advanced by the United States is that it has already subjected the torture allegations to due process, even though that has not led to prosecutions. A 2008 investigation led by U.S. Attorney John Durham looked into 101 cases of detainee abuse and brought no charges, closing 99 of the 101 cases in 2011 and the remaining two in 2012. There is no evidence to suggest that Durham interviewed any current or former detainees in the course of his enquiries. Further, Attorney General Eric Holder had set strict limits to the Durham inquiry, making clear that "the Department of Justice [would] not prosecute anyone who acted in good faith and within the scope of the legal guidance given by the Office of Legal Counsel regarding the interrogation of detainees."

There is the real risk that Prosecutor Khan's decision – and the complementarity rationale lying behind it – may be seen, if he gives no further explanation, as an acceptance of this argument.

#### The Implications of the Decision:

Prosecutor Khan has just assumed office. He is acknowledged by his peers to be sharp, motivated, and dynamic. Prosecutor Khan obviously wants to succeed, and to avoid the overt antagonism demonstrated by the United States to his predecessor. He will be aware that there is no surer way to stymie his own efforts than to carry the CIA investigation to term and potentially to seek arrest warrants against senior retired U.S. government and intelligence officials.

Perhaps this decision – in addition to resource constraints, gravity and the others cited in the statement – was inspired by a clear-eyed assessment of this hostile political landscape. Perhaps the OTP, accepting the realities of international justice, made the tough decision to re-orient its limited efforts to where they will have the greatest impact. This is a call about which we must afford a margin of discretion to the Prosecutor.

The real problem lies in the implications of any such decision. For years the ICC and the OTP have been faced with criticism that the court is a neo-colonialist enterprise engaged in ‘race-hunting,’ as demonstrated by the fact that every person brought to trial thus far was born in Africa. This criticism has been robustly and coherently rebutted by the former prosecutor. For Prosecutor Khan to begin his tenure with a decision not to prioritize the investigation of such a well-evidenced case against a powerful western actor may have a chilling effect on those who have previously been staunch supporters of the Office’s position.

Further, at the ICC, few of the cases are free of political consequences. The decision taken here may prompt concerns about whether similar resource-based decisions will be taken to narrow other contentious OTP investigations. What to expect in the Palestine investigation – which promises to investigate and potentially prosecute crimes in the context of one of the most intractable political quagmires of the last century, and one in which the United States is also invested? What of the Georgia investigation, which heavily implicates Russian interests? Indefinite “deprioritization” suggests that justice may be sacrificed in difficult cases. For the international community, which set up a court to do exactly the opposite, this decision sends a message at best contradictory and at worst deeply problematic.

Finally, failing to press ahead with the CIA case misses an opportunity to enable a fundamental argument about the ICC’s jurisdiction to be resolved. There is a loud body of opinion that customary international law prohibits the ICC from exercising its jurisdiction over individuals who are not nationals of States Parties. This view is advanced despite clear provisions of the Rome Statute that allow individuals to be prosecuted where they have committed crimes on the territory of States Parties. Pursuing the CIA investigation would enable this vitally important matter to be litigated and resolved (perhaps even as a preliminary point), bringing welcome certainty to the law.

Conclusion:

If, pursuant to Prosecutor Khan’s statement, the OTP has reversed course and now intends to hold the CIA investigation in abeyance, let it explain clearly for how long. If the OTP intends to close the investigation, let it be equally clear. Although there is no obligation, any clarification via additional statement, interview, or press conference would be warmly welcomed. Remaining mute is the silent killer for international justice and for the victims.

Observers will recognize a phrase the former Prosecutor Fatou Bensouda used to repeat ad nauseum: “We go where the evidence leads, without fear or favour.” Today, the victims of torture at the hands of the CIA, in black sites in Afghanistan and around the world, are questioning if that maxim still holds true.

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## Terrorism

**Secret Israeli Document Offers No Proof to Justify Terror Label for Palestinian Groups (The Intercept)** By Yuval Abraham, Oren Ziv, and Meron Rapport  
November 4, 2021

**A SECRET DOCUMENT distributed by Israel to justify its terrorist designations of six prominent Palestinian human rights groups shows no concrete evidence of involvement in violent activities by any of the groups.**

The designation of the Palestinians groups, which was met by international outrage from defenders of human rights, was announced on October 22 by Israeli Defense Minister Benny Gantz. Gantz cited alleged links between the groups and the Popular Front for the Liberation of Palestine, or PFLP, a left-wing Palestinian political party with its own military wing.

