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Volume 17 - Issue 6
September 26, 2021

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

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CENTRAL AFRICA

Central African Republic

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Central African Republic: Important Step for Justice (Human Rights Watch)
September 14, 2021

The Special Criminal Court (SCC) in the Central African Republic, in an important step for justice, has brought charges against Capt. Eugène Ngaïkosset, known within the country as "The Butcher of Paoua," Human Rights Watch said.

His arrest was confirmed on September 4, 2021. On September 10 the SCC announced that it had charged Ngaïkosset with crimes against humanity, but did not specify details of the charges. Ngaïkosset is a former captain in the presidential guard who led a unit that is implicated in numerous crimes, including the killing of at least dozens of civilians and the burning of thousands of homes in the country's northwest and northeast between 2005 and 2007. He is also alleged to have committed crimes as a leader of the anti-balaka movement, including in the capital, Bangui, in 2015. It is not known if the charges against him relate to any or all of these events.

“The little accountability for the types of crimes for which Ngaïkosset is charged underscores how impunity has long driven violence in the Central African Republic,” said Lewis Mudge, Central Africa director at Human Rights Watch. “Many people across the country, including victims of the crimes and their family members, will follow Ngaïkosset’s case very closely. Fair, effective proceedings could mark a turning point for justice.”

Ngaïkosset’s arrest comes amid a surge in violence in the Central African Republic since a new rebellion began in December 2020, putting at risk a fragile peace deal signed between the government and several armed groups in February 2019.

The SCC is a novel court established to help limit widespread impunity for serious crimes in the Central African Republic. The court is staffed by both international and national judges and prosecutors, and benefits from international assistance. It has the authority to try grave crimes committed during the country’s armed conflicts since 2003. The law to establish the court was adopted in 2015, but the court did not officially begin operations until 2018.

The SCC indicated that Ngaïkosset was informed of his rights and had a lawyer present when the charges were brought. The SCC also indicated that investigative judges for the court will consider whether he will continue to be detained pending further developments in the case, but a time for that consideration was not announced.

In 2005, Ngaïkosset, then a lieutenant, was the head of a presidential guard unit based in the town of Bossangoa at the beginning of a period of rebellions against the government of former President François Bozizé. He was among the untouchable commanders, loyal to Bozizé, heading units implicated in violations of international law, including serious human rights violations. Ngaïkosset’s alleged abuses include attacks against civilians suspected of supporting the Popular Army for the Restoration of the Republic and Democracy (Armée populaire pour la restauration de la République et la démocratie, APRD), a rebel movement led by former presidential guards under former president Ange-Félix Patassé in the northwestern provinces, where Patassé was from. Bozizé deposed Patassé in 2003.

In 2007 Human Rights Watch documented at least 51 killings committed by presidential guards under Ngaïkosset’s command. In some instances, the killings were particularly brutal, and were considered warnings to local communities. For example, on March 22, 2006, Human Rights Watch documented that presidential guard troops led by Ngaïkosset beheaded a teacher in the village of Bemal. A month earlier, Human Rights Watch documented that this same unit killed at least 30 villagers in the same area, mostly by randomly firing on people as they tried to flee.

In 2018 a 79-year-old resident of Paoua told Human Rights Watch that Ngaïkosset and his men came into his shop in 2006, looted it, and then took him and one other older man outside of town in a pickup truck. “They said to us, ‘Bozizé told us to kill anyone who voted against him.’ But they spared me because I had been a soldier. The other man was around 70 years old, and we called him Tailleur [“tailor” in French]. They made him walk away and they shot him in the back. People continue to talk about Ngaïkosset here. The relatives of his victims are all still here. He needs to go before a judge.”

In a 2008 meeting with Human Rights Watch, Bozizé denied that Ngaïkosset had committed any crimes from 2005 to 2007.

In April 2014 an arrest warrant was issued against Ngaïkosset for his role in abuses in the north under Bozizé’s rule, according to the United Nations secretary-general-appointed Panel of Experts. In May 2015 Ngaïkosset was transferred from Congo-Brazzaville to Bangui. He was arrested and moved to the research and investigation section of the national gendarmerie, or the SRI, its French acronym. Five days later, he escaped, in circumstances that have not been explained. The circumstances around his escape and who may have facilitated it should be investigated, Human Rights Watch said.

Upon his escape from the SRI, Ngaïkosset was active with anti-balaka militias – a collection of local armed groups that emerged in mid-2013 to fight against the Seleka, a predominantly Muslim rebel group that took power in 2013 – until at least the end of 2015.

In December 2015 Ngaïkosset was placed on the UN sanctions list for perpetrating violence aimed at destabilizing the transitional government in September 2015 and for “planning, directing, or committing acts that violate international human rights law or international humanitarian law ... including acts involving sexual violence, targeting of civilians, ethnic- or religious-based attacks, attacks on schools and hospitals, and abduction and forced displacement.” That same month, the US Department of the Treasury’s Office of Foreign Assets Control also sanctioned Ngaïkosset for “engaging in actions that threaten ... peace, security, or stability.”

As early as 2009, diplomats in Bangui were urging judicial action against Ngaïkosset. In 2009 and 2010 Philip Alston, then the UN special rapporteur on extrajudicial, summary, or arbitrary executions, urged suspension, investigation, and prosecution of security forces implicated in abuse, starting with an investigation of Ngaïkosset. Despite the arrest warrant and the UN and US sanctions, the Defense Ministry, led then by Joseph Bindoumi, continued to pay Ngaïkosset’s national army salary in 2015. His salary continued to be paid until at least late 2018, according to the UN.

On September 8, 2021, the SCC’s substitute prosecutor, Alain Tolmo, announced that it will begin its first trials before the end

of the year, and that the court has multiple cases under investigation. The court is based in Bangui, which will help Central Africans affected by the crimes more easily follow and interact with efforts to ensure that suspects face criminal accountability, Human Rights Watch said. The SCC's judicial efforts operate in tandem with International Criminal Court investigations and prosecutions of serious crimes committed in the country, along with some cases dealing with lesser conflict-related crimes before the country's ordinary criminal courts.

"Many in the Central African Republic associate Ngaïkosset with alleged rampant killings, destruction, and abuse, and yet part of his legacy is also the unwillingness of some Central African authorities to hold those responsible for serious crimes accountable," Mudge said. "His arrest and charging, and the upcoming start of trials at the Special Criminal Court show that long-awaited justice can make progress, and should serve as a warning to others who would commit these crimes."

ICC Appeals Chamber confirms the Pre-Trial Chamber's decision on the approach to admit victims to participate in the proceedings (International Criminal Court)

September 14, 2021

Today, 14 September 2021, the Appeals Chamber of the International Criminal Court ("ICC" or "Court") rejected the appeal of Mr Mahamat Said Abdel Kani and confirmed the decision of Pre-Trial Chamber II of 16 April 2021 entitled "Decision establishing the principles applicable to victims' applications for participation".

Judge Gocha Lordkipanidze, Presiding Judge in this appeal, read a summary of the judgment in an open session. The Chamber held that exceptions to the transmission of copies of victims' applications to the parties are permissible as long as this is not prejudicial to, or inconsistent with, the rights of a suspect or an accused to a fair trial. It found that it is incumbent upon a chamber to strike the right balance among all of the interests at stake.

The Appeals Chamber found that the approach adopted by the Pre-Trial Chamber for transmitting victims' applications for participation to the parties and admitting victims to participate in the proceedings is in principle an adequate tool to ensure the fairness and expeditiousness of the proceedings, while at the same time respecting the rights of both the suspect/accused and the victims, noting however that in some cases, the safety and well-being of the victims may be more appropriately safeguarded by implementing necessary redactions to the victims' applications prior to their transmission to the parties.

The Appeals Chamber is composed of Judge Gocha Lordkipanidze, Presiding, Judge Piotr Hofmański, Judge Luz del Carmen Ibáñez Carranza, Judge Marc Perrin de Brichambaut and Judge Solomy Balungi Bossa.

Background

Mr Said, a national of the Central African Republic, born on 25 February 1970 in Bria, was allegedly a Seleka commander and, in this capacity, he is suspected of being responsible for the following crimes:

crimes against humanity (imprisonment or other severe deprivation of liberty; torture; persecution; enforced disappearance; and other inhumane acts); and war crimes (torture and cruel treatment).

Mr Said is suspected of having committed these crimes jointly with others and/or through others or ordered, solicited or induced these crimes or aided, abetted or otherwise assisted in the commission of these crimes; or in any other way contributed to the commission of these crimes.

He was surrendered to the ICC by the authorities of the Central African Republic (CAR) on 24 January 2021, on account of an ICC warrant of arrest issued under seal on 7 January 2019. His initial appearance before the Court took place on 28 and 29 January 2021. The opening of the confirmation of charges hearing was scheduled provisionally for Tuesday 12 October 2021.

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Former Militiaman Chance Sentenced to Life in South Kivu (Trial International)

September 22, 2021

Victims obtained a favorable verdict on 21 September 2021, only 8 days after the opening of the trial of a militia leader and his accomplice in the Congolese army, both accused of mass crimes – including environmental crimes. Events occurred in 2019, when the militia took control of part of the Kahuzi Biega National Park (South Kivu) to illegally exploit its natural resources. The militia kept nearby villages under its grip by using extreme violence.

Kahuzi-Biega National Park in South Kivu has been a UNESCO World Heritage site since 1980 on account of its unique fauna and flora. But to protect the area, the Congolese authorities forcefully evicted the Pygmy communities who lived within the park's boundaries.

Taking advantage of the resentment felt by these indigenous communities, an ex-member of the Congolese army (FARDC), Chance Muhonya Kolokolo, formed an armed group in order to regain control of a section of the park. Officially, Muhonya claimed he wanted to defend the right of the Pygmy communities to live on their ancestral soil. His true motivations quickly came to light: to exploit Kahuzi-Biega's protected resources for his own gain.

AN ILLEGAL BUT HIGHLY ORGANIZED OPERATION

Specifically, Muhonya and his men cut down trees and sold the wood and embers. They also dug mines and extracted ore from the soil. With the money from the sales, Muhonya bought weapons for his militia. The other defendant in the trial, Benjamin Mazambi Boji, is an army official who is thought to have sold the weapons.

Creating a brutal and highly organized system meant that Muhonya was able to control the villages located around the park. "Taxes" were levied on the extracted wood and ore, community work was made mandatory, and violent reprisals were used against civilians to intimidate them and extort more money from them. Amongst other methods, villagers were thrown in a hole dug in the ground and held captive until a ransom was paid. Some were also tortured and raped. Regular clashes between the militia and other armed factions further worsened the fate of the civilians living near the park.

Other abuses include the enrollment of child soldiers, most aged between 12 and 15 years old at the time. Muhonya took them away to keep their families in fear, then forced the young ones to collect "taxes" on resources and help with life in the camp.

ARREST AND EARLY INVESTIGATION

In March 2020, the FARDC and Kahuzi-Biega park rangers launched an operation to take back the land occupied by the militia. On 23 May 2020, Muhonya was arrested and brought before a military court.

The trial, which began a few months later, did not include charges for international crimes. The acts of violence were considered as crimes committed under ordinary law.

"Many crimes were committed, but they were spread over time, which explains why they were initially treated as individual acts," says Chiara Gabriele, Legal Advisor at TRIAL International who worked on the case. "Yet all the atrocities were part of the same modus operandi and the same criminal enterprise. In this respect, we managed to show that we were dealing with mass crimes."

Further investigations were therefore carried out to ensure that all the crimes committed by Chance Muhonya and Benjamin Mazambi Boji would be brought before the courts. The trial was suspended while awaiting the findings of the additional investigations, including as regards the enrollment and use of child soldiers.

"Testimonies of child soldiers are key to proving the guilt of Chance Muhonya and his accomplices. Above all, however, we

must avoid re-traumatizing the children. Given their young age, repeating their story in front of a court could be a terrible experience. With help from a psychologist specialized in interviewing children who have fallen victim to abuse, we are making sure that none of them suffer a second time," says Ghislaine Bisimwa, Legal Advisor based at TRIAL International's Bukavu office.

AN ANTICIPATED VERDICT

From 13 to 20 September 2021, the crucial stage of hearing witnesses and victims took place in front of a mobile court, which means that the court sits in the very areas where the crimes were committed. Two lawyers specially trained in the prosecution of international crimes were appointed by TRIAL International to represent the 90 or so victims.

In its verdict of 21 September, the Military Court of South Kivu sentenced Chance Muhonya to life imprisonment for crimes against humanity by murder, rape and other inhumane acts but also for war crimes by recruiting and using child soldiers.

He was also convicted of violating and destroying protected areas, based on his group's illegal deforestation and mineral exploitation activities. "This decision is a very important precedent, especially as the court has recognised the seriousness of the environmental crimes committed in the national park in relation to the illegal economic activities carried out by the armed group," said Guy Mushiata, TRIAL International's Bukavu-based programme coordinator.

All the victims were awarded reparations ranging from USD 3,000 to USD 10,000. The Congolese state was found to be civilly liable. Chance's accomplice, Congolese army Major Benjamin Mazambi Boji, who was suspected of facilitating the transfer of arms to the armed group, was acquitted for lack of sufficient evidence.

Congolese Nobel laureate: Establish war crimes tribunal for DRC By Patrick Ilunga
September 22, 2021

Congolese surgeon Denis Mukwege may be a global hero, famed for reconstructing the damaged organs of women and children sexually violated in the country's war.

But now the 2018 Nobel laureate is seeking justice for victims after calling for an international tribunal to specifically look into war crimes in the Democratic Republic of Congo (DRC).

A long-running conflict has plagued the eastern parts of DRC for more than two decades, with Dr Mukwege saying the players have not been punished. Four months ago, President Felix Tshisekedi's administration imposed a 'state of siege' and replaced all civilian administrators in the region with military heads following increased attacks from rebels.

"Despite the state of siege established in North Kivu and Ituri, the security situation does not seem to improve in these provinces," Dr Mukwege said in a statement, referring to recent killings in Beni and Irumu in Ituri.

"Faced with the failure of political and security solutions, we are convinced that the path to lasting peace will involve recourse to all the mechanisms of transitional justice."

He added: "As world leaders will soon be speaking at the United Nations Annual General Assembly, we urge President Tshisekedi to seek UN help and the adoption of a resolution Council to set up, without delay, a team of investigators."

These investigators, he said, will have to exhume the bodies in the many mass graves in the east of the country as evidence of acts likely to constitute war crimes, crimes against humanity and genocide.

The Congolese president must also, he adds, "expressly ask the UN for the establishment of an international criminal tribunal for the DRC and support for the establishment of specialised mixed chambers to render justice to the victims".

He said "we must put an end to the culture of impunity that has fueled conflicts in our country since the 1990s".

Millions dead

The tragedy in eastern DRC has dragged on since Joseph Kabila was in power, and has stalked the regime of President Tshisekedi for three years, with none of the leaders succeeding in stemming violence and offering final peace to the Congolese people.

Between one and six million people are estimated to have died in the war since 1998, according to the Congolese. The exact figure is hard to pinpoint as no one is tracking the death toll.

In 2021 alone, more than 1,200 civilians have been killed in North Kivu and Ituri, according to the UN High Commissioner for Refugees (UNHCR). And with each massacre, Congolese authorities point an accusing finger at ADF, the Ugandan rebel group

established in the DRC.

But the government says recent security measures are bearing fruit.

"The government of the republic reassures that the state of siege is already bearing fruit. A scrupulous follow-up is required in order to achieve the final objective, that of the definitive return of peace in the eastern part of the country," said Patrick Muyaya, Congolese government spokesperson.

The UN mission for stabilizing DRC, commonly called Monusco, which has been in the country since 1999, says it is committed to returning peace to the region.

Monusco head Bintou Keita reiterated that peacekeepers are working to protect civilians.

"We will not be discouraged, we will never be discouraged. We have an objective, which is to support the country to achieve peace consolidation," she said. Violence in DRC has pushed more than 1.4 million people to seek refuge in Uganda. More than five million internally displaced people have fled violence, according to figures from UNHCR.

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

'Gross abuses': Armed groups killing, recruiting in Niger (Al Jazeera)

September 13, 2021

An increasing number of children are being killed and abducted in Niger as the conflict in the country's western Tillaberi region, bordering Mali and Burkina Faso, has worsened significantly, a human rights group said on Monday.

"Niger is at a precipice. In parts of the country an entire generation is growing up surrounded by death and destruction," Amnesty International's Matt Wells said while highlighting the release of a 57-page report.

"The Nigerien government and its international partners must urgently take action to monitor and prevent further abuses across Tillaberi region and protect the basic rights of all those affected by this deadly conflict – especially children."

The London-based human rights group pointed the finger at the Islamic State in the Greater Sahara (ISGS) and al-Qaeda-affiliated Jama'at Nusrat al-Islam wal-Muslimin (JNIM) for causing the "devastating impact on children" in the region.

According to the Armed Conflict Location & Event Data Project (ACLED), cited by Amnesty, violence against civilians led to 544 conflict-related deaths between January and August, up from 397 people killed in similar incidents in 2020.

The report said armed groups have killed more than 60 children in Niger's tri-border area in 2021, adding ISGS appears responsible for most of the killings.

Amnesty spoke to 16 boys who narrowly survived the armed group's attacks on their villages. "We all are used to hearing gunshots and to seeing [dead] people layered on top of [dead] people," a boy in his early teens old told the rights group.

Another boy, who witnessed the murder of his 12-year-old friend in March, said: "I think of Wahab and how he was killed. Sometimes I have nightmares of being chased by people on motorbikes or seeing Wahab pleading with the [attackers] again."

The report also found as of June, the conflict forced at least 377 schools in the Tillaberi region to close, affecting more than 31,700 students. The figure represents an increase of more than 100 schools and almost 10,000 out-of-school students from November 2020.

'We have been abandoned'

ISGS, Amnesty reported, has emerged in the last three years as the dominant armed group along the Niger-Mali border where it recruits among impoverished and marginalised communities.

Meanwhile, on the border with Burkina Faso, JNIM also intensified its recruitment efforts since the start of the year by focusing on young men and boys, said the report.

Such armed groups, Amnesty said, have found it easy to operate in Niger's border areas as they have been evacuated by government forces.

"At first, we'd call the FDS [Niger's armed forces] but now it can be two days and they don't come," said a 50-year-old man from Torodi, near the Burkina Faso border. "We have been abandoned."

Without "urgent action" by the government and international players to prevent further abuses, Amnesty warned, "the situation of children and the wider population is likely to deteriorate further, with armed groups already exploiting the state's absence to carry out gross abuses".

Ten Dead As Nigerian Air Force Fighter Jet Targeting Boko Haram 'Accidentally' Bombs Yobe Village (Sahara Reporters)

September 15, 2021

Tragedy struck in the fight against terror group, Boko Haram, on Wednesday, when a fighter jet involved in the counter-insurgency operation in the North-East bombed a village in Yunusari Local Government Area of Yobe State, killing at least 10 villagers.

Yunusari is in the Northern part of Yobe State, sharing international border with Niger Republic.

According to residents, the fighter jet belonging to the military approached from the Eastern part of the town around 8:30am and started firing sporadically.

However, a military source who confirmed the story told SaharaReporters that the Air Force "accidentally" hit the wrong coordinates while targeting a camp belonging to Boko Haram insurgents in the area.

The Chairman of Yunusari Local Government Area, Alhaji Bukar Gaji also confirmed the incident.

"Yes, it happened; we received the sad news today and the victims are currently in the hospital receiving treatment," he said.

However, Edward Gabkwet, Air Force spokesman denied the incident.

Speaking to SaharaReporters, Gabkwet said, "This tweet is false in its entirety. The NAF last conducted a mission into Yobe State (Not Yunusari LGA) on 5 September 2021 and it was an armed recce. No bomb or missile was even expended. Thanks."

He was reacting to a tweet by a media organisation.

Villagers in the past have reported some civilian casualties in near-daily bombardments in Northeastern Nigeria.

Recently, a military jet that came to repel an attack by Boko Haram dropped a bomb that landed in a compound where civilians were having child christening.

A fighter jet also on a mission against Boko Haram extremists in April 2021 mistakenly bombed men of the Nigerian Army, killing over 20 officers.

The soldiers who were reinforced from Ngandu village were said to be on their way to Mainok, headquarters of the Kaga Local

Government Area of Borno state which was under attack by militants from the Islamic State-backed faction of Boko Haram, the Islamic State West Africa Province (ISWAP), formerly known as Jamā'at Ahl as-Sunnah lid-Da'wah wa'l-Jihād.

Some of the Chibok schoolgirls kidnapped by Boko Haram in 2014 and freed last year also said three of their classmates were killed by Air Force bombardments.

In June 2021, an offensive aerial bombardment the NAF Alpha jet carried out around Genu town in Niger State resulted in the killing of some wedding guests.

More than 8,000 Boko Haram terrorists have surrendered – GOC (Premium Times)

September 21, 2021

The Acting General Officer Commanding (GOC), 7 Division, Abdulwahab Eytayo, says more than 8,000 Boko Haram terrorists have so far surrendered to troops.

He said the terrorists surrendered from their enclaves in Sambisa Forest, as well as other hideouts.

Mr Eytayo, who is also the Commander, Sector 1, Operation Hadin Kai, disclosed this during a visit by the Director, Army Public Relations, Onyema Nwachukwu, and a team of Defence Correspondents from Abuja on Tuesday, in Maiduguri.

He said the surrender by the repentant terrorists was a welcome development, adding that, the overwhelming fire power of the troops was responsible.

According to him, “one of the reasons they are surrendering in droves is the overwhelming fire power from the troops”.

“It is because every man’s endeavour is motivated by his family’s wellbeing, that is why they are coming out with their families. We started seeing the signs from June.

“Our intensified operations had blocked their logistics’ routes and supplies, bombardments all over, that is why they started surrendering and diseases have overpowered many of them.

“It was better because in the end, the troops will clear all of them and their sympathisers combined,” he said.

The GOC warned that a time would come that the window of surrender would no longer be available, urging the sympathisers of the terrorists to encourage them to come out.

He added that whoever supported the enemies of the state would also be treated as an enemy by the state forces.

He said the military was more determined than ever to deal decisively with the terrorists and their supporters.

Modalities for surrender On the handling of the surrendered terrorists, Mr Eytayo disclosed that the Nigerian army was responsible for receiving, profiling or screening of the terrorists.

The GOC stated that afterwards, they would be handed over to the Borno government for further action.

He explained that a sizeable number of the surrendered, comprised wives and children of the terrorists, as well as those that were forcefully recruited into their folds.

Earlier, Mr Nwachukwu said the media tour was part of efforts to counter the wrong narratives and apprehensions generated by recent surrenders of the terrorists.

Mr Nwachukwu acknowledged and commended efforts of the troops in putting pressure on the terrorists to abandon their illicit activities.

The over a decade long insurgency in the North-east has led to the deaths of thousands of Nigerians and displacement of many more across Borno, Adamawa and Yobe.

The Boko Haram sect is seeking an independent Islamic state.

Nine Chad Villagers Killed in Jihadist Assault (The Defense Post)

September 22, 2021

Nine people have died in an attack on a village in the Lake Chad area that is plagued by violence led by jihadist groups, a local governor and an NGO said on Tuesday.

The region borders Niger, Nigeria, and Cameroon and fighters from Boko Haram and a rival splinter group, the Islamic State in West Africa Province (ISWAP), have used it for years as a haven from which to attack troops and civilians.

“Elements from Boko Haram attacked Kadjigoroum and killed nine people and set fire to the village” on Sunday night, regional governor Mahamat Fadoul Mackaye told AFP by telephone.

Chadian authorities use the Boko Haram label to refer to both militant groups.

The head of a local NGO confirmed the attack and death toll at the village, asking not to be identified.

In August 26 soldiers died in a Boko Haram raid on marshy Lake Chad’s Tchoukou Telia island, about 190 kilometers (120 miles) north of the capital N’Djamena.

In March 2020, 100 Chadian troops died in an attack on the lake’s Bohoma peninsula, prompting an offensive the following month led by Chad’s then-president Idriss Deby Itno.

After pursuing the militants deep into Niger and Nigeria, Deby said there was “not a single jihadist anywhere” on the Chadian side of the lake region.

The attacks have however increased against the army and civilians.

Deby was killed in April 2021 during fighting against rebels in the north and was succeeded by his son, Mahamat Idriss Deby Itno, at the head of a military junta.

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Mali

Berlin and Paris concerned over Russian mercenaries in Mali (DW)

September 16, 2021

The Russian mercenary group "Wagner" is notorious; among other things, it has been accused of war crimes in Syria. Now it's allegedly set to be deployed in Mali. Germany and France are threatening to withdraw their troops.

The situation is explosive: There are indications that the government in Mali is discussing a paramilitary operation with the Russian mercenary force "Wagner". Malian and Russian authorities are said to be on the verge of signing an agreement to this effect. This was revealed by the Reuters news agency at the beginning of the week, causing a stir in European diplomatic circles.

Mali reacted promptly: The government wants to expand its relations to ensure the security of the country — nothing has yet been signed with Wagner, a spokesperson for the country's Defense Ministry said according to media reports. Not only are several thousand French soldiers stationed in Mali, but 1,000 Bundeswehr troops are also stationed in the country to combat Islamist extremists.

Military cooperation is not new

Mali and Russia have worked together in the past: In 1961, after France's withdrawal, the first Malian president Modibo Keita turned to the former Soviet Union, among others, with the request to train and equip the Malian army. This military cooperation continued until the early 1990s.

"Most of the military in power in Mali were trained in Russia and are close to the Kremlin," analyst Mahamadou Konaté tells DW. He warns: "We should be careful not to send these mercenaries into action, also because of the risk that they could commit massive human rights violations."

Signals are already coming from France about a possible troop withdrawal from Mali. Involvement of the private Russian company Wagner in Mali would be "incompatible" with maintaining a French force, according to Foreign Minister Jean-Yves Le Drian. The German Foreign Office also expressed great concern.

German troops in Mali — how much longer?

Germany's Defense Minister Annegret Kramp-Karrenbauer (CDU) wrote on Twitter that such agreements between Mali and Russia would contradict "everything that Germany, France, the EU, and the UN have been doing in Mali for eight years," and also indirectly threatened to withdraw troops as well.

"Russia's interest in further arms sales is of course great," Christoph Hoffmann, a member of the Bundestag representing the FDP, told DW. He added that the German government must now maintain intensive contacts with Mali in order to salvage the situation. He added that Germany would not continue to be involved in the EU mission if there was a real commitment from the Wagner Group. Katja Keul, a member of the Green Party, also considers this "out of the question".

Denis Tull, a researcher with the Foundation for Science and Politics in Berlin, also expressed concern, saying that if the partnership with Mali is confirmed, it would be a "considerable gamble." When the Central African Republic called in Russian mercenaries from the Wagner Group to help in 2018, Paris immediately suspended its activities in the country, he said.

According to Tull, the Malian government's current talks with Russia could also be an attempt to increase pressure — just weeks before the Africa-France summit scheduled for October — and to show France that other alliances are also possible.

In Mali's capital Bamako, Thomas Schiller, head of the Konrad Adenauer Foundation, has called for a dialogue between the countries concerned. At the same time, however, he emphasized that Mali and other African countries are sovereign states. "It is not our job to tell Africans what is good for them. It is up to them to define that, and to reform their political system and their army," Schiller told DW.

Kremlin denies mercenary deployment

He said he was not surprised: there have long been rumors of greater Russian involvement in Mali, especially in the area of security training for the armed forces, possibly also through arms deliveries. The problem, he said, is that these claims have never been verified.

Reuters reported an agreement to send up to a thousand Russian mercenaries to Mali. When DW approached the Kremlin for confirmation, this report was denied by Kremlin spokesperson Dmitry Peskov. Reports surfaced on some Russian websites that claimed that more than 1,200 Russian mercenaries are already in Mali. However, these media platforms are considered dubious and, according to DW research, are apparently controlled by Yevgeny Prigozhin — a close confidant of Vladimir Putin — who is said to head the Wagner Group.

UN accuses Wagner of war crimes

UN experts accuse the mercenaries from Russia of committing war crimes in Central African Republic (CAR). They recently submitted their report to the UN Security Council. In July, an investigation by "The Sentry" — an activist group that investigates money flows related to atrocities — and CNN revealed possible war crimes by mercenaries in CAR. The Russian mercenary group is also active in Libya and Syria. At least in Syria, it is also accused of serious human rights violations.

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Liberia

Sierra Leonean man's war crimes trial extended, more hearings in West Africa (yle)

September 11, 2021

A war crimes trial at Pirkanmaa District Court in Tampere, which began early this year, is being extended.

Judges and other officials held hearings in Liberia in August 2021. Image: Hanna Nordenswan A Sierra Leonean man who has lived in Finland since 2008, is accused of murder, aggravated rape and aggravated war crimes during the 1999-2003 civil war in neighbouring Liberia. Gibril Massaquoi, 51, has denied all charges.

Due to new revelations about alleged atrocities, court officials will travel to West Africa for the second time to hear witnesses.

Hearings there are scheduled to begin next week.

According to the criminal indictment, Massaquoi ordered the murder, torture and mutilation of civilians and participated in their cannibalisation.

Massaquoi was one of the leaders of the Sierra Leonean rebel group Revolutionary United Front (RUF), which took part in both the Sierra Leonean and Liberian civil wars.

Massaquoi later testified against fellow combatants at the UN-backed Special Court for Sierra Leone. As a result, he was not charged with war crimes in Sierra Leone and made his way to Finland, where he worked as a cleaner and postman.

In March 2020, the National Bureau of Investigation (NBI) arrested him in a Tampere Prisma parking lot after investigating his suspected links to war crimes in Liberia.

The new hearings will focus on Massaquoi's whereabouts during the summer of 2003.

Finnish prosecutors had believed that his suspected crimes had ended by March 2003 when Massaquoi, who had agreed to testify against his former brothers-in-arms, moved to the Sierra Leone Special Court Shelter in Freetown.

"Now, in the course of the process, doubts have arisen as to whether this conclusion was correct after all. Several witnesses have reported that the suspect was still in the Waterside area (of the Liberian capital, Monrovia) in the summer of 2003, just before the end of the war. Based on that, we have extended the time period of possible crimes," State Prosecutor Tom Laitinen told the news agency STT.

He added that the trial, which began in February, could be wrapped up before the end of this year.

Witness Protection At Special Court for Sierra Leone Under Scrutiny At Massaquoi Trial (Daily Observer) By Joaquin M. Sendolo
September 17, 2021

On day two of the return visit of the Finnish Court trying Gibril Massaquoi for war crimes the focus continued to be on whether Massaquoi escaped the safe house in Freetown where he was under UN protection in exchange for informing on fellow combatants in Sierra Leone's civil war.

Two witnesses in the court today claimed that "Angel Gabriel", Massaquoi's alleged war time alias, was in Waterside area of Monrovia during heavy fighting, commanding fighters with Sierra Leonean accents on behalf of then-President Charles Taylor in the dying days of the Liberian civil war.

"I saw Angel Gabriel many times," said witness "X6" codenamed by the court to protect him from reprisals. "Sometimes once in a week I saw him, and he replaced Sam Bokari [another RUF commander] when he left. Benjamin Yeaten [a Taylor commander] introduced him as the commander replacing Sam Bokari."

The witness, now 42, is a former fighter who claimed to have been recruited by General "Glassco". He said he met Angel Gabriel at General Bokari's house and on the war front. X6 said he stopped seeing Massaquoi when former President Taylor resigned and went into exile in Nigeria in August 2003.

The war crimes case is at a critical standpoint where the prosecution is trying to prove that Massaquoi escaped UN protection in Freetown to fight on behalf of one of the Special Court for Sierra Leone's key suspects - President Taylor. The idea that a witness under UN protection could escape and commit war crimes in another country is a startling revelation. If the Finnish court finds that is what happened, it will have raised serious questions for the Special Court which convicted more than a dozen combatants from the Sierra Leone civil war. "If new evidence determines that, though Massaquoi was a high-profile witness, his protection was porous--the next question would be, how wide spread was this practice?" asked Aaron Weah, an expert on transitional justice in Liberia and Sierra Leone.

"Transnational transitional justice processes can indirectly amount to a certain form of audit. Whether we like it or not, the Finnish Trial of Massaquoi is undertaking an audit of the Sierra Leone Special Court's application of international law, particularly the practice and enforcement of its witness protection scheme. Like every audit, some transitions are determined to be legitimate and comply with the rules of audit and accounting, while others are determined to be non-compliant, violating the terms of generally accepted accounting principles. If the prosecution finds that Massaquoi witness protection scheme was violated on the watch of the Special Court monitoring, it raises a much bigger question about the Court's integrity and how it impacted on certain outcomes."

The first witness appeared very confident in his conviction that it was July and August 2003 that he saw Massaquoi despite defense efforts to question those dates. He told the court that Massaquoi, after LURD rebels had overtaken several areas from government forces and brought them to central Monrovia, was positioned at the old bridge connecting Vai Town and Waterside. LURD did not attack Monrovia until June 2003. He said other commanders including Generals "Salomie", "Bull Dog" and "Michael High Grade" were also positioned in strategic places in central Monrovia while General Yeaten was at the E.J. Roye Building.

Describing the old bridge area where Massaquoi was based, the witness said he and his group were right under the bridge occupying a wide space.

"Under the bridge is a very wide space that a rocket could not even hit, and they were there cooking their dog meat and other foods," he said in response to questions from Massaquoi's defense lawyer Kaarle Gummerus during cross examination.

According to the witness, he came to know Angel Gabriel when he had taken over from Sam Bokari who was the head of Sierra Leonean mercenaries fighting for Taylor. In response to questions as to whether there were any other names by which the central character of this trial was known, the witness said no.

"I only knew him to be Angel Gabriel," he said. "I was not assigned to him to know all about him. Only his Angel Gabriel name I knew and that's what they used to call him by."

The witness recounted that he and his commander Glassco visited Massaquoi's base at Waterside and saw General Salomie killing a Liberian.

"When we saw that, General Glassco asked why the killing? And the killer said he was ordered by Angel Gabriel to carry on the execution," the witness said. "The complaint was taken to General Benjamin Yeaten, but when he came, he told the soldiers to be focused because the war was going against them."

The second prosecution witness, codenamed "X7" said he met Massaquoi on a diplomatic mission in Liberia. He said he got a truck belonging to Gibril Massaquoi and was driving it transporting RUF soldiers in Sierra Leone and at the same time goods from Sierra Leone to Liberia.

The Finnish court is in Liberia for the next two weeks. In coming days the court will prove the other key question that prompted its return to Liberia: defense allegations that prosecution witnesses were bribed to testify against Massaquoi by staff at the human rights group Global Research Justice Project.

This story is a collaboration with New Narratives as part of the West Africa Justice Research Project.

Former Liberian military leader liable for church massacre (The Seattle Times) By Mark Scolforo
September 17, 2021

A former Liberian military commander who supervised the slaughter of hundreds of unarmed civilians at a church during that country's civil war in 1990 is liable under U.S. law for participating in extrajudicial killings and torture, a federal judge in Philadelphia has ruled.

The decision was issued Wednesday against Moses W. Thomas and in favor of four anonymous plaintiffs who lived through the military assault on people seeking safety at a Red Cross shelter on the grounds of St. Peter's Lutheran Church.

They recounted hiding under dead bodies to survive, smearing blood on themselves to fake death and hiding in the pulpit, clinging to a Bible.

After the war, Thomas emigrated to the United States, worked at a restaurant and lived in Sharon Hill, Pennsylvania, a Philadelphia suburb. He went back to Liberia two years ago. His lawyer said Friday he now lives in the capital of Monrovia.

"He oversaw the events and only declared an end to the shooting when he understood the occupants of the church to have been all killed," wrote U.S. District Judge Petrese Tucker. She said the plaintiffs lost close relatives and suffered "serious, prolonged physical and mental harms as a result of the massacre."

She also said Thomas' actions as an Armed Forces of Liberia colonel in July 1990 make him liable for war crimes and crimes against humanity.

The lawsuit said Thomas was in command as soldiers fired into the packed church from the front door and through windows, targeting those trying to escape.

Thomas was later promoted to head the country's defense intelligence service and emigrated to the United States in 2000.

Thomas' lawyer, Nixon Teah Kannah, said they "accept the decision but we don't agree with it."

"I'm disappointed with the results," Kannah said. "I'm going to reach out to him to see how he wants to handle it, if he wants to appeal or let it be."

Nushin Sarkarati, a lawyer for the four plaintiffs, called it the first time a court has held a member of the Liberian military responsible for wartime atrocities.

"There's going to be a damages hearing, which will be important to identify the harm of the victims and the egregiousness of the abuse," she said. "But whether or not our clients will be able to recover, I can't anticipate right now."

Judge Tucker said that in Liberia, Thomas has "leveraged his contacts in the country's security forces" to harass people suspected of being associated with the U.S. federal lawsuit against him. The four plaintiffs all live in Liberia.

Damages in the case will be determined later by a different federal judge.

Thomas had unsuccessfully argued too much time had elapsed to file the lawsuit under the 1992 federal Torture Victim Prevention Act and claimed he had never been to the church. Kannah said Friday that Thomas maintains he is innocent of the allegations.

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EAST AFRICA

Uganda

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

The African Union and the ICC: One Rule for Kings, another for the Plebs (Elephant) By Tom Maliti
September 10, 2021

During the five-year-long proceedings at the International Criminal Court (ICC) against former Ugandan rebel commander Dominic Ongwen, there was not a peep from the Ugandan government about the ICC's bias against Africans

Uganda's President Yoweri Museveni did not show any such restraint towards the ICC when he was the chief guest at the April 2013 inauguration of then newly elected Kenyan President Uhuru Kenyatta.

"I was one of those that supported the ICC because I abhor impunity. However, the usual opinionated and arrogant actors using their careless analysis have distorted the purpose of that institution," Museveni said in his 9 April 2013 speech. The actors he made indirect reference to were unnamed Western countries.

Museveni accused those actors of using the ICC, "to install leaders of their choice in Africa and eliminate the ones they do not like."

At the time Museveni spoke, Kenyatta and his deputy William Samoei Ruto were due to face trial at the ICC. The case against Kenyatta was terminated in March 2015 before trial hearings began. Ruto's case was terminated in April 2016 after the prosecution had called its witnesses. In a majority decision, the judges said the case against Ruto and former journalist Joshua arap Sang had deteriorated so much that they could not determine Ruto's and Sang's innocence or guilt. The judges said the case deteriorated because of a campaign to intimidate and bribe witnesses.

No sense of irony

During the April 2013 inauguration of Kenyatta, Museveni exhibited no sense of irony when he accused unnamed actors of

using the ICC to eliminate leaders they did not like. By the time Museveni was making his speech, his government had already debated and agreed to use the ICC as one way of “eliminating” its problems with the Lord’s Resistance Army (LRA) rebel group in northern Uganda. In December 2003 Uganda formally asked the ICC to investigate the atrocities committed in northern Uganda.

Following that formal request, Uganda shared with the ICC’s Office of the Prosecutor (OTP) several years’ worth of recordings of the government’s intercepts of LRA radio communications. Together with those recordings, the government also gave the OTP the contemporaneous notes made of the intercepts. On top of that, the government also gave the OTP a list of 15 LRA leaders it believed were responsible for the atrocities committed in northern Uganda.

All this emerged during the course of Ongwen’s trial at the ICC for his role in atrocities committed between 2002 and 2005 in northern Uganda. Ongwen, a former LRA commander, was convicted of 61 counts of war crimes and crimes against humanity in February this year and was sentenced to 25 years in prison in May. Ongwen is in the process of appealing against his conviction and sentence.

In his April 2013 speech, Museveni acknowledged that his government had cooperated with the ICC. “We only referred Joseph Kony of LRA to the ICC because he was operating outside Uganda. Otherwise, we would have handled him ourselves,” said Museveni. This statement is only partly true.

When in December 2003 Uganda formally requested the ICC to investigate the atrocities committed in northern Uganda, Kony was based in what is today South Sudan. But he was there with a small group of senior LRA commanders and other LRA members. During Ongwen’s trial, the court heard that by the time Uganda made its referral to the ICC, most of the LRA’s commanders and members had left the group’s rear bases in then southern Sudan and crossed the border back into northern Uganda. This is because Uganda had reached a deal with Sudan that allowed it to cross the border and attack the LRA’s rear bases. Uganda called this military offensive Operation Iron Fist.

African leaders protecting each other

The Ugandan government’s actions may seem contradictory but they fall well within the pattern African leaders have adopted when it comes to the ICC. Whenever there has been a case against an African president or deputy president at the ICC, this has been discussed at the African Union. As for ICC cases against other Africans, the African Union has not discussed them or passed resolutions on them, even if those cases involved former presidents or vice presidents. Despite its contradictory approach towards ICC matters, the African Union has not shied away from accusing the ICC of having an Africa bias.

Ever since, in July 2008, the OTP applied for an arrest warrant against then Sudanese President Omar al-Bashir in connection with the atrocities committed in Sudan’s western region of Darfur, the ICC has been on the agenda of the regular African Union meetings of presidents and prime ministers. ICC pre-trial judges eventually issued two arrest warrants against al-Bashir in March 2009 and July 2010.

African heads of state and government usually meet twice a year as the summit of the AU. Between 2009 and 2020, at each of those summits, they passed resolutions on the ICC or they reaffirmed past resolutions on the matter and directed a ministerial committee to follow up on those resolutions. The resolutions African leaders have passed at these summits have called for the termination or deferral of cases at the ICC implicating serving heads of state or their deputies.

Despite its contradictory approach towards ICC matters, the African Union has not shied away from accusing the ICC of having an Africa bias.

None of the resolutions has mentioned any of the other cases that have come before the ICC such as the one against Laurent Gbagbo, Ivory Coast’s former president, or the one against Jean-Pierre Bemba, a former vice-president and senator of the Democratic Republic of Congo. The ICC has concluded the cases against Gbagbo and Bemba, acquitting both of them.

The African Union has not been the only critic of the Africa-bias in case selection at the ICC. Academics, lawyers and members of civil society have all criticised or highlighted this bias. But the African Union has been the loudest critic. And what the African Union has said on the issue has often been summarised to mean Africa is against the ICC.

Presidents have immunity, ok?

But this paring-down a complicated issue has blurred the African Union’s two-track approach in its relationship with the ICC. Whenever a head of state such as Sudan’s Omar al Bashir is the target of an arrest warrant, the African Union is strident in its criticism of the court. After al-Bashir was toppled from power in April 2019, his arrest warrants ceased to be the subject of AU resolutions.

Instead, the AU has now turned its focus on the issue of the immunity of heads of state and other senior government officials.