Despite the severity of the declaration, Israel has yet to publicly present any documents directly or indirectly linking the six groups to the PFLP or to any violent activity.

The secret document, a dossier containing the purported justifications were obtained by +972, Local Call, and The Intercept along with a raft of ancillary documents. The dossier, which was prepared by the Shin Bet, Israel's internal security force, was marked as classified by the Israeli government but widely distributed. The dossier is largely based on interrogations of two accountants working for a seventh Palestinian civil society group that was declared a terrorist organization last year; a lawyer for one of the accountants said the testimonies were gathered under duress.

Since May, before Gantz's declaration, Israeli Foreign Ministry envoys repeatedly appealed to the international community, particularly European nations, to make the case that the six Palestinian organizations — Al-Haq, Addameer, Bisan Center, Defense For Children International-Palestine, the Union of Agricultural Work Committees, and the Union of Palestinian Women's Committees — are closely linked to the PFLP and are involved in the financing of terrorist activities.

The 74-page dossier, or nearly identical documents, were distributed internationally to other governments both before and after the terror designations, in apparent hopes of rallying support to the cause of discrediting, defunding, and dismantling the groups. The Israeli Ministry of Defense did not respond to requests for comment.

### International Distribution

The Palestinian groups, some of which are highly respected by the international community, draw funding from several European governments. In May, Israeli emissaries sent the dossier to European countries in a bid to persuade the governments to cut funding. The dossier, however, failed to convince the foreign governments; officials from at least five of the European countries said that the dossier did not contain any "concrete evidence" and decided to continue their financial support.

"Since the Europeans didn't buy the allegations, they" — Israeli authorities — "used unconventional warfare: declaring the organizations terrorist groups," said Michael Sfar, an Israeli human rights lawyer representing Al-Haq in the matter of the terror designation.

The effort to shutter the Palestinian rights groups is widely seen as part of a yearslong campaign to silence criticisms of Israel by getting European donors to withdraw funding. Sfar noted that the six groups had been classified as organizations involved in efforts to "delegitimize" Israel. "It all starts and ends with the fact that these organizations are seen as promoting a boycott of Israel and the investigation of war crimes at the International

Criminal Court,” Sfarid said. “The attack on them is a political one under the guise of security.”

Following Gantz’s designation, the groups publicly denounced Israel’s claims, calling it “political persecution.” In a press conference held in Ramallah last week by five of the six groups, representatives from the organizations said they were targeted with false accusations to silence them and their work exposing Israeli human rights violations.

Since May, Israel has raided the offices of four of the six human rights groups and may have obtained additional evidence to try showing a direct link between the organizations and the PFLP. However, senior officials from two European countries who spoke with +972, Local Call, and The Intercept on condition of anonymity said that since Gantz’s announcement, Israel has ignored all of their governments’ requests for more information on the matter. Senior officials from three other European countries have issued statements to the media to that effect.

The dossier has continued to play a role in the political fallout from the terror designations. Two American sources familiar with the details of the matter told +972, Local Call, and The Intercept that an Israeli delegation sent to do damage control following outrage over the designations distributed a similar or identical document to members of U.S. Congress and congressional staff. The two American sources, who asked for anonymity because they were not authorized to speak about the diplomacy, said there were plans to present the documents to the State Department, which, according to previous news reports, had requested more information on the designations.

Advocates for Palestinian rights said that the Israelis may get more traction with the Americans than Europeans. “The Israelis have long tried to get the Europeans to stop funding these groups, first by accusing them of delegitimizing Israel, then by accusing them of being terrorist groups, and now by accusing them of affiliation with terrorist groups,” said Lara Friedman, president of the Foundation for Middle East Peace. “In the U.S., on the other hand, there is a general lack of awareness of the process to delegitimize these organizations and shut down their funding, so when the Israelis show up in D.C. and say they have evidence, the Americans don’t know any better.”

#### “Evidence” From Interrogations

The dossier is focused mainly on allegations against a seventh Palestinian group, Health Work Committees, and interrogations of two accountants who worked with the group. The two accountants, Said Abdat and Amro Hamuda, were fired after being suspected of financial misconduct, according to the Israeli government document. In addition to the Shin Bet dossier itself, +972, Local Call, and The Intercept obtained hundreds of pages of summaries based on Shin Bet and Israeli police interrogations of Abdat and Hamuda.

The document sent to the Europeans is based almost entirely on Abdat’s and Hamuda’s testimonies and claims that their accounts prove that the other six organizations were part of a network run by the PFLP and directed funds to PFLP’s armed activities.