Under the Rome Statute, head of state does not have immunity if that person is charged with a crime under that Statute. What's more, the ICC regularly communicates with member states when the court has been informed that a person for whom there is an outstanding arrest warrant is traveling to those member states.

This was the case with al-Bashir when he was Sudan's president. Some countries chose to ignore the ICC's communication. Others advised al-Bashir not to travel to their country and risk arrest. And some have argued they could not arrest al-Bashir because he was in their country to attend an international meeting they were hosting and that, under international customary law, al-Bashir enjoyed immunity for the purpose of the meeting. This is what South Africa and Jordan argued when the issue of immunity for heads of state was litigated before the ICC.

The most recent AU summit resolution on the ICC was issued in February 2020. In it, AU member states are called on to "oppose" the ICC Appeals Chamber judgement in a case Jordan had filed. The resolution said the decision by the ICC Appeals Chamber was, "at variance with the Rome Statute of the International Criminal Court, customary international law and the AU Common Position."

The judgement referred to in the AU resolution dealt with the question of whether Jordan, as an ICC member, should have arrested al-Bashir when he went to Jordan in March 2017 to attend a regular summit of the League of Arab States. The ICC Appeals Chambers was unanimous that Jordan should have arrested al-Bashir when he visited that country.

After al-Bashir was toppled from power in April 2019, his arrest warrants ceased to be the subject of AU resolutions.

The five-judge panel also agreed that customary international law gave heads of state immunity in certain circumstances such as immunity from another country's jurisdiction. But the Appeals Chamber concluded that such immunity did not extend to executing ICC arrest warrants. The AU's call to oppose the ICC Appeals Chamber's May 2019 judgement on Jordan ignores one thing: the AU made submissions to the Appeals Chamber before it reached its judgement. The AU made its submissions at the invitation of the Appeals Chamber. The AU's chief lawyer, Namira Negm, led the team that argued its submission during the hearings on the Jordan case that were held between 10 and 14 September 2018.

In the February 2020 resolution, the AU also asked African members of the ICC to raise before the court's membership issues that concern African states such as "the rights of the accused and the immunities of Heads of State and Government and other senior officials." The resolution further asked African members to "propose necessary amendments to the Rome Statute within the ambit of the ongoing discussions on the reform of the ICC," by its membership.

Making peace without al Bashir

One reason the AU gave against effecting the arrest warrants against al Bashir was that he was key to bringing peace to Sudan's western region of Darfur. The AU was involved in negotiations for peace in Darfur, a process that has been on and off over the years. Ironically, once al-Bashir was removed from power in April 2019, the transitional authorities who replaced him were able to initiate and conclude peace deals on the Darfur conflict last year.

In August this year, the Cabinet in Sudan resolved to hand over al Bashir to the ICC in execution of the two arrest warrants against him. This is a significant step since the transitional government took office in 2019 and indicated that Sudanese authorities were considering reversing the previous position that al Bashir would not be handed over to the ICC. The next step is for the overall transitional authority in Sudan, the Sovereignty Council, to discuss the Cabinet decision and decide whether to endorse it.

Ignoring victims

The criticism levelled at the ICC that it is biased against Africa often ignores a key issue: the victims of conflict on the continent. When a conflict is at its peak, victims will receive emergency aid. The more prolonged a conflict becomes, the less aid victims receive. Rarely will such aid be from the victims' government. And often that foreign-donated aid is all that victims of conflict can expect.

The perpetrators of the conflict that made them victims are rarely held to account for the atrocities they committed. Yet, victims live with the consequences of those atrocities for the rest of their lives. This was the constant refrain of the victims of the northern Uganda conflict who testified during the Ongwen trial.

The criticism levelled at the ICC that it is biased against Africa often ignores a key issue: the victims of conflict on the continent.

Women testified about their families rejecting them because they returned home with children they gave birth to while with the LRA. One person testified about having to change schools several times because teachers and students abused him when they found out he had been in the LRA. Another person testified about wanting to resume his education that was interrupted

when he was abducted by the LRA but he did not earn enough to do that and also educate his children. So he has focused on educating his children.

These and other victim stories are rarely spoken about whenever the ICC is criticised of having an African bias.

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Kenya

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

Kenya judge: policemen must answer for killing of human rights lawyer (Reuters) By Ayenat Mersie
September 20, 2021

Four police officers and a police informer have a case to answer in the killing of a human rights lawyer, a Kenyan judge ruled on Monday, a rare move in a nation where rights groups have accused the police of hundreds of extrajudicial killings.

Lawyer Willie Kimani, 32, and his client Josephat Mwendwa disappeared in June 2016, shortly after filing a complaint alleging that Mwendwa had been shot and injured by police. Days later, their bodies - along with their taxi driver Joseph Muiruri - were recovered from a river outside Nairobi.

Four police officers - Frederick Leliman, Leonard Mwangi, Stephen Cheburet and Silvia Wanjiku - and informer Peter Ngugi have a case to answer in the case, judge Jessie Lessit said.

All five men have previously pleaded not guilty. Their lawyer was not immediately reachable for comment.

Kimani had been working for the International Justice Mission, a global legal rights group, which welcomed Monday's ruling as "a positive move in realising justice" for the three dead men.

Kenyan cases typically move through three stages: the prosecution must prove whether the accused has a reasonable case to answer; the accused then present their defence; and a judge reaches a verdict and delivers a sentence.

The accused in this case will present their defence on Sept. 27 in the next step of the trial.

Kenyan police frequently face accusations of brutality and extrajudicial killings from civilians and rights groups, but officers are rarely charged and almost never convicted.

Earlier this month, five police officers were charged with the 2018 murder of a man who died in police custody, the Independent Policing Oversight Authority (IPOA) said. Four other policemen are on trial for murder after a British aristocrat, Alex Monson, died in their custody in 2012. [read more](#)

IPOA was established in 2011 to investigate police misconduct and has received millions of dollars in foreign funding. Kenyans have filed thousands of complaints against police since its creation, but the organization has only secured 13 convictions against officers, IPOA data shows.

The organisation did not respond to queries about how many cases are in court.

Kenyan rights coalition Missing Voices says 105 people have allegedly been killed by the police or disappeared in their custody so far this year, and 167 in 2020.

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Rwanda (International Criminal Tribunal for Rwanda)

Official Website of the ICTR

France charges suspect in Paris over Rwanda genocide (RFI) September 17, 2021

A man in his seventies has been charged in Paris in connection with the 1994 genocide in Rwanda.

Rwandan-born Isaak Kamali, a naturalised French citizen who has been on France's judicial radar since 2009, was charged with "genocide" and "crimes against humanity".

The prosecutor, in a statement, said Kamali is accused of "involvement in the genocide of Tutsis committed in 1994 in Rwanda". Kamali, who hails from central Rwanda, was employed at the ministry of transport during the genocide.

"It is a surprise because the case is so old," said Alain Gauthier, the president of the French-based collective of civil parties for Rwanda (CPCR), which had filed a complaint against him in February 2009.

The anti-terrorist prosecutor, which also monitors cases of crimes against humanity, said that the suspect disputed the charges against him during his first appearance before a French judge.

Kamali was condemned to death, in absentia, by a court in Rwanda in 2003, but this sentenced was later "annulled" due to changes in Rwandan law, according to the CPCR.

In 2008, he was arrested at Roissy-Charles-de-Gaulle airport in Paris on his way back from the United States and Kigali demanded his extradition, a request that was rejected by the French justice system, as it has done for all suspects of participation in the genocide claimed by Rwanda.

A judicial investigation was opened in 2009 in Paris after the CPCR filed a complaint.

He is still wanted by Rwandan justice but France has so far refused to extradite him.

According to the United Nations, more than 800,000 people were killed in the genocide, mainly from the ethnic Tutsi minority, between April and July of 1994.

To date, two trials related to the genocide in Rwanda have resulted in the final conviction of three men in France.

Two other men are soon to be tried: Claude Muhayimana, a Franco-Rwandan former hotel driver accused of transporting militiamen, is due to appear from 22 November to 17 December while a former prefect, Laurent Bucyibaruta, will be tried from May 2022.

Hotel Rwanda hero Paul Rusesabagina convicted on terror charges (BBC) September 20, 2021

[A man who was portrayed in a film as a life-saving hero during the Rwandan genocide has been sentenced to 25 years for terrorism by a court in Rwanda.

Paul Rusesabagina, 67, was found guilty of backing a rebel group behind deadly attacks in 2018 and 2019.

His family has called the trial a sham, saying he was taken to Rwanda, from exile, by force.

The US, where Rusesabagina is a resident, said it was concerned by the conviction.

His journey from celebrated figure to state enemy happened as his criticism of the government grew.

Initially he was hailed for his acts during the genocide 27 years ago.

In the Oscar-nominated movie Hotel Rwanda, Rusesabagina, played by Don Cheadle, was shown as a hotel manager who managed to protect more than 1,000 people who had sought shelter.

In a period of 100 days from April 1994, 800,000 people, mostly from the Tutsi ethnic group, were slaughtered by extremists from the Hutu community.

Some survivors have gone on to question the version of events in the 2005 film.

But as Rusesabagina's profile was raised following its release, his criticism of the post-genocide government and President Paul Kagame gained a wider audience.

He spoke about human rights abuses and alleged that the government was targeting Hutus.

Rights groups have accused the governing Rwandan Patriotic Front of harassing and arresting opponents. Arbitrary detention, ill-treatment, and torture are "commonplace", Human Rights Watch says.

Living in exile, Rusesabagina went on to lead an opposition coalition, which had an armed wing - the National Liberation Front (FLN).

In a 2018 video message, he called for regime change saying that "the time has come for us to use any means possible to bring about change in Rwanda".

Unprecedented trial

There are several high-profile dissidents and critics of President Paul Kagame living in exile, but never before has the country managed to lure any of them home and put them on trial for terrorism.

Given that Rusesabagina used his fame to criticise the government from abroad, this was an especially significant case.

He also presented himself as a potential political challenger to Mr. Kagame.

Many were expecting the court to agree to the prosecution's request of a life sentence.

But 25 years in prison "is just like a life sentence for a 67-year-old", his daughter Anaïse Kanimba told the BBC.

The FLN was accused of carrying out attacks in 2018 and 2019 in which the authorities said nine people were killed. Rusesabagina said he never asked anyone to target civilians but did admit to sending the group money.

Rusesabagina's family said he was kidnapped and forcibly taken to Rwanda last year. His daughter, Carine Kanimba, told the BBC that a just trial could not follow from this illegal act.

But in court, one witness spoke about how he had tricked, rather than forced, Rusesabagina on to a plane in Dubai by telling him it was flying to neighbouring Burundi, not Rwanda.

Rusesabagina withdrew from the trial in March this year, shortly after it began, saying that he was not being given a fair hearing.

Ms Kanimba told the BBC's Newsday programme that he did not have proper access to his lawyers and that the president was "the only judge in the court".

In a statement, the US said that "the reported lack of fair trial guarantees calls into question the fairness of the verdict".

Twenty others were tried alongside Rusesabagina, some of whom were members of the FLN who implicated him in their evidence.

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Somalia

Somalia: Somali Military Vows 'Retaliation' Over Al Shabaab Bomb Attack (Shabelle Media Network) By Abdirisak Mohamud Tuuryare
September 21, 2021

Somali military says it would retaliate for an al Shabab bomb attack that had killed at least one person and wounded five others, some seriously in Buloburde town.

Mohamed Mumin Elmi, an army commander says the militant group had blown up a newly refurbished airport in Buloburde

town, some 425 km west of Mogadishu.

Elmi says they would target al Shabab wives and burn down their houses in the region if the militant group did not stop its attacks in the town.

“We will hunt down all militants’ wives and burn their houses down in Hiran region if the group does not its attacks on Buloburde airport”, Elmi said.

Somali army and African Union troops from Djibouti started on Tuesday cleaning up the debris from the bomb attack on the airport.

Al Shabab, an al Qaeda linked group has been battling Mogadishu-based government and UN-backed African Union mission known as “AMISOM” in Somalia for more than ten years.

The militant group was driven out of the capital Mogadishu in 2011 by Somali army and African Union troops following joint military operations.

The group still holds large swaths in south and central regions where the group is believed to launch from its deadly attacks against the allied forces’ bases and the capital Mogadishu.

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EUROPE

The Court of Bosnia and Herzegovina, War Crimes Chamber

[Official Court Website \[English translation\]](#)

Bosnian Serb Ex-Soldier Arrested on Wartime Rape Charge (Balkan Insight) By Lamija Grebo
September 15, 2021

Police arrested former Bosnian Serb Army soldier Radovan Veljovic on charges of committing rape and sexual abuse during the war in 1992 in the Foca area of Bosnia and Herzegovina.

Officers from the State Investigation and Protection Agency arrested Radovan Veljovic on Wednesday in the Foca area of south-east Bosnia and Herzegovina.

“The suspect is under investigation by the Prosecutor’s Office of Bosnia and Herzegovina and is charged with having committed the criminal offence of crimes against humanity in the Foca area in 1992 as a member of the Army of Republika Srpska,” the state prosecution said in a statement.

The statement said that the indictment accuses Veljovic of committing rape and sexual abuse.

The suspect was handed over for questioning to the prosecution, which will then make a decision about what further action to take in the case.

Bosnian Serb War Criminal Sent Back to Hague Custody from Denmark (Balkan Insight) By Lamija Grebo
September 17, 2021

Radoslav Brdjanin was returned to the UN Detention Unit in the Netherlands because although he was legally eligible for early release in Denmark, where he was serving

his sentence, the Hague-based war crimes court has not yet decided whether to free him.

The UN's Mechanism for International Criminal Tribunals in The Hague has said that Radoslav Brdjanin, who is serving a 30-year sentence for crimes against humanity during the war in Bosnia and Herzegovina, has been sent back to the UN Detention Unit from prison in Denmark.

It said that Denmark had previously informed the UN court about "its decision to release Brdjanin, following his eligibility for early release under Danish law", and had asked for Brdjanin to be "transferred from Denmark within a certain time frame".

Because "the further enforcement of Brdjanin's sentence in Denmark is no longer possible" and no other state has been found where he could serve the rest of his sentence, he was returned to the UN Detention Unit, the president of the Mechanism for International Criminal Tribunals, judge Carmel Agius, said in his ruling, which was delivered on August 25 but only made public on Thursday.

Brdjanin, 73, was the political leader of a short-lived, Serb-run rebel territory called the Autonomous Region of Krajina in north-western Bosnia and Herzegovina.

He was sentenced to 30 years in prison by the Hague Tribunal in 2007 for crimes against non-Serbs in the area, including persecution, torture and deportations.

He requested early release last year but was rejected.

Judge Agius said at the time that "the high gravity of his crimes militates against releasing him early", and that Brdjanin had "failed to demonstrate that he has been sufficiently rehabilitated".

He made another plea for early release in February this year, when his lawyer Novak Lukic insisted that Brdjanin was "mindful of the high gravity of crimes he was convicted of".

Lukic added that Brdjanin "clearly stated [in his first request for early release] that the crimes for which he has been sentenced must not be relativised".

It is not known if the court has ruled on his second request yet.

Ex-Soldier Denies Hostage-Taking, Destruction, Rape in Bosnian War By Nejra Dzaferagic
September 17, 2021

Former Bosnian Serb Army soldier Ranko Radulovic, a Montenegrin citizen, pleaded not guilty to attacking Bosniaks, committing rape, taking hostages and destroying property in the Foca area of Bosnia during the war in 1992.

Ranko Radulovic pleaded not guilty at the Bosnian state court on Friday to accusations that he committed crimes against humanity in the Foca area of south-eastern Bosnia and Herzegovina in 1992 while he was a Bosnian Serb Army soldier.

Radulovic entered his plea via a video link with the Higher Court in Podgorica, the capital of Montenegro, where he has citizenship.

He is accused of having participated in a deadly attack on the civilian population in the Foca area in the period between July 27 and August 31, 1992, which involved Bosnian Serb military, paramilitary and police forces.

"Radulovic participated in taking Bosniaks hostage, the large-scale, unlawful and arbitrary destruction of property, which was not justified by military needs, and the unlawful detention of Bosniak civilians," the court said.

He is also charged with forcing several young Bosniak women to have sexual intercourse.

Since June 2018, Radulovic has been in custody in Montenegro on charges of forming a criminal group which allegedly planned to kill several police officials, a state prosecutor and his son.

The former head of the now-defunct Celik Niksic football club, Radulovic has previously been prosecuted in his home country for tobacco smuggling, and has several convictions.

In a separate development on Friday, the Bosnian state prosecution filed an indictment charging another former Bosnian Serb Army soldier, Radovan Veljovic, with committing crimes against humanity in the Foca area in 1992.

Veljovic, who was arrested on Wednesday in the Foca area, is accused of raping and sexually abusing a Bosniak.

The indictment has been forwarded to the state court for confirmation.

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International Criminal Tribunal for the Former Yugoslavia (ICTY)

Official Website of the ICTY

Crimes of Omission: Why a UN Treaty on Genocide but Not on Crimes Against Humanity? (JustSecurity) By Payam Akhavan

September 21, 2021

It is a matter of historical curiosity that the U.N. General Assembly adopted the Genocide Convention in 1948 without a corresponding treaty for crimes against humanity. Unlike the then-new crime of genocide, crimes against humanity had already been recognized in 1945 in Article 6(c) of the Charter of the International Military Tribunal ("IMT"), which applied to the Nuremberg trials against the major Nazi leaders, and in Article II(1)(c) of Control Council Law No. 10, which applied to subsequent prosecutions. The term "genocide" had been introduced by Raphaël Lemkin just one year earlier in 1944 in his book "Axis Rule in Occupied Europe." It was still more a description of Nazi crimes than a legal definition. The IMT Tribunal did not recognize the neologism in the 1946 Nuremberg Judgment. It was only mentioned in passing by the U.S. Military Tribunal in the 1947 Nuremberg "Justice Trial" as "the prime illustration of a crime against humanity."

Some 50 years later, in the 2000 Kupreškić Judgment, a Trial Chamber of the International Criminal Tribunal for the former Yugoslavia ("ICTY") reaffirmed that "persecution as a crime against humanity is an offence belonging to the same genus as genocide. ... [W]hen persecution escalates to the extreme form of wilful and deliberate acts designed to destroy a group or part of a group, it can be held that such persecution amounts to genocide." In this light, a codification of crimes against humanity in a U.N. convention with the addition of the new crime of genocide as a species of persecution would have been more logical in 1948. So why was a treaty on genocide adopted without one for crimes against humanity?

Crimes against humanity was a revolutionary concept in 1945. Unlike war crimes, which are generally committed against nationals of an adversary, these crimes could be committed against "any civilian population," irrespective of nationality. The concept filled a conspicuous lacuna that situated Holocaust victims belonging to the European Axis States beyond the scope of international criminal law. Article 6(c) of the IMT Charter limited the jurisdiction of the Tribunal to crimes against humanity committed "in execution of or in connection with" crimes against peace or war crimes. Without a nexus to war, the IMT Charter would have criminalized human rights violations in peacetime – an unprecedented and unacceptable encroachment on sovereignty at the time. Thus, although the Nuremberg Tribunal found that "[t]he policy of persecution, repression and murder of civilians in Germany before the war of 1939 ... was most ruthlessly carried out," it held that "revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with" aggressive war or war crimes.

Shaped By a Limitation

The proposal to adopt a Genocide Convention was shaped by this limitation in the definition of crimes against humanity under the IMT Charter. It was dissatisfaction with the Tribunal's failure to exercise jurisdiction over pre-1939 persecutions that motivated some to propose the criminalization of "peacetime genocide" in a treaty. Supporters of this initiative emphasized that less serious offences committed in time of peace – such as piracy, trade in women and children, trafficking in drugs, etc. – were already recognized as international crimes. Others, however, opposed genocide as a "useless and dangerous neologism" insisting that it was simply a form of crimes against humanity.

This debate shaped the decision to separate the two crimes. Thus, General Assembly Resolution 95(I) called for the codification of the Nuremberg Principles in an “International Criminal Code” – including the Article 6(c) definition with a link to war – while Resolution 96(I) called for drafting a Genocide Convention that – upon its adoption in 1948 – defined genocide as an international crime “whether committed in time of peace or in time of war.” Had Article 6(c) not required a nexus with armed conflict, genocide would probably have been subsumed by the Nuremberg Principles without a separate treaty.

It is remarkable that in 1995 – exactly 40 years after the IMT Charter – the ICTY Appeals Chamber held in the Tadić case that the Article 6(c) nexus requirement “was peculiar to the jurisdiction of the Nuremberg Tribunal” and that “[i]t is by now a settled rule of customary international law that crimes against humanity do not require a connection to international armed conflict.” This was subsequently confirmed by the authoritative definition in Article 7 of the Statute of the International Criminal Court (“ICC”) adopted at the Rome Diplomatic Conference in 1998.

The absence of a treaty on crimes against humanity is not without consequence. The ICC Statute leaves unaddressed the obligation of States to prevent and punish crimes against humanity. The “complementarity principle” simply means that genuine national proceedings render a case inadmissible before the ICC; unlike the provisions of the 1948 Genocide Convention, the ICC Statute does not establish any obligation of states parties to prosecute international crimes before their national courts. A crimes against humanity treaty could address this gap. Furthermore, without a treaty, there is no compromissory clause allowing for enforcement of such obligations before the International Court of Justice (“ICJ”) in respect of crimes against humanity. By contrast, the Genocide Convention’s Article IX has enabled important proceedings such as the Application of Genocide Convention case initiated by The Gambia against Myanmar in 2019.

Filling a Conspicuous Gap

The need for a crimes against humanity treaty is all the more apparent when considering that an isolated war crime of murder or peacetime crime of torture triggers obligations of repression under the 1949 Geneva Conventions and 1984 Convention Against Torture, respectively, whereas – to give but one example – the crime against humanity of widespread or systematic murder against a civilian population in peacetime falls into a treaty void. As a “catch all” crime covering a broad spectrum of atrocities, a treaty on crimes against humanity would fill this conspicuous gap, and make a significant contribution to the consolidation and rationalization of disparate international criminal law treaties.

Some might argue that it is not important to have a Crimes Against Humanity Convention because the Genocide Convention already addresses “the crime of crimes.” It is a misconception, however, that crimes against humanity is somehow a lesser offence than genocide in international law. First, the exclusion of political and social groups from the protections of the Genocide Convention means, for example, that the systematic murder, enslavement, and starvation of “class enemies” by the Khmer Rouge qualify as crimes against humanity but not genocide. It cannot be said that these heinous atrocities are somehow less grave merely because the label of genocide does not apply.

Second, it cannot be said in abstracto that just as murder is categorically more serious than assault in national laws, genocide is necessarily more serious than crimes against humanity. For instance, because genocide requires an intention to physically or biologically destroy a group, the killing of a hundred members of an ethnic group by a militia leader in a small village could qualify as genocide whereas the mass deportation of a million members of the same group (i.e. without an intention to destroy the group) by a head of state might only qualify as crimes against humanity. It cannot be said that the former is inherently more serious than the latter. The sentencing practice of international criminal tribunals suggests that genocide is more serious than crimes against humanity only when applied to the same perpetrator in respect of the same acts. The discourse that relegates any mass atrocity that doesn’t qualify as genocide to a black hole of “second best” remains oblivious to the compelling historical legacy and serious gravity of crimes against humanity.

It is time for the U.N. to reunite genocide with its genus by concluding a parallel treaty. The International Law Commission (“ILC”) draft Convention on the Prevention and Punishment of Crimes Against Humanity before the U.N. General Assembly provides a unique opportunity to finally address this glaring omission in the architecture of global justice.

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Domestic Prosecutions In The Former Yugoslavia

Serbia ‘Wasn’t Asked’ to Prosecute Doctor for Bosnia War Crime (Balkan Insight) By Haris Rovcanin

September 9, 2021

After media revealed that war crime indictee Dusko Kornjaca is living freely in Serbia, where he works as a doctor, courts in both countries have confirmed that Bosnia hasn't asked Serbia to take over the case against him.

The Bosnian state prosecution has never asked for the case against Dusko Kornjaca, who is charged with committing war crimes in the Cajnice area during the Bosnian conflict, to be handed over to the judiciary in Serbia, where he now lives and works at a clinical centre, Belgrade Higher Court has confirmed.

Bosnia has issued a warrant for Kornjaca's arrest for allegedly planning and ordering the persecution of the non-Serb population in the municipality of Cajnice in 1992.

The case became a political issue last month after Bosnian newspaper Oslobodjenje reported that he is living freely in the Serbian city of Novi Sad.

After criticism from anti-war activists, Serbian President Aleksandar Vucic got involved in the row, saying that Kornjaca has Serbian citizenship and is a "distinguished doctor".

"I will not [extradite Kornjaca] and apart from that, I don't have the right according to any law of the Republic of Serbia. I will never protect any war criminal, but I will protect the legal order and protect principles," Vucic told media last month.

At the time of the alleged crimes, Kornjaca was president of the Serb-run Crisis Committee in Cajnice and then commander of the municipal wartime headquarters, and at the same time leader of the municipal assembly and a defence minister in the self-proclaimed Serbian Autonomous Region of Herzegovina government.

"Kornjaca organised the detention of Bosniaks in various locations in which they were killed and abused, while their property and religious facilities were destroyed," the indictment alleged.

He has denied any wrongdoing: "A terrible crime was committed then, but I had nothing to do with it. Despite that, I carry sorrow in my soul because of what happened, just like 99 per cent of the Serbs in Cajnice," he told Serbian television station Happy TV last month.

The Serbian War Crimes Prosecution told BIRN that the Bosnian state prosecution had "asked for Dusko Kornjaca to be questioned as a defendant", and that this had happened in September 2014 and the transcript had been sent to the prosecution in Sarajevo.

But the Serbian War Crimes Prosecution added that "according to the available data, no procedure has been initiated before the Belgrade Higher Court War Crimes Chamber for the transfer of criminal prosecution, nor do we have information that the Bosnian state court has filed a motion for the case to be taken over by judicial authorities in the Republic of Serbia".

The Bosnian state court also said that the state prosecution in Sarajevo has not proposed a temporary transfer of the case to Serbia.

Serbia and Bosnia have an extradition agreement, but its provisions do not apply to the offences of genocide, crimes against humanity and war crimes.

Processing war crimes important for Serbia's EU accession (European Western Balkans) By Divna Prusac
September 10, 2021

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

The standards contained in Chapter 23 include establishing an effective legal system, based on rule of law, which will eliminate the external pressures on the judiciary and work on the prevention of corruption. They also emphasize respect of fundamental rights, as well as the rights of citizens of the European Union.

The current Action Plan for Chapter 23 foresees, among else, that Serbia should ensure effective allegation investigations and equal treatment of suspects, strengthen its investigative, prosecutorial, and judicial bodies, improve the work of witness protection services, protecting the rights of witnesses during proceedings that way, as well as to ensure basic records of most cases before judicial authorities. Also, Serbia should ensure the proportionality of criminal convictions and adjust the policy of penalty to the standards of international criminal law.

Višnja Šijačić, a legal analyst from the Humanitarian Law Center, states that the field of war crimes prosecution within the Chapter 23 hasn't been given enough attention.

"Namely, other fields of this Chapter are discussed and written about in the public, such as constitutional changes or corruption, while the general impression is that war crimes are given much less attention in the public space. In order to meet the requirements of Chapter 23, Serbia needs to implement a number of reforms and activities that should have a direct impact on the field of war crimes. Since the EU directed some attention to war crimes prosecutions, and that progress in this area is expected from Serbia, it needs to be significant", said Višnja Šijačić.

The expert also points out that "the impression is that the prosecution strategy is such that the judicial authorities deal with less complex cases, that they mostly take over indictments from Bosnia and Herzegovina (BiH), and that they conduct their own investigations less frequently."

"Observing all of this in the context that armed conflicts on the territory of former Yugoslavia ended more than twenty years ago, the general impression is that we are waiting for the time to do its thing, because it will get more difficult to prosecute war crimes in the years ahead, until we start referring to these trials only as individual, random cases", said Višnja Šijačić.

Although the Action plan for Chapter 23 was revised in 2020, Serbia currently doesn't have a National Strategy for Prosecution of War Crimes, because the previous one expired last year, and the new one for the period 2021-2025 has not yet entered into force. In this regard, the semi-annual report of the European Commission, the so-called non-paper, talks about the slow implementation of the previous National Strategy for Prosecution of War Crimes.

That report also explicitly emphasizes that Serbia has an obligation to co-operate with the International Criminal Tribunal for the former Yugoslavia (ICTY) by accepting its decisions and verdicts. That hasn't been fulfilled, primarily because of the calling into question of the verdicts and the discreditation of the ICTY in the public, which is often being done by the high-level office holders.

Jovana Spremo, Advisor for the EU Integration in the Human Rights Committee (YUCOM), estimates that the general approach of the state to this issue is that information on war crimes trials should not be available to the public.

"Serbia's obligations in the process of joining the European Union are clear, but the lack of a clear commitment to really investigate the accusations has led to the situation in which the proposed activities practically do not correspond to the goals that are set," said Spremo.

In the last three years, the European Commission has insisted that "Serbia must change its approach and stop providing public space and promotion of convicted war criminals, and ensure full cooperation with the tribunal, i.e. the mechanism in The Hague."

Legal expert Milan Antonijević believes that there is no awareness in Serbia, as well as enough media coverage of these processes.

"There are no texts that systematically write about trials, there are no media outlets, except for a few weekly magazines and some daily newspapers that waste paper, convincing only those already convinced, while the other part of the public is not even touched," Antonijević said, adding that there are no public officials who speak about this issue in a right way.

"There are no ministers, civil servants, who have spoken in interviews about final verdicts for war crimes from the point of view of protection of victims, families of the dead, from the point of view of humanity. The only thing we hear are voices from the state that are undermining judicial decisions, mostly international courts, because there are really few domestic verdicts," Milan Antonijević emphasises in a statement for EWB.

Youth Initiative for Human Rights in Serbia has conducted a trial monitoring activity in the past few years, intended for all citizens interested in the process of transitional justice and dealing with the past.

Višnja Šijačić states that, as a society, Serbia misses the opportunity to face the difficult legacy of the wars that were fought in the 1990s.

"It will come to the situation that a large number of cases will never reach the stage of accusation and verdict. Namely, the decline in prosecutorial activity, statistics that indicate that trials before domestic courts last a long time, often over five years, repeated trials, withdrawal of victims and families of victims from the proceedings are problems that accompany war crimes proceedings for years", says Šijačić, adding that "a large number of citizens do not know about the court-established facts about the crimes that were committed, about the perpetrators or about the victims of those crimes".

Jovana Spremo insists that it is necessary for Serbia to change its approach and stop allowing public space and the promotion of convicted war criminals.

“First of all, it is necessary to change the atmosphere in which genocide denial is permissible, where convicted war criminals are guests on national frequencies, or teach at colleges and state institutions,” Spremo said, adding that Serbia should extradite Serbian Radical Party members Vjerica Radeta and Petar Jojić to the International Residual Mechanism for Criminal Courts, before which they are charged with intimidation, threats and offering bribes to witnesses in the procedure against SRS leader Vojislav Šešelj.

Serbia still has more than 2,500 cases under investigation, and for example, in 2019, only four indictments were filed, three of which were transferred from Bosnia and Herzegovina.

Višnja Šijačić from the Humanitarian Fund emphasises that Serbia is not the only state created by the disintegration of Yugoslavia that has the obligation to prosecute war crimes.

“We are witnessing a situation that due to the passage of time, the processing of war crimes in all countries will slowly enter a phase in which it will be increasingly difficult to investigate and prosecute war crimes. Although war crimes do not become obsolete, the perpetrators of these crimes die. That is why the next few years are crucial – what is not processed in the next five years will probably not get its court epilogue after that”, said Šijačić.

The report of the European Commission also highlights the necessary support to the families of missing persons, which are over 10,000, and emphasizes that it is necessary to strengthen the capacities of state bodies that deal with missing persons.

Milan Antonijević believes that such an approach by Serbia could result in its bad reputation as a potential member of the EU.

“Such a strategy will give ammunition to those in Europe who would not like another country on the map of the European Union too much, either because they do not like competition, or because they have not prepared their public for the European Union enlargement process in which they participate. In every EU country, the question will rightly be asked why impunity is nurtured in a country that wants to become an EU member, why the state puts its resources in the hands of those who committed crimes and were convicted for them before international courts that our country recognizes”, says Antonijević.

The Report on the War Crimes Trials by the Humanitarian Law Centre states that one of the main problems is the delay in war crimes proceedings.

“The most prominent example of the unreasonably long duration of the procedure was the Ovčara case, in which the procedure was legally terminated 14 years after the first indictment was filed. The situation is similar in the Lovas case, in which the indictment was filed in 2007, and which was finalized only in November 2020”, the Report reads.

The Report states that the consequences of that, among other things, are that: “Year after year, the accused die, and the witnesses lose confidence in the Serbian judiciary and do not agree to testify in repeated trials. Thus, in the Lovas case, five defendants died during the proceedings and one became incapacitated, while the witnesses refused to testify again.”

Milan Antonijević believes that relations in the region cannot be improved until the attitude of the states, in this case Serbia, towards war crimes trials, changes.

“Every few months, in every country in the region, people are falling back to justifying crimes, diminishing their own and pointing out only the crimes of others. Through domestic trials, Serbia must gain the legitimacy to seek justice at the European level from its neighbours for all victims, but not only in media appearances calculated to help colleagues win elections in their country, on the wave of that nationalism and strained relations. You don’t need to help the worst to come to power, to later persistently prove that you are better than the worst. At the same time, the already worn-out phrase “what did they do to us” must be removed from the state narrative in the entire region”, Antonijević underlines.

BIRN Fact-Check: Is Serbia Unjustly Targeting Bosnians for War Crime Arrests? (Balkan Insight)

By Milica Stojanovic

September 17, 2021

The arrest of a senior Bosnian police ex-official at the Serbian border angered Bosnian officials, who claim that the country’s wartime defenders are being unfairly targeted – but are the Serbian authorities’ actions legally justified?

When former police official Edin Vranj was arrested last weekend while entering Serbia on suspicion that he committed war crimes against prisoners of war during the 1992-95 Bosnian conflict, officials in Bosnia and Herzegovina responded furiously.

The Bosnian Foreign Ministry issued a warning on Tuesday, calling on “all citizens of Bosnia and Herzegovina who were in any way involved in the defence of Bosnia and Herzegovina in the period from 1992 to the end of 1995 not to travel to the Republic of Serbia until further notice”.

“The warning is issued due to the risk of arrests and trials in the Republic of Serbia on war crimes charges, and on the basis of previous cases of arrests of Bosnia and Herzegovina’s citizens against whom no proceedings are being conducted in Bosnia and Herzegovina or who have not been charged with war crimes by Bosnia and Herzegovina’s judicial institutions,” the Foreign Ministry said.

Two members of Bosnia’s tripartite presidency, Sefik Dzaferovic and Zeljko Komsic, said in a joint statement that the arrest of Vranj was “abusing the principle of universal jurisdiction in the prosecution of war crimes”.

“The fact that, on the one hand, the Serbian authorities are protecting convicted [Bosnian Serb] war criminal Novak Djukic, as well as a number of suspects in the Srebrenica genocide and other crimes, and on the other hand continuously arresting members of the [wartime] Republic of Bosnia and Herzegovina’s armed and police forces, clearly indicates that the real goal is not prosecution of war crimes, but selective persecution with political motives,” Dzaferovic and Komsic said.

BIRN’s fact-check of some of those claims shows that Serbia can justify Vranj’s arrest in legal terms, but that its actions in such cases have been damaging relations with neighbouring former Yugoslav states.

Are Bosnian citizens who fought against Serb forces in the 1992-95 war in Bosnia being targeted for arrest if they visit Serbia?

There have been few such arrests, although it’s estimated that several thousand Bosnians enter Serbia each week. In the past four years, from 2018 to 2021, three Bosnian war veterans have been arrested tried to cross the border from Bosnia and Herzegovina into Serbia.

In July 2018, Serbian police arrested the wartime commander of a military prison in Hrasnica near Sarajevo, Husein Mujanovic, and in November 2019, they arrested former soldier Osman Osmanovic.

The most famous case in which a Bosnian citizen was arrested over crimes in Bosnia and Herzegovina was case of Ilija Jurisic, a Bosnian ex-policemen accused of an attack on the retreating Yugoslav People’s Army in the Bosnian town of Tuzla in 1992. He was acquitted in a Belgrade court in 2016 after a legal battle that had lasted since 2007, when he was arrested at Belgrade airport.

Is Serbia protecting Novak Djukic and other people wanted by Bosnia for war crimes?

Djukic, the wartime commander of the Bosnian Serb Army’s Ozren Tactical Group, was convicted in Bosnia of ordering the shelling of the Bosnian town of Tuzla in May 1995, killing 71 people.

He has Serbian citizenship and fled to Serbia in 2014 instead of going to serve his sentence. Bosnia asked Serbia to take over the enforcement of the verdict under a legal cooperation agreement between the two countries.

But due to Djukic’s medical condition, Belgrade Higher Court has repeatedly postponed the case for five years. Meanwhile the Serbian Defence Ministry got involved in promoting a book that claimed the charges against Djukic were false.

Several Bosnian Serbs who have been accused or indicted for war crimes, crimes against humanity or genocide in Bosnia and Herzegovina now live freely in Serbia as they have Serbian citizenship and cannot be extradited for these offences.

A recent case involved Mirko Vrucinic, a former police chief who was on trial in Bosnia for committing crimes against humanity in 1992 in Sanski Most.

Vrucinic failed to appear for a hearing in August 2020 as he had fled to Serbia. The Bosnian state court then found that Vrucinic was officially made a Serbian citizen in September 2020, shielding him from extradition.

Is it lawful for Serbia to prosecute the Edin Vranj case?

According to the country’s Law on the Organisation and Jurisdiction of State Authorities in War Crimes Proceedings, Serbia can charge suspects with criminal acts “which were committed on the territory of the former Socialist Federal Republic of Yugoslavia, regardless of the nationality of the perpetrator or victim”.

This legislation gives Serbia universal jurisdiction to prosecute any crimes committed anywhere in the former Yugoslavia during the 1990s wars.

The Belgrade-based Humanitarian Law Centre said in an analysis published in 2018 that “according to the principle of

universal jurisdiction, conducting investigations and filing charges against foreign nationals is, legally speaking, possible”.

“However, the practice of prosecuting nationals from other countries of the former Yugoslavia does deserve criticism, because such a practice runs contrary to the very foundations of regional cooperation – namely, mutual trust and respect and avoidance of legal uncertainties for nationals of the former Yugoslavia successor states,” the Humanitarian Law Centre added.

Serbia’s claims to have universal jurisdiction have angered Croatia as well as Bosnia and Herzegovina, which could hinder Belgrade’s progress towards EU membership.

Why doesn’t Serbia extradite war crimes suspects to Bosnia and Herzegovina?

According to Serbia’s Law on International Legal Assistance in Criminal Matters, one of the conditions for Serbia to extradite someone is for the person to be a foreign citizen, not a citizen of Serbia. This has allowed some war crime suspects and defendants in Bosnia and Herzegovina to avoid criminal proceedings or prison sentences by fleeing to Serbia and getting (or already having) Serbian citizenship.

Serbia has additional agreements with various other countries on judicial cooperation and issues of extradition. One was made with Bosnia and Herzegovina in 2013. According to that agreement Serbia can extradite its citizens to Bosnia and vice versa for crimes of organised crime, corruption and money laundering.

The agreement says that this can also be applied also to “other grave criminal acts”, but not to the offences of genocide, crimes against humanity and war crimes”. Serbian law does however compel the country to extradite suspected war criminals to the UN’s international tribunal in The Hague.

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Turkey

Civilian tortured by Turkish-backed forces in Syria: SDF (Rudaw) By Loyal Shakir

September 11, 2021

The Syrian Democratic Forces (SDF) on Friday accused Turkish-backed groups in northern Syria of torturing a civilian, saying this is the third case of torture this month.

“Torturing the civilian Ali al-Faraj by the Turkish-backed (Sunni Hawks) faction is the third case in a month,” head of the SDF’s media office Farhad Shami said in a tweet. He shared a graphic video of a number of men torturing a naked, bound man.

According to Shami, this occurred in Suluk, near the border town of Gire Spi (Tal Abyad).

Faraj described what happened to him in a video published on YouTube. He said that he was kidnapped by two armed men from the Free Syrian Army (FSA) who were later arrested and were revealed to be members of the Turkish-backed Sunni Hawks.

The Turkish-backed Syrian National Army, also known as the FSA, is a collection of militias that Ankara has used as boots on the ground in its offensives in northern Syria against Kurdish forces, the People’s Protection Units (YPG) that lead the SDF. Kurds accuse the SNA of absorbing former fighters of the Islamic State (ISIS) and adopting ideology and tactics of the terror group.

“They took me to a pick-up car by a motorbike. There they blindfolded me and took me to a place that I didn’t recognize. They tortured me and recorded a video in which they told me what to say. I did as they wanted,” Faraj said, adding that he was later “thrown” in an area near his village.

Turkish-backed groups have been widely accused of human rights violations in the Kurdish areas in Syria. Last year, the United Nations Commission of Inquiry on Syria said in a report that it believes SNA fighters have committed multiple war crimes in areas of northern Syria where they seized control from Kurdish fighters.

Amnesty International also reported scores of violations against civilians in Syria in its annual 2020 report, especially in Afrin, a region in northwestern Syria that Turkish forces and their Syrian proxies seized control of in 2018. In January, sixteen people, including two minors, were kidnapped and tortured in Afrin and were later released.

The T'azur Organization, which advocates for people whose rights have been violated in areas seized by Turkey and their proxies, said it has documented 377 arrests of civilians in Gire Spi and Sari Kani (Ras al-Ain) in the past two years, among them are 45 women.

“Two hundred and twenty-six of them were subjected to torture in prison and at least three others lost their lives under torture in jail. All these violations pass without accountability or punishment, because they are committed by SNA, which is supported by Turkey,” T'azur Organization executive director Ezzedine Saleh told Rudaw.

Gire Spi and the neighboring Sari Kani were under SDF control until Turkey invaded in October 2019. Both towns were Kurdish-majority and the majority of the population has fled to other areas under the control of the SDF.

UN report adds to claims that Turkish-backed militias are committing war crimes in Syria (Kurdistan24) By Wladimir van Wilgenburg

September 14, 2021

A new report issued on Tuesday by the United Nations' Independent International Commission of Inquiry on Syria suggests that Turkish-backed groups in the embattled Middle Eastern nation have “committed torture, cruel treatment and outrages upon personal dignity, including rape and other forms of sexual violence, which constitute war crimes.”