Neither the dossier nor the summaries of Abdat’s and Hamuda’s repeated interrogations reveal any concrete information about ties between the six organizations and the PFLP. Instead, the accountants — who did not work for any of the six targeted organizations — based most of their assertions on general hypotheses, what they alleged was “common knowledge,” or information they claimed was widely known. The dossier and interrogation summaries contain no concrete evidence of involvement between any of the groups and violent PFLP activities, nor — contrary to assertions by Israel’s Defense Ministry — evidence that any of the six groups directed funds to the PFLP.

An attorney for Hamuda told +972, Local Call, and The Intercept that his client had offered no proof of any direct instance of funding to the PFLP. “There is not a single sentence in the investigation in which Hamuda claims to have transferred money to the PFLP,” said Khaled al-Araj, the attorney. “They distorted his testimony in order to persecute human rights organizations — this is something they have been doing for years.”

Labib Habib, an attorney representing Abdat, said the interrogators repeatedly pressured his client to incriminate the other six organizations. “This statement lacks any evidential value,” Habib said, referring to Abdat’s remarks about the other six groups. Habib said Abdat “does not have the relevant data” to link the groups to the PFLP: “Beyond the accounting he did for the organization he worked for, he has no way to determine such a thing.”

Habib said he filed a motion to invalidate his client’s testimony because of the methods interrogators used. “He was subjected to a lot of pressure,” the lawyer said, of Abdat. “They threatened to arrest his wife and family, they put pressure on his family members.” The interrogations ran as much as 22 hours straight, Habib said, and when Abdat fainted several times, instead of receiving medical care, he was splashed with cold water and questioning continued. Habib also claimed that throughout the interrogation, Abdat’s hands were bound behind his back and

his legs were tied — known as the “shabah” position — causing him severe pain. Abdat was also barred from meeting with his lawyer for most of the interrogation period.

Israeli advocates against harsh interrogation techniques said Shin Bet’s practices, as outlined by Habib, may amount to torture. “The ‘shabah’ position is a stress position that causes the detainee severe physical suffering, to the point of torture,” Tal Steiner, the executive director of the Public Committee Against Torture in Israel, told +972, Local Call, and The Intercept. Steiner added that using family members to exert psychological pressure — which is banned by Israel’s High Court — could be considered psychological torture.

### Shin Bet’s Allegations

The dossier, which bears the Shin Bet logo, is titled “Findings of Inquiry: Foreign Funding for the Popular Front for the Liberation of Palestine through a network of ‘civil society’ organizations.” According to the dossier, while some of these organizations have humanitarian goals, a portion of the donations made to them “have reached the terrorist organization itself.”

The dossier says Switzerland, Germany, the Netherlands, the United Kingdom, Belgium, Sweden, Spain, and the European Union all financially support the six rights groups. Both the Dutch foreign minister and the Belgian economic development minister have publicly stated that Israel’s allegations against the six groups did not contain “even a single concrete piece of evidence.” Following delivery of the dossier in May, Belgium and Sweden conducted independent audits on the financial conduct of the six organizations in question and their connections to the PFLP, spokespeople for the countries told +972, Local Call, and The Intercept. Neither country found any evidence to support the Shin Bet’s claims.

Health Work Committees, the organization at the center of the dossier, operates medical centers across the occupied West Bank. The group had already been outlawed as early as January 2020, following the arrest of the organization’s deputy director, Walid Hanatshah, on suspicion of his involvement in an August 2019 plot to murder 17-year-old Israeli Rina Shnerb. Earlier this year, five of Health Work Committees’ employees were arrested and interrogated on suspicion of misappropriating funds to PFLP activities using false financial reports. The group’s general director, Shatha Odeh, has been in Israeli administrative detention since July, without being charged in any crime.

Along with Hanatshah, two employees belonging to the Union of Agricultural Work Committees, one of the six recently designated groups, were arrested in Shnerb’s murder — the only publicly available allegation about any member of the six groups and violent activity. Following the murder, several PFLP leaders as well as a host of rights group employees, activists, and students were caught up in an Israeli dragnet, but only a few of them were accused of involvement in the killing itself.

The evidence in the dossier against Health Work Committees, the seventh group designated last year, boils down to copies of nine fraudulent receipts as well as an audio recording of Hamuda, the accountant, in which he admits to producing the forgeries. The fraud appears to not have been directed toward funding violence, a claim for which no evidence is offered, but rather at undertaking financial tricks: Hamuda tells the Israeli officials that the “games” with invoices never benefited the PFLP — a denial omitted from the Shin Bet dossier — but rather were used to pay off Health Work Committees’ debt.