It stated that the Turkish-supported Syrian National Army (SNA) continues to unlawfully arrest Kurdish citizens in areas under their control in northern Syria such as in Tal Abyad, Afrin, and Ras al-Ain (Serekaniye).

“While detained, victims were often brought to makeshift facilities run by Syrian National Army brigades at the subdistrict level,” the report stated.

“The same brigades continued, as previously documented, to loot and appropriate civilian property along with detaining individuals, including agricultural land belonging to members of the Yazidi (Ezidi) minority group.”

The report documents cases of women and girls being commonly detained, either at the same time as their male relatives or following the detention of their spouses who are suspected of having links to the Kurdish-led Autonomous Administration of North and East Syria (AANES) or the People's Protection Units (YPG), which Ankara considers as the Syrian branch of the PKK, a group that has fought a decades-long insurgency against Turkey over Kurdish rights.

The UN report continued, “Female former detainees described being subjected to multiple rapes, beatings and torture by members of the Syrian National Army forces guarding them, and regularly denied food.”

“Others,” it added, “were threatened with rape during interrogation sessions, assaulted and harassed, including while being held in solitary confinement, which amplified fears and the intimidation.”

The report detailed that, in exchanges with the commission, SNA leadership “stated that it was committed to respecting human rights in places of detention and providing fair trial guarantees,” and that its military judicial system was investigating “Syrian National Army elements involved in violations, with a view to holding them accountable.”

“Finally, in areas under effective Turkish control, Turkey has a responsibility to, as far as possible, ensure public order and safety, and to afford special protection to women and children,” the report concluded. “Turkey remains bound by its human rights obligations vis-à-vis all individuals present in such territories.”

In multiple previous UN reports on Syria, large numbers of potential war crimes and human rights violations by Turkish-backed groups have been well-documented.

Last year, for example, the commission said that Turkish-backed armed groups have subjected women, girls, men, and boys to sexual violence in Syrian areas occupied by Turkey.

In July, the US sanctioned a Turkish-backed militia in Syria called Ahrar al-Sharqiya for human rights violations against ethnic Kurds.

Syrian initiative blames Turkey for demographic change in Afrin (Ahval) September 15, 2021

The National Initiative for Afrin on Monday accused Turkey of attempting a demographic change in Afrin, the city located in northwest Syria, North Press Agency reported.

The Initiative issued a statement and said, "Turkey's bringing in tens of thousands of Arab and Turkmen families, especially the families of its affiliated factions, and settling them in the place of the displaced indigenous people".

"Turkey was not satisfied with that, but it has built entire settlement villages under the cover of the work of humanitarian organizations, including Kuwaiti and Palestinian from inside Israel," the statement said.

New settlements are opened "with the intention of demographic change and imposing new facts on the ground," the statement noted.

"The practices of Turkey and its affiliated factions may amount to a crime against humanity in accordance with Article VII of the Rome Statute of the International Criminal Court," the statement added.

The National Initiative for Afrin urged local and regional forces, and the international community to "stop war crimes, demographic change and new settlements in it", the statement said.

This initiative aims to report "Turkey's violations against the residents of Syria's Afrin to international institutions and human rights organizations".

Turkey invaded Afrin in early 2018, capturing it from the YPG after weeks of fighting, and installing Syrian militia proxies in place of the Kurdish group.

Turkey has been accused of committing systematic violations against Afrin's local population since their takeover of the region alongside their affiliated armed groups in 2018.

The invasion displaced tens of thousands of Kurdish civilians and destabilised a region that had previously been spared the levels of violence seen elsewhere in the Syrian conflict.

Kurdish News Agency Rudaw reported that the Kurdish language has been replaced by Turkish in official curriculum of the educational institutions in the city of Afrin. According to the same report, the decision was taken by the "The Education Ministry of the Temporary Government."

Turkish government ally, Islamist pro-Kurdish Free Cause Party (HÜDA PAR) on Monday said that the removal of the Kurdish language in the predominantly Kurdish city is against human rights and should be abandoned.

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Kosovo Specialist Chambers

Ex-rebel denies war crimes as Kosovo tribunal starts first trial (Reuters) By Stephanie Van Berg
September 15, 2021

A special tribunal in The Hague investigating allegations of atrocities committed by Kosovo pro-independence fighters opened its first case on Wednesday, against a commander accused of torturing prisoners during the 1998-1999 conflict with Serbia.

At the start of his trial, Salih Mustafa, 50, pleaded not guilty to charges of war crimes, comparing the court to the Nazi secret police.

"I am not guilty of any of the counts brought here before me by this Gestapo office," Mustafa told judges.

The Kosovo Specialist Chambers, a Kosovo court seated in the Netherlands and staffed by international judges and lawyers, was set up in 2015 to handle cases under Kosovo law against fighters of the Kosovo Liberation Army (KLA). It is separate from a U.N. tribunal, which was also located in The Hague and tried Serbian officials for crimes committed in the same conflict.

The Kosovo tribunal's highest-profile suspect is former Kosovo President Hashim Thaci, who turned himself in last year to face charges of war crimes and crimes against humanity.

In the court's first case, Mustafa faces charges of murder, accused of running a prison unit where inmates were subjected to daily beatings and torture. Prosecutors explained that in Mustafa's case his victims were also Kosovo Albanians.

"Certain leaders of the KLA, including mister Mustafa, used their power to victimize and brutalize fellow Kosovo Albanians including individuals whose only crime was to have political views that differed from those of the KLA and its leaders," prosecutor Jack Smith said.

Mustafa's indictment says he personally took part in some of the beatings and torture of at least six prisoners and was present when an inmate was so badly hurt that he later died. After listening to the prosecution opening statement Mustafa, dressed in red and black athletic gear and occasionally fidgeting with a pen, did not return to court to hear the opening statement of lawyers for the victims.

The judges allowed Mustafa to be absent from proceedings for the rest of the day, adding that his interests would be represented by his lawyer.

More than 13,000 people are believed to have died during the 1998-99 war in Kosovo, when the southern province was still part of Serbia under the rule of late Yugoslav President Slobodan Milosevic. Fighting ended after NATO air strikes against Milosevic's forces, and Kosovo is now an independent country. KLA fighters are considered heroes by many in Kosovo, and opponents of the tribunal consider it unfair that they are being prosecuted, arguing that Serbia has undergone no analogous effort to bring its own commanders to justice.

First Witness at Kosovo Guerrilla's Trial Recalls Brutal Beating (Balkan Transitional Justice) By
Kastriot Berisha
September 20, 2021

The first witness at the trial of former Kosovo Liberation Army unit commander Salih Mustafa, who is accused of illegally detaining and torturing prisoners in 1999, testified that he was beaten until he lost consciousness.

A protected witness told the trial of Salih Mustafa at the Kosovo Specialist Chambers in The Hague on Monday that he was detained in 1999 in the village of Zllash/Zlas, some 30 kilometres east of Kosovo's capital Pristina.

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 is the first ex-KLA fighter to be tried by the Kosovo Specialist Chambers, and has pleaded not guilty.

The anonymous witness said he was taken to the detention site in Zllash/Zlas by people who were carrying light weapons.

"After entering, they ordered us to lower our heads. I did not dare to raise my head. I did not know who they were and what they were wearing," the witness told the court.

"They immediately took me out, dragging me for several metres, and there they started beating me with sticks, kicking me... I lost consciousness two or three times. I have a broken finger. I also have broken teeth," he added.

He said that after he was beaten, someone put a pistol to his head.

"I was laid down, one of them took out his gun... I heard it and I knew he was going to kill me. At one moment he pulled the trigger, but it didn't fire. He said they should let me go because 'he is lucky'," the witness said.

Asked by the prosecutor who put the gun to his head, the witness said that it was the person against whom he had come to court to testify.

"That person was this man who is here [Mustafa], the one who is accused. I know he had a red hat," the witness said.

At a previous hearing, the prosecution showed photographs of Mustafa wearing a red beret with an Albanian hawk insignia.

The witness said that Mustafa was the main figure at the detention site and that the others did not do anything without his orders.

"They knew that he was the main person there. They did not act without him telling them to do so. He was the main person there. I cannot prove that I saw him," he said.

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

The witness told the court that he was detained because he was "accused of collaborating with the Serbs".

“I was a poor man, I was selling wood with a horse. I didn’t have another choice but to talk to any Serbs because I had to make living for my family,” he explained.

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.

They 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.

Kosovo War Crime Witness Asks Hague Court for Compensation (Balkan Transitional Justice) By Perparim Isufi and Erolinda Uka
September 21, 2021

A witness who alleges he was beaten up by Kosovo Liberation Army fighters at a detention compound in 1999 told the war crimes trial of ex-guerrilla Salih Mustafa that he wants compensation for the injuries he suffered.

In his second day of testimony at the trial of Salih Mustafa at the Kosovo Specialist Chambers in The Hague, a protected witness codenamed 3593 spoke about the conditions in which he was held at a Kosovo Liberation Army detention centre, and said he deserves compensation.

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 is the first ex-KLA fighter to be tried by the Kosovo Specialist Chambers, and has pleaded not guilty.

“I had my arm broken in three places because of beatings. I have had an intervention in the head, my middle finger is broken, my teeth were broken as a result of kicks and I am asking the court for compensation,” said protected witness 3593.

The witness was shown a photograph in court, which he confirmed showed the place where he was held.

“In what we see on these two floors, there is a basement below and I was being held at the basement. [KLA] soldiers were upstairs,” he said.

He added that he was beaten by two people who he could not identify.

He also recalled the moment when he was released from detention.

“When I went out of the house where I was being held, I saw a lot of people in the courtyard but I was not interested in anything else but getting away from there,” he said.

He was presented with another photograph and said he could identify the people in it. “This was the KLA commander Fatmir Sopi and on the right side is the defendant, whose name I do not even want to mention,” he said, referring to Mustafa.

Mustafa allegedly committed his crimes against prisoners accused by the guerrilla fighters of collaborating with enemy Serbs or not supporting the KLA’s cause. The witness told the court that he was detained because he was “accused of collaborating with the Serbs”. At Monday’s hearing, he said that Mustafa was the man in charge at the detention compound in Zllash/Zlas.

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.

They 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.

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Azerbaijan

Center for Truth and Justice Publishes White Paper Documenting Torture of Armenian POWs by Azerbaijan (Asbarez) September 13, 2021

The Center for Truth and Justice (CFTJ) published a White Paper entitled “Initiating an Investigation: White Paper on Azerbaijan’s Torture and Mistreatment of Armenian Prisoners of War (POWs) During and After the 2020 Nagorno-Karabakh War.” The White Paper documents Azerbaijan’s mistreatment and torture of Armenian POWs through first-hand testimonial interviews conducted by CFTJ. The 501(c)(3) nonprofit organization was established to document and preserve testimonials following the 2020 war in Nagorno-Karabakh (Artsakh).

“Azerbaijan’s pattern of mistreating and torturing Armenian POWs violates U.S. and international law. The Aliyev regime must be held accountable for these shocking human rights violations,” said Meline Mailyan, Esq., Board Member and co-founder of CFTJ. “Azerbaijan continues to hold Armenian POWs nearly one year after the war and refuses to acknowledge that there are many more confirmed POWs in captivity. Azerbaijan is torturing Armenian POWs and has executed at least 19 of them. The Azerbaijani government has illegally tried and convicted many of the POWs in sham trials. The CFTJ seeks to give a voice and justice to these victims of human rights violations.”

The White Paper is being circulated to members of Congress and concerned governments around the world. CFTJ has been documenting Azerbaijan’s crimes against Armenians since the start of the war, by collecting direct testimony from the victims. These testimonies are evidence of Azerbaijan’s cruel and inhumane treatment and torture of Armenian POWs in violation of U.S. and international humanitarian laws. CFTJ has conducted more than 150 interviews, including those from returned POWs.

“Congress and governments around the world should reassess their support and funding for Azerbaijan and demand the unconditional and immediate release of all Armenian POW,” said added Mailyan. “Congress should hear directly from the survivors about the mistreatment to which Azerbaijan is subjecting Armenians. Azerbaijan’s actions are in gross violation of international law. Action must be taken now to release the illegally held Armenian POWs and hold the government of Azerbaijan accountable for their deliberate violations of the law.”

The Center for Truth and Justice is a nonprofit organization that has been documenting crimes against Armenians since the 2020 war in Nagorno-Karabakh, by collecting first-hand testimonies from war survivors. CFTJ preserves evidence and makes it available for educational purposes and potential legal actions.

CFTJ is comprised of attorneys and law students in the US, Armenia, and Nagorno-Karabakh, as well as human rights advocates and other professionals, dedicated to amplifying the voices of victims of human rights violations, including discrimination, ethnic cleansing, displacement, war crimes, mass atrocities and genocide. CFTJ educates and trains teams in Armenia and Artsakh on evidence-based interview techniques, compliant with international legal standards and rules of Evidence. The mission of CFTJ is to be a living memorial to crimes against humanity. By being a permanent home for testimonials, CFTJ serves to make first-hand accounts available for study, education, and legal action, in order to foster education, empathy, justice and change.

“It was torturous”: Armenian POWs testify to torture in Azerbaijani captivity (The Armenian Weekly) By Lillian Avedian
September 15, 2021

A new report has revealed shocking details regarding the systematic torture and degrading treatment of Armenian prisoners of war and civilian captives held in Azerbaijan.

The report, published last week by the Office of the Human Rights Defender of Armenia and the Yerevan-based International and Comparative Law Center (ICLaw) with the support of the Armenian Legal Center for Justice and Human Rights (ALC) in Washington, D.C., compiles evidence gathered through interviews with 40 repatriated POWs and 10 civilian captives and analysis of video recordings.

All 50 survivors testified to physical torture and abuse and deprivation of adequate food, water, sleep and medical attention, with no distinction between the treatment of detained combatants and civilians by Azerbaijani officials and military personnel.

“With the publication of this report, ALC, in collaboration with the Human Rights Defender and ICLaw, seeks to methodically

present the inhumane treatment of Armenian POWs to highlight Azerbaijan's continued violation of international human rights law and the state-administered policy of dehumanizing Armenian lives," said Kenneth V. Hachikian, chair of the ALC.

According to the report, Armenian captives were transported between military police confinements, the State Security Service and a pre-trial detention facility in the settlement of Kurdakhany in Baku, in violation of Geneva Convention III mandating that the captor country transfer POWs to a permanent prisoner camp as soon as possible. Armenian captives were regularly subjected to physical torture at each of these locations. Azerbaijani prison guards deployed belts, screwdrivers, gun butts, metal chains and batons to beat the captives, sometimes multiple times a day. One repatriated POW testified that three guards entered his cell every five minutes to beat him to the point of incapacitation.

"Azerbaijani guards entered our cells and demanded us to shout 'Karabakh is Azerbaijan!' Whether we were compliant or not, we were subjected to brutal beatings, both in Military Police and in the State Security. There were other captives with me in the cell; three of them were tortured during interrogations using electroshock."

Under the Geneva Convention III, the captor country must refrain from subjecting POWs to violence, physical harm, reprisal, intimidation or discrimination.

Armenian POWs were not supplied with sufficient food and water, the provision of which was often accompanied by torture and habilitation. Several POWs testified that prison guards would throw away whatever food they could not eat within 10 seconds. Another testified that guards forced him to eat food off the ground. One POW received a severe rash due to the poor quality of drinking water.

"I was kept alone for the last four months. It was torturous. They would give us food and drinks in a way that when they poured it, most of it would spill, and I had to get the leftovers. They broke the cigarettes, then gave them to us. As soon as they opened the cell door, I had to stand up and say 'Karabakh is Azerbaijan.' Besides that, they would repeat [Azerbaijani President Ilham] Aliyev's statement about Artsakh is Azerbaijani and would try to make us repeat whatever they were saying."

POWs were also intentionally deprived of sleep. Some were handcuffed to radiators or heating rods while others were forced to remain standing or sitting for days at a time. In the winter, prison guards poured buckets of freezing water on captives and opened the windows at nighttime, forcing captives to sleep on the cold prison floor.

"In their military police area, we were connected to the heating radiators. We slept on the floor for the first few days. We did not get food or water for a few days. I asked them for water, and they splashed cold water on me from a bucket. All my clothes got wet, and they opened the window and made me lie down on the floor so that I would freeze in the cold. They beat us again. I lost consciousness two times. We became psychologically affected there, because they were beating [redacted] in the cell right next to me and we could hear his torture."

Prison guards consistently refused to provide POWs with medical treatment for injuries inflicted in combat or captivity. As a consequence, many POWs developed infections or more severe injuries. One POW who was sent to a hospital was deprived of food for 10 days. Azerbaijani soldiers lay next to him in his hospital bed while spitting on him and filming their actions.

Under Geneva Convention III, the captor country must provide POWs with sufficient food, water, clothing and medical attention when necessary.

The report exposes that Azerbaijani prison guards extract forced confessions from POWs through coercion and threats of torture. Several prisoners were forced to sign statements written in the Azerbaijani language, without the presence of a translator or lawyer. One repatriated POW, who was sentenced to four months imprisonment, testified that he was forced to sign several unknown documents under threats of violence. While he was provided with counsel at a legal hearing, the proceedings were conducted in the Azerbaijani language.

More than five dozen Armenian POWs are standing trial or have been convicted in the Baku Grave Crimes Court on charges of terrorism, illegal acquisition and possession of weapons and explosives, formation of illegal armed units and illegal crossing of the state border. The Human Rights Defender, ICLaw and the ALC have denounced these trials as a sham, as the rights of POWs are wholly deprived.

Several POWs testified that soldiers who had additionally served during the Four-Day War in April 2016 or the First Artsakh War were treated with exceptional brutality. One POW, who was beaten so severely that he could not walk for 21 days, was told by the perpetrators that he was being punished for his role in the Armenian Armed Forces.

Geneva Convention III prohibits measures of reprisal against POWs.

While captured civilians are protected persons under international law, prison guards did not differentiate between their treatment of civilians and soldiers, comparably subjecting each group to physical abuse and denial of food, water, sleep and

medical attention. One civilian was held in solitary confinement with no access to food or water for 12 hours and beaten if he refused to sing the Azerbaijani national anthem.

Under the Geneva Convention, it is impermissible to submit protected persons to violence or threats or to willfully cause serious injury to their body or health. An individual ceases their status of a protected person if the captor country verifies that the individual engaged in activities hostile to the security of the state. However, Armenian civilian captives were never presented with any formal charges that would prove their involvement in military action.

The International Committee of the Red Cross (ICRC) periodically visited the POWs and civilian captives. According to eyewitness testimony, captives were moved to different holding cells during these visits in order to conceal their living conditions.

“Before [ICRC] visits, the guards told us we were not allowed to disclose the degrading treatment and we would have to lie and tell the Red Cross we were being treated well. The Red Cross visited me for the first time on February 1. They handcuffed us. The [ICRC] gave us cigarettes and sweets, and the Azeris confiscated the cigarettes and took out the filters and started giving us one or two a day.”

The report also exposes the brutal treatment and murder of Armenian soldiers captured in Kovsakan on October 21, 2020 during the 44-day war. The day after the city was seized by Azeri forces, 61 Armenian service members were deployed to Kovsakan and subsequently ambushed. While 15 soldiers were killed during the ambush by the Azerbaijani military, 20 soldiers escaped, and at least 20 others were captured and subsequently murdered, as verified by analysis of video evidence. The video evidence depicts the corpses of Armenian soldiers, sometimes mutilated, that have been dragged by vehicles along dusty roads. Five of the captured soldiers have been repatriated, whereas the remainder are yet to be accounted for.

ICLaw, in collaboration with the ALC, has submitted requests for interim measures, or urgent measures to protect individuals at imminent risk of irreparable harm, to the European Court of Human Rights on behalf of 123 Armenian captives, 111 of which have been granted. To date a total of 104 POWs and civilian captives have been repatriated to Armenia. While Azerbaijan only acknowledges the continued detention of 45 individuals, an estimated 200 POWs and other captives remain in Azerbaijan.

“Azerbaijan’s continued systematic and intentional torture of Armenians in captivity can no longer be ignored or treated with kid-gloves,” said Hachikian. “The international community and human rights organizations must pressure dictator Aliyev to release all Armenian POWs immediately.”

Armenia takes rival Azerbaijan to top UN court (France24) September 16, 2021

Armenia dragged rival Azerbaijan to the UN's top court on Thursday, accusing it of decades of rights abuses including last year's war over a disputed region.

Yerevan is calling on the International Court of Justice (ICJ) to take emergency measures to "protect and preserve Armenia's rights", the Hague-based tribunal said in a statement. Azerbaijan said it would "hold Armenia to account" for what it said were rights abuses against its own people. Armenia's case is based on an allegation that Azerbaijan has breached a UN treaty, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). "For decades, Azerbaijan has subjected Armenians to racial discrimination," the filing says, "with Azerbaijan's President Ilham Aliyev himself leading the way". "As a result of this state-sponsored policy of Armenian hatred, Armenians have been subjected to systemic discrimination, mass killings, torture and other abuse." Armenia also says that the alleged violations "once again came to the fore in September 2020, after Azerbaijan's aggression". The ICJ was set up after World War II to rule on disputes between United Nations member states. Cases usually take years to reach a conclusion. Decades of tensions over Azerbaijan's breakaway region of Nagorno-Karabakh erupted into a six-week war last autumn that claimed more than 6,500 lives. It ended in November with a Russian-brokered ceasefire under which Armenia ceded territories it had controlled for decades. Nagorno-Karabakh is an ethnic Armenian region of Azerbaijan that broke away from Baku's control in the early 1990s after the collapse of the Soviet Union. Around 30,000 people have died during the conflict. 'Grave breaches' Azerbaijan said it would launch its own legal proceedings in response to the Armenian move. "In the coming days, we will hold Armenia to account for breaches" of the discrimination convention, Azerbaijan's deputy foreign minister Elnur Mammadov said in an English-language tweet. "Thirty years of human rights abuses against Azerbaijanis during occupation will not be tolerated." The Azerbaijan foreign ministry said it had been "carefully documenting and compiling evidence of gross human rights abuses" by Armenia for its own legal action. "This includes Armenia's targeting of Azerbaijanis for expulsion, torture, murder and serious mistreatment," "We will not tolerate these grave breaches of ICERD by Armenia, and will be seeking justice under international law as soon as possible." Both sides have long traded accusations of rights abuses, including in last year's war. In February, the foreign ministers of Armenia and Azerbaijan both addressed the United Nations Human Rights Council over their claims that the other side violated international law. Armenia accused Azerbaijani forces of targeting civilian infrastructure and destroying Armenian cultural and religious heritage. Azerbaijan, which was backed by Turkey during the

conflict, for its part accused Armenian forces of war crimes. In December, Amnesty International urged Baku and Yerevan to urgently probe "war crimes" committed by both sides during the fighting. While Armenia has not opened an investigation into its army for war crimes, Azerbaijan has charged two of its soldiers for mutilating bodies of Armenian soldiers. In the 1990s, Armenian-backed separatists in Nagorno-Karabakh declared independence from Azerbaijan in a war over the mountainous province that left some 10,000 dead. Armenia's ally Russia refused to intervene militarily in the latest conflict last year, but deployed several thousand peacekeepers to Nagorno-Karabakh after brokering the peace accord in November.

US House set to vote on measure demanding Baku release Armenian POWs; requiring investigation into Azerbaijani war crimes (The Armenian Weekly) September 21, 2021

The U.S. House Rules Committee cleared the path for full House consideration of an ANCA-backed amendment led by Representatives Tony Cardenas (D-CA), Adam Schiff (D-CA), and Brad Sherman (D-CA) calling for Azerbaijan's immediate release of Armenian prisoners of war and requiring an investigation into the use of U.S. technology in drones used by Turkey and Azerbaijan to target civilians during their 2020 attacks against Artsakh.

The Rules Committee also voted to allow full House votes on pro-Artsakh/Armenia amendments led by Representatives Frank Pallone (D-NJ), David Valadao (R-CA), Dina Titus (D-NV), and Jim McGovern (D-MA).

The amendments will be voted on during House consideration of the FY2022 National Defense Authorization Act (H.R.4350), which may begin as early as Tuesday evening, September 21st. Pro-Artsakh/Armenia advocates can write, call, and tweet their U.S. Representatives to vote for the amendment.

"We thank Chairman McGovern and his colleagues in the House leadership and on both the Armed Services and the Rules Committees for providing each member of the U.S. House of Representatives with the opportunity to cast up-or-down votes on amendments demanding the immediate release of Armenian POWs, requiring an investigation of Azerbaijani war crimes, a report on U.S. aid to Artsakh, banning the Grey Wolves, and other ANCA-backed amendments to the National Defense Authorization Act," said ANCA Executive Director Aram Hamparian. "We encourage our community activists and coalition partners – in the hours leading up to these House floor votes – to continue weighing in with their legislators, via calls, emails, and tweets."

The Cardenas-Schiff-Sherman amendment states it is the sense of Congress that "Azerbaijan must immediately and unconditionally return all Armenian prisoners of war and captured civilians." It goes on to demand a report from the Secretary of Defense on the use of U.S. technology in Turkish drones used by Azerbaijan to attack Armenia and Artsakh during the 2020 war. The bi-partisan amendment was also cosponsored by Representatives Gus Bilirakis (R-FL), Judy Chu (D-CA), Anna Eshoo (D-CA), Young Kim (R-CA), Raja Krishnamoorthi (D-IL), Andy Levin (D-MI), Zoe Lofgren (D-CA), Frank Pallone (D-NJ), Katie Porter (D-CA), Janice Schakowsky (D-IL), Jackie Speier (D-CA), Dina Titus (D-NV), and David Valadao (R-CA).

"It is critical that we get a full accounting of the facts as we look to hold Azerbaijan accountable for its actions in Nagorno Karabakh last year," said Rep. Cardenas. "I am glad to have worked closely with Reps. Schiff and Sherman to produce an amendment that does exactly that. This report is critical to getting a clear picture of the extent of Azerbaijan's actions and any potential violations of international law. Additionally, it will make clear that the United States Congress expects Azerbaijan to honor its obligation to carry out the unconditional return of any remaining Armenian prisoners of war safely to Armenia. I am thankful for the bipartisan group of cosponsors that has joined us in this effort, and will work hard to see that the report gets done." Rep. Schiff concurred, adding, "It is unconscionable that as we approach the one-year anniversary of the war in Nagorno-Karabakh, Azerbaijan continues to illegally detain Armenian service members and captured civilians – a reality made even more horrific by ongoing reports that these prisoners of war are subject to torture in violation of international human rights conventions." Rep. Schiff went on to note, "With this amendment, we are making it absolutely clear to the Aliyev regime that they have the obligation to release these prisoners immediately and unconditionally, and that the Biden administration should take every possible diplomatic action, including through the OSCE Minsk Group, to hold them to account."

Other ANCA-backed amendments ruled "in order" by the House Rules Committee include:

– An amendment led by Rep. Frank Pallone (D-NJ), which requires a report from the Secretary of Defense, in collaboration with the Secretary of State, addressing allegations that some units of foreign countries that have participated in security cooperation programs under section 333 of title 10, U.S.C. may have also committed gross violations of internationally recognized human rights before or while receiving U.S. security assistance. Since 2016, Azerbaijan has received over \$120 million in U.S. military assistance under section 333 funding, and would be in the list of countries scrutinized for committing human rights violations during and after the 2020 Artsakh War. The bi-partisan amendment was cosponsored by Representatives Gus Bilirakis (R-FL), Judy Chu (D-CA), Jim Costa (D-CA), Anna Eshoo (D-CA), Zoe Lofgren (D-CA), Grace

Meng (D-NY), Linda Sanchez (D-CA), Adam Schiff (D-CA), Abigail Spanberger (D-VA), Jackie Speier (D-CA), Rashida Tlaib (D-MI), and David Valadao (R-CA).

— An amendment led by Representatives David Valadao (R-CA) and Brad Sherman (D-CA), which requires a report within 180 days of all US humanitarian and developmental assistance programs in Artsakh (Nagorno Karabakh), including an analysis of the effectiveness of such programs and any plans for future assistance. The amendment was cosponsored by Representatives Don Beyer (D-VA), Judy Chu (D-CA), Jim Costa (D-CA), Young Kim (R-CA), Raja Krishnamoorthi (D-IL), Andy Levin (D-MI), Zoe Lofgren (D-CA), Frank Pallone (D-NJ), Katie Porter (D-CA), David Schweikert (R-AZ), Abigail Spanberger (D-VA), David Trone (D-MD), and Susan Wild (D-PA).

— An amendment led by Rep. Dina Titus (D-NV) requiring a report by the Secretary of State on the activities of Turkey's Grey Wolves organization undertaken against U.S. interests, allies, and international partners, including a review of the criteria met for designation as a foreign terrorist organization. The amendment had the support of a coalition of organizations including the Hellenic American Leadership Council, In Defense of Christians, American Friends of Kurdistan, Middle East Forum, as well as the ANCA. It was cosponsored by Representatives Judy Chu (D-CA), Jim Costa (D-CA), Anna Eshoo (D-CA), Young Kim (R-CA), and Zoe Lofgren (D-CA).

— An amendment by Rep. Jim McGovern (D-MA) modifying the Global Magnitsky Human Rights Accountability Act to authorize sanctions for serious human rights abuse, any violation of internationally recognized human rights, or corruption. The amendment was cosponsored by Representatives Don Beyer (D-VA), David Cicilline (D-RI), Gerald Connolly (D-VA), Anna Eshoo (D-CA), Sheila Jackson Lee (D-TX), Ted Lieu (D-CA), Tom Malinowski (D-NJ), Jamie Raskin (D-MD), Dina Titus (D-NV), Norma Torres (D-CA), and Peter Welch (D-VT).

Azerbaijani parliament to hold hearings on Armenia's war crimes (News.Az) September 21, 2021

Azerbaijan's Parliament will hold hearings on the consideration in international courts of crimes committed by the Armenian Armed Forces during the Second Karabakh War, said Zahid Oruj, MP, Head of the parliament's Human Rights Committee, News.Az reports.

In addition, the issue of damage caused to the Azerbaijani state, and of the protection of the violated rights of the country's citizens will also be raised during the meeting.

Oruj said that with the participation of the Commissioner for Human Rights (Ombudsman) Sabina Aliyeva and the representatives of the Media Development Agency, an exchange of views will take place on the current state and strategy of media development in the country, including issues related to social networks.

He also noted that the agenda of the autumn session of the Parliament includes issues of developing cooperation with international human rights organizations and specialized NGOs.

The members of the committee will actively participate in the development of educational projects in connection with the prevention of domestic violence and the protection of citizens' rights in the digital space.

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MIDDLE-EAST

Iraq

Grotian Moment: The International War Crimes Trial Blog

Iraq: UNITAD Mandate Renewal (ReliefWeb)

September 16, 2021

Tomorrow (17 September), the Security Council is expected to vote on a draft resolution renewing the mandate of the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) for one year. UNITAD's current mandate expires on 18 September.

UNITAD was established by resolution 2379 of 21 September 2017 for an initial period of two years. Its mandate was renewed for one year by resolution 2490 of 20 September 2019 before being renewed for a further year by resolution 2544 of 18 September 2020. When UNITAD was first created, the Council asked the Secretary-General to establish an investigative team to support Iraq's domestic efforts to hold the Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) accountable for international crimes it committed in the country "by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide". UNITAD, which formally began its work on 20 August 2018, is also responsible for promoting accountability globally for atrocity crimes committed by ISIL.

According to resolution 2379, further extensions of UNITAD's mandate may be requested by Iraq "or any other government that has requested [UNITAD] to collect evidence of acts that may amount to war crimes, crimes against humanity, or genocide, committed by ISIL (Da'esh) in its territory". In a 16 September letter to the Council president, the Iraqi foreign minister requested the renewal of UNITAD's mandate for another year.

The UK, the penholder on UNITAD, shared a first draft of the resolution on 14 September. During negotiations, India proposed including language in the preambular paragraphs on the development and use of chemical weapons against civilians by ISIL. It seems that India made this suggestion because UNITAD's most recent report (S/2021/419), which was issued in May, indicated that UNITAD had opened a new investigation into ISIL's use of chemical and biological weapons. India apparently withdrew its proposal after one Council member expressed the view that there was not enough time to reach consensus on this issue before the expiry of UNITAD's current mandate. The UK then placed the original draft under silence until the evening of 15 September. Silence was not broken, and the draft was put in blue.

The draft resolution retains UNITAD's mandate, as set out most recently in resolution 2544, and renews it until 17 September 2022. Apart from amendments to relevant dates and document numbers, two minor changes have been made to the text: the preambular section refers to resolution 2544, and a paragraph requesting that the Secretary-General align the term of UNITAD's Special Adviser with the term of its mandate, which was included in resolution 2544, has been deleted. The draft resolution is otherwise identical to resolution 2544.

The first Special Adviser and Head of UNITAD, Karim Asad Ahmad Khan, who was appointed on 31 May 2018, served in this role until June, when he left UNITAD to become the Prosecutor of the ICC. On 7 September, the Secretary-General announced the appointment of Khan's successor, Christian Ritscher. Prior to joining UNITAD, Ritscher served as a Federal Public Prosecutor at the German Federal Court of Justice, where he worked on international and domestic prosecutions and investigations. Ritscher was also head of Germany's S4 war crimes unit, which seeks to investigate and prosecute individuals in Germany who may have committed international crimes elsewhere, including in Iraq and Syria. In this capacity, Ritscher prosecuted alleged members of ISIL who were accused of committing genocide against the Yazidi community in Iraq in 2014.

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Syria

After 10 years of war in Syria, siege tactics still threaten civilians (UN News)

September 14, 2021

The future for Syria's people is "increasingly bleak", UN-appointed rights experts said on Tuesday, highlighting escalating conflict in several areas of the war-ravaged country, a return to siege tactics and popular demonstrations linked to the plummeting economy.

According to the UN Commission of Inquiry on Syria, the country is not safe for refugees to return to, after a decade of war.

The panel's findings come amid an uptick in violence in the northwest, northeast and south of the country, where the

Commissioners highlighted the chilling return of besiegement against civilian populations by pro-Government forces.

“The parties to the conflict continue to perpetrate war crimes and crimes against humanity and infringing the basic human rights of Syrians,” said head of the Commission of Inquiry, Paulo Pinheiro. “The war on Syrian civilians continues, and it is difficult for them to find security or safe haven.”

Scandal of Al Hol’s children Professor Pinheiro also described as “scandalous” the fact that many thousands of non-Syrian children born to former IS fighters continue to be held in detention in dreadful conditions in Syria’s north-east.

“Most foreign children remain deprived of their liberty since their home countries refuse to repatriate them,” he told journalists, on the sidelines of the 48th session of the Human Rights Council in Geneva.

“We have the most ratified convention in the world, the Convention on the Rights of the Child, is completely forgotten. And democratic States that are prepared to abide to this Convention they neglect the obligations of this Convention in what is happening in Al Hol and other camps and prison places.”

Some 40,000 children continue to be held in camps including Al Hol. Nearly half are Iraqi and 7,800 are from nearly 60 other countries who refuse to repatriate them, according to the Commission of Inquiry report, which covers the period from 1 July 2020 to 30 June 2021.

Blockades and bombardment The rights experts also condemned a siege by pro-Government forces on the town of Dar’a Al-Balad, the birthplace of the uprising in 2011, along with “siege-like tactics” in Quineitra and Rif Damascus governorates.

“Three years after the suffering that the Commission documented in eastern Ghouta, another tragedy has been unfolding before our eyes in Dar’a Al-Balad,” said Commissioner Hanny Megally, in reference to the siege of eastern Ghouta which lasted more than five years – and which the commissioners previously labelled “barbaric and medieval”.

In addition to the dangers posed by heavy artillery shelling, tens of thousands of civilians trapped inside Dar’a Al-Balad had insufficient access to food and health care, forcing many to flee, the Commissioners said.

Living in fear In the Afrin and Ra’s al-Ayn regions of Aleppo, the Commissioners described how people lived in fear of car bombs “that are frequently detonated in crowded civilian areas”, targeting markets and busy streets.

At least 243 women, men and children have been killed in seven such attacks over the 12-month reporting period, they said, adding that the real toll is likely to be considerably higher.

Indiscriminate shelling has also continued, including on 12 June when munitions struck multiple locations in Afrin city in northwest Syria, killing and injuring many and destroying parts of al-Shifa hospital.

Insecurity in areas under the control of the Syrian Democratic Forces (SDF) in northeast Syria has also deteriorated, according to the Commission of Inquiry, with increased attacks by extremist “remnants” and conflict with Turkish forces.

Division remains The Commissioners noted that although President Assad controls about 70 per cent of the territory and 40 per cent of the pre-war population, there seems to be “no moves to unite the country or seek reconciliation. On the contrary.”

Despite a welcome drop in the level of violence compared with previous years, the Commission of Inquiry highlighted the dangers that continue to be faced by non-combatants

The senior rights experts also highlighted mounting discontent and protests amongst the population, impacted by fuel shortages and food insecurity, which has increased by 50 per cent in a year, to 12.4 million, citing UNFPA data.

“The hardships that Syrians are facing, particularly in the areas where the Government is back in control, are beginning to show in terms of protests by Syrians who have been loyal to the State,” said Mr. Megally. They are now saying, “Ten years of conflict, our lives are getting worse rather than getting better, when do we see an end to this?”

UN Probe Finds Uptick in Fighting, War Crimes 10 Years Into Syrian Conflict (Voice of America) By

Lisa Schlein

September 14, 2021

A U.N. investigative body finds what it calls, an alarming upsurge in fighting and violence, with some incidents amounting to war crimes and crimes against humanity, ten years into Syria’s civil war. The report by the U.N. Syria Commission of Inquiry will be submitted to the U.N. Human Rights Council.

The group began investigating alleged violations of international human rights law in Syria in August 2011, five months after civil war broke out. The three-member panel now says conditions in Syria look increasingly bleak.

It reports fighting and violence have been intensifying in recent months in the northwest, northeast and south of the country. It reports civilians are having difficulty finding a haven in this war-torn country.

Commission member Hanny Megally said the lull in hostilities in northwestern Idlib province, brought about by a March 2020 ceasefire agreement brokered by Russia and Turkey, has ended.

Megally said it began unraveling with increased Syrian and Russian air strikes and shelling of this last rebel held territory.

"In terms of the crimes, the aerial attacks, and bombardments, they were hitting civilian objects - schools, hospitals, marketplaces, etc," Megally said. "Detentions, torture in detention, deaths in custody, sexual, gender-based violence. Unfortunately, even cases of rape."

The report finds several areas are under siege by pro-government forces, trapping thousands of civilians without enough food or health care. The investigators also accuse the terrorist organization Hay'at Tahrir al-Sham of imposing restrictions on media and freedom of expression in areas under its control in the northwest.

The commission accuses the Kurdish-led Syrian Democratic Forces of unlawfully interning thousands of women and children in camps across northeast Syria.

Commission Chair Paulo Pinheiro said one of the most scandalous features is the situation of an estimated 40,000 children held in Al Hawl and other camps.

Pinheiro said nearly half are Iraqi, while 7,800 come from nearly 60 other countries. He said only some 1,000 foreign children have been released and brought home. Most foreign children, he notes remain deprived of their liberty because their home countries refuse to repatriate them.

"Most are under 12 years old. No one accused them of crimes," Pinheiro said. "Yet, for over three years, they have been held in horrifying conditions ... Protection can never mean indefinite detention of children. The first remedy for an unlawful detention is release. Punishing children for the sins of their parents cannot be justified."

U.N. and international agencies estimate Syria's decade-long war has killed about a half million people and forcibly displaced 13.5 million, both internally and as refugees in neighboring countries.

The U.N. Commission said it is not safe for refugees to return to Syria given the upsurge in violence and human rights violations, the unstable political situation, the plummeting economy, and fast-spreading COVID-19 pandemic.

UN report adds to claims that Turkish-backed militias are committing war crimes in Syria (Kurdistan24) By Wladimir van Wilgenburg
September 14, 2021

A new report issued on Tuesday by the United Nations' Independent International Commission of Inquiry on Syria suggests that Turkish-backed groups in the embattled Middle Eastern nation have "committed torture, cruel treatment and outrages upon personal dignity, including rape and other forms of sexual violence, which constitute war crimes."

It stated that the Turkish-supported Syrian National Army (SNA) continues to unlawfully arrest Kurdish citizens in areas under their control in northern Syria such as in Tal Abyad, Afrin, and Ras al-Ain (Serekaniye).

"While detained, victims were often brought to makeshift facilities run by Syrian National Army brigades at the subdistrict level," the report stated.

"The same brigades continued, as previously documented, to loot and appropriate civilian property along with detaining individuals, including agricultural land belonging to members of the Yazidi (Ezidi) minority group."

The report documents cases of women and girls being commonly detained, either at the same time as their male relatives or following the detention of their spouses who are suspected of having links to the Kurdish-led Autonomous Administration of North and East Syria (AANES) or the People's Protection Units (YPG), which Ankara considers as the Syrian branch of the PKK, a group that has fought a decades-long insurgency against Turkey over Kurdish rights.

The UN report continued, "Female former detainees described being subjected to multiple rapes, beatings and torture by

members of the Syrian National Army forces guarding them, and regularly denied food.”

“Others,” it added, “were threatened with rape during interrogation sessions, assaulted and harassed, including while being held in solitary confinement, which amplified fears and the intimidation.”

The report detailed that, in exchanges with the commission, SNA leadership “stated that it was committed to respecting human rights in places of detention and providing fair trial guarantees,” and that its military judicial system was investigating “Syrian National Army elements involved in violations, with a view to holding them accountable.”

“Finally, in areas under effective Turkish control, Turkey has a responsibility to, as far as possible, ensure public order and safety, and to afford special protection to women and children,” the report concluded. “Turkey remains bound by its human rights obligations vis-à-vis all individuals present in such territories.”

In multiple previous UN reports on Syria, large numbers of potential war crimes and human rights violations by Turkish-backed groups have been well-documented.

Last year, for example, the commission said that Turkish-backed armed groups have subjected women, girls, men, and boys to sexual violence in Syrian areas occupied by Turkey.

In July, the US sanctioned a Turkish-backed militia in Syria called Ahrar al-Sharqiya for human rights violations against ethnic Kurds.

Syria still unsafe for refugees to return, UN warns (Kurdistan 24)

September 15, 2021

"One decade in, the parties to the conflict continue to perpetrate war crimes and crimes against humanity and infringing the basic human rights of Syrians"

Syria is still too dangerous for refugees to return and resettle safely over a decade after the conflict there started, the UN International Commission of Inquiry on Syria warned in a new report on Tuesday.

“One decade in, the parties to the conflict continue to perpetrate war crimes and crimes against humanity and infringing the basic human rights of Syrians,” Paulo Pinheiro, the Chair of the Commission, told a press conference in Geneva, Switzerland.