Though the only fake receipts produced in the dossier come from Health Work Committees, the Shin Bet used a single statement by Abdat to tie several of the other groups to PFLP violence by suggesting that they were using the same scheme. Abdat told his interrogators that he taught employees of Union of Palestinian Women’s Committees and Bisan Center how to “forge documents and receipts, in order to make profits.” No proof was given to back up his claim and no evidence was presented that any of the other six groups used the scheme, let alone put it in service of financing terrorism.

### Omissions of Context

Abdat and Hamuda claimed it was “known” that the six organizations were “affiliated” with the PFLP, according to the summaries of their interrogations. One interrogator summed up Hamuda’s remarks by writing, “The PFLP operates institutions, centers, and committees in a centralized manner for the purpose of receiving funding for PFLP activities.” When asked how the money is transferred to the PFLP and for what purposes, Hamuda replied that he “does not exactly know.”

In all cases where Abdat and Hamuda were asked to specify what they meant by “PFLP activities,” they described educational or humanitarian projects that are ostensibly politically affiliated with the organization. In no instance

did they describe the financing of violent activities.

When asked how he had come to understand that “that money reached the activities of the PFLP,” Abdat replied that “he saw receipts which were used for various PFLP activities, such as dabke courses held in Ramallah, Bethlehem, and Jerusalem,” referring to a traditional Palestinian dance. The dossier presented to European governments, however, only included the first part of the sentence about “PFLP activities” — omitting the context that the reference was to dance lessons.

In the hundreds of pages of interrogation summaries, there is only a single reference to military activities: Abdat, according to the summary of an April 8 interrogation, claimed that a particular PFLP committee “decides how to divide the funds between military activities and organizations.” The quote appears in the dossier but without caveats from Abdat that he doesn’t know how the committee gets or distributes the funds and that, as far as he knew, the money went to “university campus activities, support for the wounded or sick, and support for the families of martyrs and prisoners.”

In their interrogations, Abdat and Hamuda named several PFLP projects involving various groups from the six that were designated as terror organizations. In these cases, the dossier mentions the involvement in the projects but not Abdat’s and Hamuda’s explanations of the projects themselves. None of the activities fingered by Abdat and Hamuda as parts of the PFLP projects included violence; instead, the two accountants described summer camps, sports activities, campus organizing, and educational courses taught by PFLP members that provide “PFLP-related content.” None of the testimonies mentioned in the dossier are backed up by concrete evidence, including any documents or receipts.

In some instances, the summaries of Abdat’s and Hamuda’s interrogations reveal how poorly acquainted they were with the six organizations designated as terror groups. In one instance, Hamuda erroneously noted that parliamentarian Khalida Jarrar is the director of Addameer, an organization that defends the rights of Palestinian political prisoners, despite the fact that she has not headed the organization since 2006.

**Lake Chad Basin: Fighting terrorism, ‘decisive test’ on biggest challenges of our time (UN News)**  
November 12, 2021

**Lives are lost daily to terrorist attacks, millions are displaced and health care remains inaccessible – even as the COVID-19 pandemic continues to rage.**

“The fight against terrorism is one of the biggest challenges of our time, and the way in which the international community responds and attacks on its deep causes represents a decisive test”, said Under-Secretary-General for Peace Operations Jean-Pierre Lacroix.

#### Pushing back

Outlining efforts to push back against terrorist threats, he cited as an important achievement, the formation of the Group of Five (G5) Sahel countries’ Joint Force – comprising Burkina Faso, Chad, Mali, Mauritania, and Niger.

Since its deployment in 2017, the Force has increasingly demonstrated its ability to respond to attacks on civilians.

However, Mr. Lacroix stressed that it now stands at a crossroads, requiring more predictable funding to tackle a range of challenges – including terrorism, weak border security and the trafficking of persons, drugs and weapons – all of which impact women most severely.

#### Support grass-roots women’s groups

Against the backdrop of pervasive rights violations and extremist violence, women’s organizations are fighting back with solutions grounded in dialogue and empowerment, according to Fatimata Ouilma Sinare, President of the Burkina Faso chapter of the Network on Peace and Security for Women in the ECOWAS (Economic Community of West African States) Space.

She outlined a far-reaching security crisis that disproportionately impacts the region’s females and called for support from the international community.

#### Women in crisis

The Lake Chad Basin and Sahel regions have seen spiking rates of terrorist violence in recent years, including

devastating attacks against civilians.

Women in those regions also suffer from high rates of harmful practices, such as early and forced marriage, female genital mutilation and increasing recruitment by armed groups.