“The war on Syrian civilians continues, and it is difficult for them to find security or safe haven in this war-torn country.”

Ongoing conflict and violence are not the only hazards Syrian refugees returning to their country face, explained Karen Koning AbuZayd, a senior UN official and Commissioner of the Inquiry.

“The overall situation in Syria looks increasingly bleak,” she said. “In addition to intensifying violence, the economy is plummeting, Mesopotamia’s famous riverbeds are at their driest in decades, and widespread community transmission of the COVID-19 seems unstoppable by a health care system decimated by the war and lacking oxygen and vaccines.”

“This is no time for anyone to think that Syria is a country fit for its refugees to return.”

The report documents events in Syria from July 2020 to June 30, 2021. During that period, there was fighting in the northeast and northwest as well as in the south.

The UN Commission of Inquiry on Syria was not the only organization to warn that Syria remains unsafe for refugees to return. In a report titled “You’re going to your death,” the rights monitor Amnesty International documented cases of torture against returning refugees carried out by Syrian intelligence officers.

The report openly criticized Denmark, Sweden, and Turkey for claiming they no longer need to host Syrian refugees on their territory since many parts of the country are now secure and safe.

During a meeting with his Syrian counterpart Bashar al-Assad, Russian President Vladimir Putin on Monday also claimed that Syria is becoming a safe place for refugees to return.

“I saw with my own eyes, when I was visiting you at your invitation, how people are actively restoring their homes, actively working to return in the full sense of the word to a peaceful life,” he told Assad.

UN: Multiple Turkish-backed groups in Syria committing sexual assault (Kurdistan24) By Wladimir

van Wilgenburg

September 16, 2021

The United Nations Commission of Inquiry on Syria said in a report on Tuesday that, in multiple known cases, Turkish-backed armed groups have subjected women, girls, men, and boys to sexual and gender-based violence in Syrian areas occupied by Turkey.

The United Nations Commission of Inquiry on Syria said in a report on Tuesday that, in multiple known cases, Turkish-backed armed groups have subjected women, girls, men, and boys to sexual and gender-based violence in Syrian areas occupied by Turkey.

Among the various instances documented include cases of at least 30 women who were reportedly raped in February alone.

“Since 2019, Kurdish women throughout the Afrin and Ra’s al-Ayn regions have faced acts of intimidation by (Turkish-backed) Syrian National Army (SNA) brigade members, engendering a pervasive climate of fear which in effect confined them to their homes,” the report stated.

“Women and girls have also been detained by Syrian National Army fighters, and subjected to rape and sexual violence – causing severe physical and psychological harm at the individual level, as well as at the community level, owing to stigma and cultural norms related to ideations of ‘female honour.’”

The UN report also documented cases of sexual violence against women and men at one detention facility in Afrin.

“On two occasions, in an apparent effort to humiliate, extract confessions and instill fear within male detainees, Syrian National Army Military Police officers forced male detainees to witness the rape of a minor. On the first day, the minor was threatened with being raped in front of the men, but the rape did not proceed. The following day, the same minor was gang-raped, as the male detainees were beaten and forced to watch in an act that amounts to torture,” the report said.

One eyewitness recalled to UN investigators that Turkish officials had been present in the facility on the first day, when a rape was aborted, suggesting that their presence may have acted as a deterrent. Another detainee was gang-raped in the same facility some weeks after this incident.

Moreover, these crimes were not only limited to the Kurdish majority-region of Afrin occupied by Turkey since March 2018, but also the Arab-majority town of Tal Abyad and the mixed town of Ras al-Ain (inhabited by Kurds, Arabs, and a minority of Christians) that were occupied during Turkey’s so-called Peace Spring Operation in October 2019.

“The Commission received further information that families from Tall Abyad chose not to return to their homes, fearing rape and sexual violence perpetrated by Syrian National Army members,” the report said.

Moreover, the UN Commission also documented cases of forced marriage and the abduction of Kurdish women in Afrin and Ras al-Ain, which primarily involved members of Division 24, known as the Sultan Murad Brigade. In January, a woman was abducted by a member of the brigade who forcibly married her and then divorced her shortly thereafter.

The UN commission said that it is currently investigating reports that at least 49 Kurdish and Yezidi women were detained in both Ras al-Ain and Afrin by Turkish-backed groups between November 2019 and July 2020. In one case, a Yezidi woman said she was urged to convert to Islam during an interrogation.

The report indicates that Syrian nationals, including women, who were detained by Turkish-backed groups were transferred to Turkey and sentenced under Turkish criminal law for alleged crimes committed in Syria.

In addition to gender-based violence, the commission said it corroborated repeated patterns of systematic looting and property appropriation by Turkish-backed groups as well as widespread arbitrary deprivation of liberty perpetrated by various Turkish-backed groups.

After civilian property was looted, Turkish-backed groups and their families “occupied houses after civilians had fled, or ultimately coerced residents, primarily of Kurdish origin, to flee their homes, through threats, extortion, murder, abduction, torture and detention.”

One Afrin resident who failed to show ownership of a house was forced to appear at a Turkish-backed group’s security office, and was verbally abused and threatened with detention. He was told by a Turkish-backed fighter “if it were up to me, I would kill every Kurd from one to 80 years old.”

Fearing for his family’s safety, the man fled shortly thereafter.

So far, Turkish-backed groups continue to carry out human right violations with impunity. The report notes that one fighter

involved in the extrajudicial killing of female Kurdish politician Hevrin Khalaf in October 2019 was jailed. However, it seems in general most crimes go unpunished and only apparent US pressure pushed the Turkish-backed opposition to sentence the fighter.

For example, a former judge in Afrin confirmed to the UN commission that Turkish-backed fighters had been charged with rape and sexual violence carried out during house raids in the region. None, however, had been convicted, but instead had been released after a few days.

The Syrian Democratic Council (SDC) Representative to the United States Sinam Mohamed told Kurdistan 24 that she is “devastated, but not surprised, at the recent evidence presented by the United Nations Commission of Inquiry on Syria “that members of Turkish-backed SNA groups in Efrîn, Sere Kaniye and Tel Abyad have committed serious war crimes including hostage-taking, rape, and torture.”

“We once again demand that all civilians kidnapped by Turkish-backed groups be released, that perpetrators of these atrocities be held accountable, and that Turkey and its proxy forces withdraw from the occupied areas.”

The UN called on upon all parties to “immediately cease sexual and gender-based violence against women, girls, men and boys, and take urgent measures to discipline or dismiss individuals under their command responsible for such acts.”

Witnesses Of Alleged War Crimes In Syria Testify Despite Feeling They're In Danger (NPR) By Deborah Amos
September 16, 2021

Witnesses to a Syrian intelligence officer's alleged war crimes face down intimidation as they testify in landmark trial in Germany — but they continue to tell the story.

AILSA CHANG, HOST:

Survivors of Syria's prisons can face risks even after they're free. But some have still stepped up to tell their stories in a German courtroom. For more than a year, German judges in the western city of Koblenz have been taking testimony about Syrians' imprisonment and torture. The trial is widely regarded as a step towards bringing to justice members of President Bashar al-Assad's regime for crimes against humanity. But as NPR's Deborah Amos reports from Germany, some testify despite dangers for them or their relatives.

DEBORAH AMOS, BYLINE: I'm standing in front of the courthouse in Koblenz where this unprecedented trial began. It's a former high-ranking Syrian intelligence officer charged with crimes against humanity. You can't record inside a German court, but I can describe what I've seen.

UNIDENTIFIED PERSON: (Non-English language spoken).

AMOS: The testimony here is dramatic and sometimes horrific. Witnesses describe electric shocks, beatings with cables, punches to the back of the neck.

WASSIM MUKDAD: It's a horrible experience. Lack of food, lack of medicine - I remember clearly that some have to stand up most of the night for others to sleep.

AMOS: Wassim Mukdad described his testimony to NPR at his home in Berlin. He talked about his arrest and interrogation in Syria.

MUKDAD: We were detained on the street. They started to hit us with their fists, with their feet. The whole interrogation was always accompanied with active torture, as if you are now - you are in hell.

AMOS: In the courtroom, the man Mukdad says ordered his torture sat a few feet away.

MUKDAD: Like, I remember clearly the moment our eyes crossed. I had very complex emotions.

AMOS: The man he was looking at is Anwar Raslan, a former intelligence officer in charge of prison interrogations. He has denied any role in the crimes listed in the indictment, denied he was even in charge, denied any torture under his watch. German prosecutors have charged him with 58 counts of murder, more than 4,000 counts of torture - crimes alleged to have been committed in Branch 251, the Damascus prison where Mukdad was held. He says there were days that he wished for death.

MUKDAD: It's not easy personally to share your bad experiences on a public stage. It's not easy to face the brutality of the

dictatorship in Syria. But also, this is the first step in a long way towards justice.

AMOS: For him, testifying was a relief, he says. Finally, he was more than just a survivor. But in recent months, there have been threats. Other witnesses and their families have been threatened by the regime to silence them, says Joumana Seif, a Syrian human rights lawyer.

JOUMANA SEIF: The regime is still in power and we know still has the full authority to punish.

AMOS: She's a research fellow at the European Center for Constitutional and Human Rights, which is representing some former detainees who are testifying in the case.

SEIF: We know the behavior of this regime.

AMOS: Do you know of cases where people have pulled back or not testified because of threats?

SEIF: Yes. Actually, this is the main challenge that we are facing.

AMOS: Some frightened witnesses have already disavowed their testimony or refused to testify at all, says Tobias Schneider, a research fellow at a private think tank, the Global Policy Institute in Berlin. As we sat in a German cafe, he explained that the Syrian regime keeps close watch on exiles in Germany.

TOBIAS SCHNEIDER: The Syrian government is listening. And you know that they have means of retaliating not just against your family at home but even against you here.

AMOS: Does the German government know about this? And can they do anything about it?

SCHNEIDER: If you read the sort of annual reports of our domestic intelligence agencies, they are keenly aware that this exists. They simply do not have the capacities to meaningfully combat this.

AMOS: The Syrian government didn't reply to NPR's repeated requests for comment. Schneider says some Syrian activists report harassment on German streets. In Hamburg, German police are still investigating the murder two years ago of a Syrian who campaigned against the Assad regime. He was killed in an axe attack at his home, sending chills through the Syrian community in Germany.

SCHNEIDER: It doesn't have to get to the point where you're directly threatened as a Syrian to know what the potential threats are around you.

AMOS: OK. Which one is Hassan?

The message was unmistakable to Hassan Mahmoud, another witness who needed extraordinary assistance before he would testify. He feared for his family back home, particularly his brother Waseem. They both talked to me on Zoom from central Germany. It was their youngest brother who was killed in Branch 251. They were told he was dead just 12 days after his arrest in 2011.

How do you spell his name?

HASSAN MAHMOUD: H-A-Y-A-N.

AMOS: Dr. Hayan Mahmoud was 26 when he died. He had recently graduated top of his class in medical school. Hassan was set to testify in Germany, but Waseem was still in Syria, threatened a few weeks before Hassan was scheduled to take the stand.

WASEEM MAHMOUD: (Speaking Arabic).

AMOS: That brother, Waseem, tells the story. Syrian security officers came to his hometown looking for him. Both brothers understood it was a deadly threat. Soon after, Waseem escaped Syria, smuggled out after a successful campaign to convince French officials to give him an emergency visa to live there.

MAHMOUD: (Speaking Arabic).

AMOS: For every hour, I could narrate a thriller movie that even Hitchcock couldn't imagine, says Hassan about the operation to make sure his brother was safe.

MAHMOUD: Hitchcock.

AMOS: Now he could tell his story to German judges without putting another brother in danger.

MAHMOUD: (Speaking Arabic).

AMOS: We are very lucky. Hassan explained finally, I could tell our mother that we had done something about the fate of our brother, her youngest son. Many Syrians don't have that chance, he added.

AMOS: We come back to Wassim Mukdad at his home in Berlin. It's been almost a year since he had his day in court, almost five years since he fled his shattered country to start again - learn the language, get married, launch a music career playing Syrian music on the oud. He knows it's important for survivors to find the courage to speak up in court like he did - document their trauma, take part in a trial that sends a message to Damascus.

MUKDAD: It's a very direct message that your crimes are not going to pass unpunished.

AMOS: Some of the gravest crimes under international law - torture, murder, sexual violence - documented in court with crucial testimony from survivors willing to take the risk.

MUKDAD: I was a little bit angry. But I was also proud that Anwar Raslan is now in a fair trial, and his dignity is saved, in contrast to what he did, where we were suffering unbearable conditions of torture under his watch.

AMOS: He is gratified that Germany is setting an example. Even a man that he believes committed horrific crimes gets due process. A verdict is expected later this year.

Half the Global Casualties Due to Cluster Munitions Were Recorded in Syria, According to the 2021 Annual Cluster Munition Monitor Report (Syrian Network for Human Rights)

September 22, 2021

The International Campaign to Ban Landmines – Cluster Munition Coalition (ICBL-CMC) released its twelfth annual report on monitoring the use of cluster weapons worldwide. The CMC is a global civil society campaign working to eradicate cluster munitions, prevent further casualties and put an end to the suffering caused by these weapons.

The Syrian Network for Human Rights (SNHR) as a member of this international coalition, has contributed to this report and to previous years' reports by sharing data on incidents caused by cluster munitions and the resulting deaths and injuries in Syria. The report concludes that Syria is the only country in the world to have experienced continued use of these weapons since 2012, with the highest number of casualties documented to date in Syria in 2020, with the record for this year (2020) in Syria representing more than half (52%) of all such casualties worldwide. The report also indicates that 44% of all these casualties were children and 24% were female. In addition, the report indicates that 80% of cluster munitions casualties globally since 2012 were documented in Syria.

The report documents the deaths of 35 civilians as a result of cluster munition airstrikes in Syria, as well as recording several attacks on schools and hospitals in 2020, citing the SNHR's report, "The Syrian Regime Repeatedly Uses Cluster Munitions Against Residential Neighborhoods in and Around Idlib Governorate, Constituting War Crimes" issued on February 27, 2020. The report also notes that 147 casualties resulting from cluster munition remnants were recorded in 2020, which indicates the seriousness of the spread of cluster munition remnants and the repercussions of their use.

The report notes that Syrian regime forces have used cluster munitions since 2012, causing immense human suffering, and indicates that civilians have suffered directly, both from attacks and from explosive remnants left behind. The report notes that at least 687 cluster munition attacks in Syria have been recorded since July 2012. The report further notes that the Syrian regime is the main party responsible for using cluster munitions, adding that Russian and Syrian regime forces use many of the same aircraft and weapons and frequently carry out operations together.

The report further suggests that the record of the use of cluster munitions is higher than the recorded numbers, as there are many attacks that have not been recorded. The incalculable harm to civilians caused by the use of cluster munitions in Syria has attracted widespread media coverage, public outcry, and condemnation from more than 145 countries. The report also notes that since May 2013, the UN General Assembly has adopted eight resolutions condemning the use of cluster munitions in Syria, including Resolution 75/193 on December 16, 2020; since 2014, states have adopted more than 18 Human Rights Council resolutions condemning the use of cluster munitions in Syria, while the UN Commission of Inquiry on Syria has issued numerous reports detailing cluster munition attacks.

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Yemen

Yemen: Mysterious death of a visiting expatriate sparks uproar (Middle East Eye)

September 11, 2021

Abdul-Malek al-Sanabani had returned to Yemen to visit his family. His detention and alleged killing at the hands of southern fighters has prompted calls for accountability

Originally from Yemen's Dhamar province, Abdul-Malek al-Sanabani left the country for the United States seven years ago, before a Saudi-led coalition intervened in the budding conflict between the government of Abd Rabbuh Mansour Hadi and Houthi rebels.

He returned to Yemen this month to visit his family, but barely a day after his arrival, Sanabani was dead.

On Wednesday, southern separatist forces in Yemen's Lahij province announced that they had arrested a suspected member of the Houthi rebel movement while he was travelling with thousands of US dollars from Aden towards Houthi-controlled areas in the north.

The news, published on websites supporting the UAE-backed Southern Transitional Council (STC), was accompanied by a photo allegedly showing Sanabani with his hands tied behind his back on the bed of a military vehicle.

There were conflicting reports of Sanabani's whereabouts. One website said he was being detained in a prison in Amran for "preliminary investigation," others claimed he was jailed in an Emirati-backed facility in Aden.

Some Arabic reports said men had left him at the Masafi hospital in Aden.

Upon seeing Sanabani's photo in the news, his relatives began a frantic search which led them to the southern port city.

But by the time one of his cousins arrived from Dhamar on Thursday, Sanabani was nowhere to be found in the Emirati-backed detention centres in Aden.

After asking forces manning checkpoints in the city, the cousin was finally pointed towards the Republican hospital, where he found Sanabani dead.

In an audio recording shared on social media, the cousin said that Sanabani's body bore marks of torture, and the young man had been shot in the back and leg.

The case has sparked outrage in Yemen, adding to widespread concerns about unchecked violence by some militias in the country and further highlighting the dangers faced by Yemenis seeking to travel across the country in dangerous circumstances.

Calls for accountability

News of Sanabani's death has also triggered condemnation from the internationally recognised Yemeni government, human rights activists, and members of the Yemeni community in the US, as well as from those who lead the tribe the suspected killers belong to.

Local pro-STC news reports said Sanabani had been taking photos of military sites when the Ninth Strike Force Brigade, which is part of the STC, tried to arrest him, adding that Sanabani reportedly tried to evade arrest.

The published photos, which clearly show the faces of the fighters who detained Sanabani, have prompted lawyers and activists to call for justice.

"If there is an honest and effective judiciary, legal institutions that pursue the killers can request their extradition or issue a compulsive order to arrest them, prosecute them, and bring them to justice," Huda al-Sarari, a lawyer and human rights activist tweeted.

"Unfortunately the disruption of the judiciary contributes to the exacerbation of crimes against innocent citizens, as well as the yellow journalism that publishes justifications for the killers."

On Friday, the Ninth Strike Force Brigade issued a statement denying that its fighters had killed Sanabani, claiming that he had been grievously injured in a car accident and that members of the brigade had taken him to a hospital in Aden.

Sanabani's cousin said he had been told the same story on Thursday, but that the marks he saw on his relative's body told another story, as he called for the alleged killers to face accountability for their actions.

Leaders of the al-Sabaiyah tribe, of which the suspected killers are members, publicly denounced such behaviour and called on the STC to put the men on trial.

While expressing support for a legal investigation into the case, the STC has nonetheless sought to paint Sanabani's death as an isolated incident.

"It is shameful to hear what happened to the passenger who was abducted from the checkpoint, but this is individual behaviour by some soldiers," Ahmed al-Subaih, a supporter of the STC, told Middle East Eye.

He stated that the STC can bring in the accused soldiers in minutes, stating that many civilians were extorted under the pretext of being "suspected Houthi".

"We oppose this, and we demand fair trial of the accused soldiers who were responsible for the checkpoint at that time on Wednesday," Subaih added. "Even if the Ninth Strike Force Brigade says it was a car accident, accused people should go to trial and let the court decide the reason of death, otherwise this accusation will lead to more victims."

A dangerous route

Mohammed al-Nashri, a leader of the Ninth Strike Force Brigade, confirmed that they arrested Sanabani and sent him to the brigade's detention centre in Aden for investigation.

But locals told MEE that forces regularly stop travellers in the area, regardless of circumstances.

"The military checkpoints of the STC in Lahij don't respect passengers, and they always stop passengers from the north and sometimes abduct them," Mohammed, a bus driver who transports passengers from Aden to northern areas, told MEE on condition of anonymity.

"Those checkpoints inspect everything in buses and cars, and if they find a passenger with a lot of money, they will definitely abduct him."

Mohammed said he himself had been stopped on several occasions and had to pay a bribe to be allowed to continue his journey.

"I advise my passengers not to take huge amounts of money with them, but it seems that Sanabani wasn't aware of this and they abducted him for the sake of his money," Mohammed said.

After more than six years of war, the airport in the city of Sanaa has long been closed to international flights, leaving only the Aden and Seiyun airports open in the south.

Yemeni expatriates have little choice when returning home but to fly into the south and make the dangerous journey by land towards the northern provinces.

"The closure of the Sanaa airport has caused a lot of suffering for people from the north, as we aren't accepted by southern forces in the southern checkpoints," Ashraf Hamid, a resident of Sanaa, told MEE.

"The only solution to end the humiliation and insults we receive from southern forces is to open Sanaa airport so we can travel from Sanaa, which accepts all Yemenis."

EU joins outcry over execution of nine men by Yemen's Houthis (Reuters)

September 20, 2021

The European Union joined a chorus of international criticism on Monday over the execution of nine men by the Iran-aligned Houthi movement in Yemen following their conviction for involvement in the killing of the group's top civilian leader.

Saleh al-Samad, who held the post of president in the Houthi-controlled administration which runs most of northern Yemen, was killed in April 2018 by a Saudi-led coalition air strike in the port city of Hodeidah on Yemen's west coast.

A Houthi court found the nine men, including one who was a minor when he was arrested, guilty of spying and sharing sensitive information with the Saudi-led coalition. They were executed on Saturday by firing squad. [read more](#)

Pictures and videos of the executions have been widely shared on social media, which showed military officers shooting the nine men in the back in Sanaa's central public square.

In a statement condemning the executions, an EU spokesperson said there had also been reports of irregularities in the judicial process and allegations of mistreatment.

"The European Union strongly opposes the death penalty at all times and in all circumstances. It is a cruel and inhumane punishment....," said the statement.