Moreover, Ms. Sinare informed the Council of rampant reports of sexual abuse and rape, along with women's severe underrepresentation in decision-making roles that could help improve policy outcomes.

#### Community-level support

To address these grave concerns, a range of women's groups across the region are offering solutions that aim to combat violent extremism and multiple forms of violence at the community level.

However, Ms. Sinare stressed that crucial grass-roots civil organizations remain severely underfunded and require technical and financial support to have a long-term impact.

Other recommendations noted that regional and international efforts should focus on encouraging dialogue among armed groups and State and regional authorities to stem the unabated violence.

Support is also needed to improve the quality of health and education services and bolster conflict prevention activities.

**From 'Alive Among the Dead,' to 'Dead Among the Living'(New York Times)** By Aurelien Breeden  
November 13, 2021

#### **One by one, day after day, week after week, a steady stream of witnesses walked up to the stand.**

They fiddled with their face masks or shuffled notes. Adjusted the microphone, some with trembling hands. Stared at the ceiling of the brand-new, brightly lit courtroom to steel themselves or hold back a tear.

"The court is listening," the presiding judge, wearing red robes lined with speckled white ermine, would say.

For over five weeks in October and November, at a courthouse in central Paris, more than 300 survivors and members of bereaved families testified at a trial over the Nov. 13 terrorist attacks in and around the French capital in 2015. One hundred and thirty people were killed, and hundreds were physically or mentally scarred. The attacks inflicted lasting trauma on France's collective psyche.

The hushed courtroom listened to gut-churning recollections of the shootings and suicide bombings — carried out by Islamic State extremists at the national soccer stadium, on restaurant and cafe terraces, and at the Bataclan concert hall — and to heart-wrenching accounts of lives that were shattered.

The plaintiffs were rarely interrupted. (Many asked that reporters in court not use their last names.) Judges, prosecutors and lawyers asked few questions. The accused remained mostly silent. Dozens and dozens of journalists typed away.

Sophie Dias, 39, told the court she was in Portugal preparing for her wedding when news of the attacks broke. She repeatedly called her father, Manuel Dias, a bus driver who had taken fans to the stadium. Mr. Dias, the only person killed there, never picked up.

Gaëlle, 40, told the court how, lying on the floor of the Bataclan with her cheek blown off by a bullet, she had to remove dislocated teeth from her mouth to avoid coughing and attracting a gunman's attention. She underwent her 40th surgery in August.

Maya, 33, told the court she lost her husband and two of her best friends at the Carillon cafe, their Friday meeting spot. The assailants sprayed the terrace with bullets, hitting her legs as she crouched for cover between the gutter and a car.

"My head is held high, but I am exhausted," she said. "I rebuilt myself, but now I would like to live."

Emotions ran high. The audience hung on every shuddering sob, every excruciating detail, every devastating anecdote, every display of horror, grief, resilience, anger and hope.

Only a fraction of the 2,400 plaintiffs decided to testify at the trial, where 20 men stand accused, mostly of

complicity in the attacks. Others want nothing to do with the proceedings.

But for those who testified, it was to explain or better understand what happened, to confront their trauma or the accused, to reclaim their stories and their grief after years of slogans and politicizing that followed the attacks. To take another step toward rebuilding their lives.

“We were ordinary people,” said Arthur Dénouveaux, the president of Life for Paris, a Nov. 13 victims group. “We want to be ordinary people again.”

Lydia Berkennou, 32, escaped the Bataclan by crawling on a floor that was wet with blood. She had told her story publicly before, but taking the stand was different.

“Like a bungee jump into the void,” she said.

She hopes to better understand each suspect’s involvement but found the trial emotionally taxing. The sound of gunfire recently came to her in a flashback for the first time in months.

“But I also know that when I slept that night after testifying, it felt like I had been freed from something,” she said.

To help plaintiffs cope with the psychological impact of the trial, volunteers in sleeveless blue vests from Paris Aide aux Victimes, a victim aid group, have been at the courthouse.

“There are emotions, suffering, anxiety,” said Carole Damiani, a psychologist who is president of the group. “The goal is to cushion that as much as possible.”

The court showed almost no crime scene pictures and played only short audio or video clips from the Bataclan. Added up, however, hundreds of testimonies painted nightmarish scenes.

Virginie remembered falling to the ground of the Bataclan’s mosh pit when the shooting started. She crawled with a “collective rippling” of people trying to escape and had to climb an “Everest of piled-up bodies” to exit. Antoine Mégie, an expert on terrorism laws and legal cases at the University of Rouen, said the trial was a test of how courts could handle thousands of plaintiffs and extremely violent “scenes of war.” A trial for the 2016 truck attack in Nice, which killed 86, is expected next year.

“These testimonies were also a way to embody the victims of an attack that often goes far beyond them,” Mr. Mégie said. “Nov. 13 was an attack on France. The victims are sometimes overwhelmed by that aspect of things.”

Mr. Dénouveaux, from Life for Paris, said terrorism targeted victims “as a stand-in for the whole nation, to scare people, like a sacrificed animal.”

But the trial was a way for survivors to flip that, to be actors of their fate — real people with complex lives, not faceless symbols caught up in a national trauma.

“You share your experience willingly on the stand,” Mr. Dénouveaux said. “Even the decision not to testify is a kind of action.”

Despite their ordeal, most plaintiffs expressed no hate. Only a handful lashed out, like the father of a lighting technician killed at the Bataclan who conveyed both loathing of the accused and deep sadness. Six years later, he still pays his daughter’s phone bill to hear her voice mail recording. Many testimonies struck a similar chord.

Bereaved families remembered frantically calling emergency hotlines; being glued to the television; saying goodbye, one last time, from behind a glass window at the Paris police morgue. Through lawyers, several asked investigators and medical experts who testified whether loved ones had suffered, or where exactly they had died.

Survivors recalled chaos when gunfire suddenly erupted on that balmy November evening, then the feeling that they had been irrevocably unmoored from reality, unable to focus or enjoy life.

“I made it out alive among the dead,” one survivor said. “But now I am dead among the living.”

Some victims found community. Several former hostages from the Bataclan — where the assailants holed up for hours in a narrow corridor before the police launched the assault in a deluge of gunfire and explosions — have grown close.

Guillaume Delmas, 50, is still processing feelings of guilt from that night, when he saw a friend die at the Bataclan

and fled without his wife, who survived. He doubts his testimony will change the trial's outcome, and is frustrated that people often see him as a victim first and foremost.

"All the things that make you human, a good person or a bad person, a genius or a fool, all of that disappears completely," he said.

Still, taking the stand was a relief for Mr. Delmas, who used to be a producer at an advertising firm and now works on his own projects, spending as much time away from Paris as he can.

Testifying was "like removing one of the heavy stones we've been carrying on our backs for the past six years," he said.

But every burden is different.

Sophie, a plaintiff whose partner died after six agonizing days from injuries suffered at the Bataclan, noted that for the rest of the world, he was the 130th victim — a mere number. "Your dead is no longer yours," she told the court with a hint of bitterness, eyes reddened by tears.

But the family of Guillaume Valette, who was so deeply traumatized by his experience at the Bataclan that he killed himself two years later, found solace when he was officially recognized as the 131st victim. "For us, that number is important," Guillaume's brother testified.

One of the most striking accounts came from Aurélie Silvestre, who told the court that she had become an "athlete of grief." When her husband was killed at the Bataclan, she was pregnant with their daughter.

Reading from notes with poise, through gold-rimmed glasses, Ms. Silvestre said that the girl, now 5, struggles to understand the sadness that sometimes grips their family.

"She thinks that after death we all meet again, so she waits," Ms. Silvestre said. "Sometimes, I hear her whisper 'Papa' in her room."

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## **Gender-Based Violence**

### **Bosnian Wartime Sexual Violence Survivors 'Feel Betrayed by System' (Balkan Transitional Justice)** By Emina Dizdarevic

November 4, 2021

**The majority of survivors of sexual violence during the war in Bosnia and Herzegovina feel abandoned and betrayed by the system because the statute of limitations is often invoked when they bring civil suits for compensation against the authorities, causing the cases to be dismissed, according to the preliminary findings of a new survey.**

Wartime sexual violence survivors see this practice as "an additional punishment for them", say the findings published on Thursday by TRIAL International in cooperation with the Global Survivors Fund and the Vive Zene association.

Survivors who do manage to win compensation in court face problems in actually getting the money because many perpetrators insist that they cannot afford to pay.

"This, coupled with the fact that prosecutors do not take an active role and conduct timely investigations of perpetrators' property in order to facilitate the effective payment of compensation, results in survivors not receiving the compensation they are due," the preliminary findings state.

Sexual violence in the 1992-95 Bosnian war was systemic and institutionalised, as confirmed by the judgments of

the International Criminal Tribunal for the Former Yugoslavia, ICTY, according to the findings.

Around 20,000 women and men were raped or sexually abused during the Bosnian war and the ICTY verdicts indicate that the motive for the sexual violence was ethnic intolerance.

Social stigma still makes it difficult for many survivors to speak about their trauma which, coupled with a lack of adequate support, leads to a fear of seeking justice and reparations.

“Many survivors, and especially men, feel shame and hide what happened from their family. The vast majority of the survivors hide their trauma from their children because of fear about how the children would respond to it. This also affects family relations,” says the findings of the TRIAL International survey.

Although Bosnia and Herzegovina has established a domestic reparations programme, including survivors of war-related sexual violence, the country is still far from providing adequate, prompt and effective reparation to survivors according to international standards.

“Many of the survivors are dissatisfied with the level of prosecution of war crimes in Bosnia and Herzegovina, which they deem to be low and inconsistent, highlighting that many perpetrators still live freely both abroad and in Bosnia and Herzegovina, while survivors and their families are deprived of justice,” the survey’s preliminary findings say.

“Although the courts have adopted the ground-breaking practice of awarding compensation to survivors in criminal proceedings, it is only accessible to those who have testified in the proceedings. Many survivors fear that they will not live to see their perpetrators prosecuted and that they will therefore not have the opportunity to seek redress through such proceedings,” the findings add.

They also express concern that the fragmented legal framework across the country results in uneven procedures and the unequal treatment of victims of war-related sexual violence.

**Foreign Secretary launches campaign to tackle sexual violence in conflict around the world (Relief Web) November 16, 2021**

**Today (16 November) Foreign Secretary Liz Truss launches a major global campaign to stop sexual violence against women and girls in conflict around the world./p>**

From: Foreign, Commonwealth and Development Office, Preventing Sexual Violence in Conflict Initiative, and The Rt Hon Elizabeth Truss MP

Liz Truss to drive new global agreement to condemn use of rape and sexual violence as weapons of war as a ‘red line’ on a par with chemical weapons.

UK will host global summit to unite world around action to prevent sexual violence in conflict next year.

Foreign Secretary announces women and girls will be at the centre of her foreign policy priorities, with more than £20 million of new funding to help stop violence against women and girls around the world.

Foreign Secretary Liz Truss today (Tuesday 16 November) launches a major global campaign to stop sexual violence against women and girls in conflict around the world.

Speaking at an event for the Gender Equality Advisory Council (GEAC) – established under the UK’s G7 Presidency to support women and girls around the world – the Foreign Secretary, who is also the UK’s Minister for Women and Equalities, will kick start a major new push by the UK to shatter the culture of impunity around the use of rape and sexual violence as weapons of war.

She is bringing together close partners to condemn rape and sexual violence in conflict as a ‘red line’. All options are on the table, including an international convention, to end such heinous acts once and for all.

The Foreign Secretary will also announce today that the UK will host a global conference next year to unite the world in action to prevent sexual violence in conflict. The conference will bring together Foreign Ministers from all over the world in support of the campaign to end impunity for violence against women and girls.

The announcements are the start of a wider move by the Foreign Secretary to ensure women and girls are at the centre of the UK’s foreign policy priorities.



The UK is already a world leader in tackling violence against women and girls, and supporting their rights internationally. While Foreign Secretary, the Prime Minister signed the UK up to the Safe Schools Declaration, committing to protect schools during military operations and armed conflict. Under the UK's Presidency, G7 countries have committed to get 40 million girls into education and this year the UK hosted the Global Partnership for Education Summit, raising £2.9 billion to get children into school. This included £430 million pledged by the UK.

The Foreign Secretary will step up the UK's commitment to women and girls around the world today, announcing:

- £18 million of new funding to end child marriage through partners UNICEF and UNFPA (United Nations Population Fund). This funding will benefit women and girls in 12 countries, including Sierra Leone, Uganda, Ethiopia, Bangladesh and Yemen. UK support for this work has already helped avert 25 million child marriages over the last decade
- a £3 million boost to organisations on the frontline of tackling violence against women and girls. This will help survivors access health and counselling, as well as helping to prevent violence, including by educating men and boys. This funding will also support work with governments to improve policies and legislation
- £1.4 million of new funding for the Global Survivors Fund, which help support survivors of sexual violence, including through financial support and education

Foreign Secretary and Minister for Women and Equalities, Liz Truss, said:

In conflicts around the world women and girls continue to face horrific sexual violence, with rape repeatedly used as a weapon of war.

I am absolutely clear the UK must lead the way to shatter the impunity and indifference in which these acts are carried out. I will make it my mission to work with countries and international partners to establish a new agreement to condemn them as a 'red line' and end them for good.

Women and girls across the world should live without fear of violence, with access to education and employment, and the chance to reach their full potential.

The Foreign Secretary's campaign will build on years of work carried out by her predecessor William Hague, who set up the Preventing Violence in Sexual Conflict Initiative with UN Special Envoy Angelina Jolie in 2012. Lord Ahmad, the Prime Minister's Special Representative, works directly with the Foreign Secretary on this initiative.

After the last UK-led summit in 2014 the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict was launched, which has been used by the International Criminal Court, the UN and by lawyers, police, medical personnel and NGOs to gather evidence and investigate crimes to help strengthen prosecutions in at least a dozen countries in Europe, Africa, Asia, the Middle East and South America.

Globally, 1 in 3 women will experience physical and/or sexual violence in their lifetime. A UK-funded study in South Sudan found that up to 73% of women had experienced domestic abuse and one in three experienced conflict-related sexual violence.

The announcements come following a report by the GEAC, an independent group of experts convened by the Prime Minister under the UK's G7 Presidency, which sets out the scale of the challenge of making progress on gender equality in the age of Covid. It recommended to G7 leaders that global action is needed to end violence against women and girls through increased investment in prevention and response.

Chair of the GEAC Sarah Sands said:

It is very good news that the Foreign Secretary has pledged that the UK will not look away when confronted by these war crimes.

We had to call for sexual violence in conflict zones to become a red line after hearing the testimony of our council member Dr Mukwege, who has seen first-hand the casualties and the consequences for women, families and communities. As he asked: 'When does this end?' We must work to make sure it does.

## Background

The GEAC's report included a recommendation that the use of sexual violence as a weapon of war be condemned as a 'red line'. Read about the GEAC report

The GEAC is an independent group of experts who were convened by Prime Minister Boris Johnson under the

UK's G7 Presidency. The GEAC is responsible for championing the core principles of freedom, opportunity, individual humanity and dignity for women and girls around the world. Against the backdrop of recovery from the COVID-19 pandemic, the GEAC's recommendations focus on education, economic empowerment and ending violence against women and girls

£18 million will be invested in the UNICEF-UNFPA Global Programme to End Child Marriage (UNGP), the largest multi-donor programme on child marriage. The UNGP works in Bangladesh, India, Nepal, Burkina Faso, Ethiopia, Ghana, Mozambique, Niger, Sierra Leone, Uganda, Zambia and Yemen. This will be the second phase of UK support to the UNGP. Phase I supported almost 8 million adolescent girls with life-skills education, skills training, comprehensive sexuality education and girls' clubs to prevent and respond to child marriage

The UK has committed an additional £3 million for the UN Trust Fund to End Violence Against Women, which supports small civil society and women-led organisations to end violence around the world bringing our total contribution to £25 million since 2014. Since 2013, UK aid programmes have helped over 10,000 communities, representing over 27 million people, pledge to abandon female genital mutilation (FGM)

The UK's flagship What Works to Prevent Violence Programme has established new approaches around the world that have shown reductions in violence of around 50%. In the Democratic Republic of Congo, a project with faith leaders halved women's experience of domestic abuse and led to a more than five-fold reduction in non-partner sexual violence. The second phase of this programme began this year with the aim to drive down rates of violence globally by increasingly using methods which have already delivered results

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## **Commentary and Perspectives**

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## **WORTH READING**

### **Mass Violence, Environmental Harm and the Limits of Transitional Justice**

Rachel Killean and Lauren Dempster

*Journal of Genocide Studies and Prevention*

November 16, 2021

**The relationship between the environment and mass violence is complex and multi-faceted. The effects of environmental degradation can destabilise societies and cause conflict; attacks on the environment can harm targeted groups; and both mass violence and subsequent transitions can have harmful environmental legacies. Given this backdrop it is notable that the field of transitional justice has paid relatively little attention to the intersections between mass violence and environmental degradation. This presentation interrogates this inattention and explores the limitations and possibilities of transitional justice as a means of addressing the environmental harms associated with mass violence. We make four key claims. First, that the 'dominance of legalism' in transitional justice has produced anthropocentric understandings of harm which exclude environmental harms and victims. Second, that transitional justice's tendency towards neo-colonialism has led to the disregarding of worldviews that might encourage more environmentally inclusive responses to violence. Third, that transitional justice's inability to redress structural**

inequalities has often left environmental injustices intact. And fourth, that the field's complicity in normalising neoliberal capitalism both overlooks environmental harm and facilitates future environmental degradation. In light of these claims, we consider whether and where opportunities might exist for 'greener' responses to mass violence.

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