Earlier, U.N. Secretary-General Antonio Guterres issued a similar statement in which he also called for a moratorium on use of the death penalty in Yemen and for a peaceful negotiated settlement of the conflict there.

The U.S. embassy in Yemen condemned what it called "a sham trial following years of torture and abuse" by the Houthis. Britain said the executions demonstrated "indifference to human dignity & blatant disregard for fair trial & due process".

The Houthis' foreign ministry dismissed the criticism as "interference in domestic affairs" and accused the United Nations and the West of turning a blind eye to the "coalition's crimes".

Samad was the most senior official to be killed by the coalition in the years-long war in which the Houthis are fighting forces loyal to the internationally-recognised government based in the southern port city of Aden.

Groups push lawmakers to use defense bill to end support for Saudis in Yemen civil war (The Hill)

By Rebecca Kheel

September 20, 2021

More than 50 anti-war groups are urging lawmakers to use the annual defense policy bill to end all U.S. support for the Saudi Arabia-led coalition fighting in Yemen's civil war.

In a letter being sent Monday, the organizations call on lawmakers to use the National Defense Authorization Act (NDAA) to "legislate an end to ongoing U.S. complicity in the war and blockade in Yemen."

"By suspending the sale of arms and ending U.S. participation in the Saudi coalition's war and blockade, Congress can prevent a humanitarian catastrophe from spiraling further out of control as it reasserts its constitutional authority on matters of war and peace," the 56 organizations wrote in the letter, a draft of which was obtained by The Hill. The letter comes before the House is expected to consider its version of the NDAA later this week and provides a tacit backing of an amendment to the bill filed by Rep. Ro Khanna (D-Calif.).

More than 800 amendments have been filed for this year's NDAA, and typically only a fraction receive floor votes. But supporters of Khanna's amendment say they expect it will make it to the floor.

"With the help of U.S. logistical and maintenance support, Saudi Arabia's blockade of Yemen has created untold suffering for tens of millions of people and contributed to hundreds of thousands of deaths," Hassan El-Tayyab, legislative director for Middle East policy at the Friends Committee on National Legislation, one of the letter's organizers, said in a statement.

"It's now critical Congress support Rep. Khanna's amendment to the FY2022 National Defense Authorization Act and finally terminate U.S. participation in Saudi's aerial operations for the sake of millions of Yemenis in desperate need," El-Tayyab added. "Members of Congress have two choices: vote for this amendment, or vote for an active U.S. role in crimes against humanity for millions of people, including children."

U.S. lawmakers in both parties in recent years have been increasingly opposed to the Saudi-led war in Yemen as civilian casualties from coalition bombing runs mount and a blockade exacerbates humanitarian catastrophes including famine and disease.

In 2019, Congress voted to end U.S. support for the Saudi coalition, but then-President Trump vetoed the measure and lawmakers could not muster the two-thirds support needed to override him.

In February, President Biden announced he was ending U.S. military support for "offensive" Saudi operations in Yemen, but stressed the United States remains committed to Saudi Arabia's defense.

Since then, the Biden administration has been vague about how it defines offensive versus defensive operations. And critics

hold that the U.S. support that has continued, such as aircraft maintenance, still enables offensive operations.

Khanna's amendment would bar funding for "logistical support in the form of maintenance or the transfer of spare parts for aircraft that enable coalition strikes against the Houthis in Yemen," according to the text of the amendment.

It would also block funding for "sharing intelligence for the purpose of enabling coalition strikes against the Houthis," as well as for the U.S. military to "command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of the Saudi-led coalition forces."

"While the Biden administration has made important progress in curbing U.S. military assistance to the Saudi-led coalition, U.S. taxpayer dollars still bankroll the maintenance and spare parts for Saudi warplanes raining down bombs on Yemeni men, women, and children amidst the world's largest humanitarian crisis. This must end," Khanna and Sen. Bernie Sanders (I-Vt.) said in a joint statement earlier this month about the amendment. It would also block funding for "sharing intelligence for the purpose of enabling coalition strikes against the Houthis," as well as for the U.S. military to "command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of the Saudi-led coalition forces."

"While the Biden administration has made important progress in curbing U.S. military assistance to the Saudi-led coalition, U.S. taxpayer dollars still bankroll the maintenance and spare parts for Saudi warplanes raining down bombs on Yemeni men, women, and children amidst the world's largest humanitarian crisis. This must end," Khanna and Sen. Bernie Sanders (I-Vt.) said in a joint statement earlier this month about the amendment.

The House approved similar NDAA amendments in 2019 and 2020, but they were stripped out during negotiations with the Senate on the final version of the bills that were signed into law.

In addition to Khanna's amendment, a more narrow amendment has been filed by House Foreign Affairs Committee Chairman Gregory Meeks (D-N.Y.) that would suspend U.S. sustainment and maintenance support to Saudi air force units found to be responsible for airstrikes that caused civilian casualties.

The Meeks amendment would also provide exceptions for territorial self-defense, counterterrorism operations and defense of U.S. government facilities or personnel.

While the letter advocacy groups are sending Congress on Monday does not explicitly back one amendment over the other, signatories dismissed "half measures" and voiced their support for Khanna's amendment.

"Without real action, millions of lives are at risk, and the U.S. will be complicit," Marcus Stanley, advocacy director at the Quincy Institute for Responsible Statecraft, said in a statement. "The Khanna amendment offers an opportunity to genuinely end American support for Saudi aggression and take a crucial step to end the humanitarian crisis in Yemen. We urge a vote for this amendment. Half measures like reporting requirements or partial restrictions will not do, it is time to definitively end our support for this war.

UN: Yemen Warring Parties Violate Civilians' Human Rights (Voice of America) By Lisa Schlein
September 21, 2021

The U.N. Human Rights Office warns civilians in Yemen are increasingly being used as fodder by all warring parties in their quest to gain control of the country, a situation that continues to elude them all after seven years of civil war.

U.N. officials who have been monitoring the impact of this wrenching conflict accuse Saudi-backed pro-government forces and Iranian-supported Houthi rebels of violations of international human rights and humanitarian laws, some amounting to war crimes.

They say crimes and atrocities are being committed with impunity and with no regard for the safety of civilians or civilian infrastructure. They say all actions by armed groups are taken in complete disregard of any international law. They cite the recent example of the public execution of nine men by the Houthis.

U.N. human rights spokeswoman Marta Hurtado says the defendants were sentenced to death in a judicial process that did not comply with fair trial standards under international law.

"They were reportedly tortured and forced to sign confessions. In addition, they were denied their right to assistance from a lawyer at several stages of the proceedings. A request for a medical assessment of the youngest defendant to help to ascertain his age was denied, in violation of Yemeni legislation and human rights norms," she said.

U.N. monitors also express concern at the repeated use of drones and missile attacks both by the Houthis and by the Saudi-led

coalition. Hurtado says these attacks have resulted in civilian casualties and the destruction of civilian property in Yemen and in Saudi Arabia.

"We recall that any attack directed against civilian objects or civilians not directly taking part in the hostilities may amount to war crimes," she said. "Reports that security forces affiliated to the Southern Transitional Council authorities have used unnecessary and disproportionate force against demonstrators protesting against deteriorating living conditions and the lack of public services are equally worrying."

The U.N. human rights office calls on the warring parties to abide by their obligations under international humanitarian law and to hold violators accountable for their crimes.

It notes that an armed conflict or any declared state of emergency or curfew does not exempt the government or de facto authorities of these obligations.

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Special Tribunal for Lebanon

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

Why Lebanon's hopes for an independent Beirut blast inquiry are fading (Arab News) By Ray Hanania
September 22, 2021p>

There is a growing belief among Lebanese political analysts that the investigation into the Beirut blast of Aug. 4, 2020, will meet the same fate as the probe into the Feb. 14, 2005, explosion that killed Rafik Hariri, the former Lebanese prime minister, and 21 others.

Two explosions at the government-owned Port of Beirut claimed the lives of 218 people, injured more than 6,500 and left 300,000 homeless. The explosions resulted from a fire in a warehouse containing ammonium nitrate and caused damage worth an estimated \$3 billion.

Meanwhile, 12 years after it was officially established, the Hariri investigation is in limbo. The sole individual indicted in absentia by the UN's Special Tribunal for Lebanon (STL), a low-level Hezbollah operative called Salim Ayyash, has not been brought to justice.

Lebanese analysts warn the Beirut blast inquiry will also remain in limbo indefinitely unless international organizations and foreign powers put pressure on the government to allow a fully transparent investigation by an independent judicial system.

"The Beirut blast probe is not necessarily a domestic investigation with domestic implications and ramifications. It is also a global public opinion drive that will continue to evolve and involve international actors," Christophe Abi-Nassif, Lebanon program director at the Middle East Institute, told Arab News. "Back in 2005, all it took was for the Hariri camp, the Future Movement and his son Saad Hariri to be satisfied with the arrangement." By contrast, the Beirut port explosion affected many families who have the power to demand the matter be fully investigated, Abi-Nassif said. "The families of the victims are at the heart of this investigation."

On the first anniversary of the blast, Amnesty International, the international rights advocacy group, accused the Lebanese authorities of "shamelessly obstructing victims' quest for truth and justice" in the months since the blast, actively shielding officials from scrutiny and hampering the course of the investigation.

In February, Fadi Sawan, the first judge appointed to lead the investigation, was dismissed after he summoned political figures for questioning. So far, the authorities have rejected requests by his replacement, Tarek Bitar, to lift the immunity granted to officials and to allow him question senior members of the security forces.

Leaked official documents indicate that Lebanese customs officials, military and security chiefs, and members of the judiciary

warned successive governments about the danger posed by the stockpile of explosive chemicals at the port on at least 10 occasions during the six years it was stored at the port, yet no action was taken.

MPs and officials are clinging to their right to immunity, effectively shielding suspects whose actions are blamed for causing the explosion, and denying thousands of victims the justice they demand.

Survivors of the blast and a raft of advocacy groups have revived their push for an “international, independent and impartial investigative mission” into the cause of the blast.

“An international investigation would not impede, but rather assist the domestic process,” they said in a joint statement delivered to the UN Human Rights Council on Sept. 15.

Although government interference in the investigation has been detrimental to its progress, Abi-Nassif believes that taking the matter entirely out of Lebanese hands would only harm its legitimacy.

“On the one hand, you want international involvement because you want a lot of pressure exerted. On the other hand, you do not want to go down this path where you are giving grounds for Lebanese politicians to say this is clearly a plot to incriminate us, regardless of whether they are incriminated or should be incriminated,” he said. “This will be the leeway they use to try to dismantle the integrity of the investigation.”

Prominent among those who are convinced that the blast investigation has been stymied by the Lebanese political elite and that foreign powers have a responsibility to get the probe back on track, is Ed Gabriel, president of the American Task Force on Lebanon.

“Not much has been done. There has been an attempt to investigate the port through transparent judicial means in Lebanon. It has been held up by the parliament. There seems to be no consensus in the government,” Gabriel said.

“The good news is that the government of Prime Minister Najib Mikati has taken the reins of power. The Mikati government seems very interested in a close working relationship with the West and is very tuned in with wanting to meet the immediate, short-term needs of the people.”

Like Abi-Nassif, Gabriel is of the opinion that Lebanon should ultimately lead the probe; however, he adds, international pressure in support of the probe’s independence will be critical to its success.

“Without the willpower of the Lebanese people and a government that responds to the needs of the people and the desires of the people, we won’t really get to the bottom of this,” he said.

“So, I think what is important is that the US speaks with a very strong voice, that it is a top priority that they investigate this explosion. If we are going to get anywhere with it, we need the cooperation of the Lebanese government. And they will only cooperate under the duress and pressure of the international community. Otherwise, I don’t think we will see justice in this case anytime soon.”

However, both Gabriel and Abi-Nassif are wary of international pressure being perceived as a deliberate effort to steer the probe toward Hezbollah, which is on the US list of Foreign Terrorist Organizations. Many suspect the cache of ammonium nitrate at the Beirut port warehouse was somehow connected to Hezbollah’s regional activities.

“Domestic law, the domestic judiciary system, at the end of the day, is the most direct, most effective and probably the easiest way that Lebanon has to leverage and effectively reach the truth. And I am not discounting the role that international organizations have to play in this,” Abi-Nassif said.

“The minute that starts happening you will have voices in Lebanon, be it Hezbollah or others, crying wolf and saying that this is effectively just a plot to implicate the group, which is what we saw in the case of the Hariri STL.”

The blast investigation delay is just one of a multitude of problems that bedevil Lebanon, the other ones being political gridlock, economic meltdown, plummeting currency, soaring unemployment, the COVID-19 pandemic and fuel and electricity shortages.

Lebanon has been experiencing a socio-economic implosion since 2019. In the autumn of that year, nationwide protests erupted over rampant corruption among the political class that has ruled the country since the end of the civil war through a sectarian power-sharing system.

Public anger grew when an economic meltdown caused the nation’s currency to lose 90 percent of its value and the banks held depositors’ money hostage. Thousands of young people have fled abroad. Those who remain struggle to get by, often turning for help to a flourishing black market.

Israel and Palestine

'Left in Tatters': Catastrophic economic results of the Israeli attack on the Gaza Strip in May 2021 (ReliefWeb)

September 11, 2021

On May 10, 2021, the Israeli army began a large-scale military attack on the Gaza Strip that lasted 11 days, throughout which they carried out thousands of air and artillery attacks on the small, besieged enclave inhabited by 2 million people. The attacks killed 254 Palestinians, including 66 children and 39 women, destroyed thousands of housing units and economic facilities, and caused significant damage to infrastructure.

During the military attack, which Israel called "Operation Guardian of the Walls," the Israeli army committed multiple and complex human rights violations, which may amount to war crimes and crimes against humanity. The Israeli army used massive firepower against densely populated civilian areas, violating a number of basic human rights, most notably the right to life, the right to housing, the right to work and earn a living, and the right to property.

Since the attack ended, Euro-Mediterranean Human Rights Monitor released two reports – "Inescapable Hell" and "One War Older" – documenting the human rights violations that accompanied the Israeli military attack on the Gaza Strip in May 2021. This report examines the Israeli attack's impact on the economic sectors of the Gaza Strip.

The data that the Euro-Med Monitor team documented shows that the Israeli military operations directly and indirectly affected Gaza's productive sectors and economic structures, which were already fragile due to years of siege and the impact of the Coronavirus pandemic.

Press Release: Israel is responsible for the lives of Palestinian prisoners and detainees in escalated attacks (Al Mezan)

September 15, 2021

Al Mezan Center for Human Rights expresses grave concern over Israel's collective punishment and retaliatory measures against Palestinian prisoners following the escape of six Palestinian inmates from Gilboa Prison on 6 September 2021—four of whom were captured in the days after.

Alarming, media sources report that Zakaria Zubeidi, one of the four captured prisoners, was admitted to the intensive care unit of the Israeli Rambam Hospital after being beaten while held in an Israeli interrogation facility. According to Al Mezan, on 11 September 2021, the four captured Palestinian prisoners appeared before the Israeli Magistrate's Court, which has extended their detention until 19 September 2021. To date, the Israeli intelligence services have prohibited them from accessing their lawyers. Concerns about potential violations being carried out against the prisoners are growing as circulating videos show them having difficulty walking while being placed in patrol cars by the Israeli police. In particular, Zubeidi presented a severe bruise on his face. Shortly after the prison break, the Israeli Prison Service (IPS) launched a series of collective, punitive, retaliatory, and arbitrary measures against Palestinian political prisoners, starting with a ban on family visits. These measures also entailed an extensive campaign of raids and searches in prison cells, the transfer of Palestinian detainees to solitary confinement or other facilities, closing the canteens, and a ban on phone calls. Meanwhile, according to the Palestinian Society Prisoner's Club, six Palestinian detainees are on a prolonged hunger strike, protesting their administrative detention. The hunger strikers are Kayed al-Fasfous (60 days), Miqdad Qawasmah (53 days), Alla al-Araj (35 days), Hisham Abu Hawash (27 days), Rayek Besharat (22 days), and Shadi Abu Aker (19 days). On 11 September 2021, Al Mezan and partners submitted an urgent appeal to the United Nations Special Procedures—including the Special Rapporteur on the situation of human rights in the oPt, the Special Rapporteur on torture, and the Special Rapporteur on the right to health—calling for their intervention to safeguard Palestinian political prisoners' rights against collective punishment and retaliatory measures by the IPS. On 13 September, Al Mezan also filed a complaint to the IPS and its legal advisor calling for an end to the punitive measures and upholding the international human rights standards pertinent to persons deprived of their liberty. Al Mezan recalls that under the Fourth Geneva Convention Israel is legally responsible for the life and wellbeing

of Palestinian prisoners and detainees, including the four captured prisoners. Subjecting prisoners to any form of torture is a criminally punishable act, as stipulated by Articles 146 and 147 of the Convention. Israel's punitive measures also violate the absolute prohibition of collective penalties and likewise all measures of intimidation or of terrorism against protected people, as enshrined in Article 33(1) of the Convention. The Israeli refusal to let the recaptured prisoners see their lawyers not only violates the rights to equality before the law and fair trial guarantees, but also fuels speculation that the Israeli intelligence service is trying to obtain confessions from prisoners through torture. Further, Israel's systematic issuance of administrative detention orders against Palestinians based on undisclosed information and indictments contradicts the basis of the right to fair trial, including a strong defense. Accordingly, Al Mezan calls on the international community to uphold its legal and moral obligations vis-à-vis the Palestinian people in the occupied Palestinian territory, and to bring an end to Israel's collective punishment and retaliatory measures that are being meted out against Palestinian prisoners under Israeli custody.

'Re-arrested Palestinian prisoner has been tortured': Lawyer (AL Jazeera) By Zena Al Tahhan
September 15, 2021

Lawyer for Mohammad al-Ardah says he is deprived of food, sleep, medical care and has undergone 'a very difficult journey of torture'.

Occupied West Bank – At least one of the four re-arrested Palestinian political prisoners has told his lawyer he is being subjected to physical and mental abuse and torture by Israeli interrogators, in their first meeting since being taken into custody last week.

Lawyer Khaled Mahajneh from the Palestinian Authority's (PA) Commission of Detainees Affairs defence team met with his client Mohammed al-Ardah on Wednesday, after Israeli intelligence services lifted the ban on the prisoners' access to their lawyers five days after their re-arrest.

Khaled Mahajneh gave an emotional interview to Palestine TV as he left Jalama Detention Center after seeing his client, who he said is being deprived of food, sleep and medical care while enduring intensive rounds of interrogation.

"Mohammed has undergone, and is still undergoing, a very difficult journey of torture," said Khaled. "Upon his rearrest, Mohammed was taken to the Nazareth interrogation centre, where he was interrogated in a very ugly way.

"There were about 20 intelligence interrogators in a very small room who stripped him of all his clothes, including his undergarments, and forced him to remain naked for several hours. They gave him a shawl later to cover his genitals, and then transferred him to Jalama interrogation centre."

'Cuts and scratches'

The lawyer said Israeli forces beat Mohammed during his arrest. "His head was beaten to the ground and he is now injured above his right eye. He has not received the medical treatment he needs until this moment. He suffers from cuts and scratches all over his body, due to the escape attempt and the Israeli forces' manhunt for him and Zakaria Zubaidi."

Israeli authorities announced the rearrest of Mahmoud Abdullah al-Ardah, 46, and Yaqoub Mahmoud Qadri, 49, on the southern outskirts of Nazareth late on Friday. Zakaria Zubeidi, 46 and Mohammed al-Ardah, 39, were arrested nearby early on Saturday, in the Palestinian village of Shibli-Umm al-Ghanam. The four are being held and interrogated in Jalama.

They were among six men – along with Ayham Nayef Kamanji, 35, and Munadel Infaat, 26, whose whereabouts remain unknown – who broke out of Israel's Gilboa prison at dawn on September 6.

Lawyer Hanan al-Khatib met with prisoner Yaqoub Qadri on Wednesday afternoon. She said Qadri was in a "two by one square metre room that does not have the basic necessities for life."

"It has a mattress and two blankets. I requested that they bring him a Qur'an," continued al-Khatib, adding that her client said he had spent a long time in solitary confinement during his time in Israeli prisons, and that he is able to remain strong.

Al-Khatib said Qadri was strip-searched upon his arrest, and that his interrogation did not involve beating but was "more about mental pressure."

"There were many interrogators during his interrogation, and dozens of masked men – it is more about creating mental pressure and showing off muscles with the aim of stressing the prisoners out and shocking them." 'Round-the-clock interrogations'

Khaled Mahajneh said six Israeli interrogators stood behind Mohammed al-Ardah, whose arms and legs were shackled, during their meeting. The lawyer said he repeatedly asked for the shackles to be removed from Mohammed's arms at least, but the

officers refused.

According to Khaled, Mohammed was not given food until four days after being rearrested, and has not slept for more than 10 hours because of consecutive rounds of interrogation.

“He has been undergoing round-the-clock interrogation since Saturday... He is being interrogated in the late night and early morning hours,” said Khaled. “He does not see the sun, or light, or the wind. When I met with him, he asked me whether it was afternoon – he didn’t know it was midnight.”

The lawyer said Mohammed is being held in a cell “that does not exceed 2 by 1 square metres”, lives “under 24-hour surveillance”, and is being “interrogated by 10 officers every day”.

In a separate interview posted on Facebook, lawyer Ruslan Mahajneh, who met with Mahmoud al-Ardah the same night, said the detainee told him he had been interrogated several times since his arrest.

“They were arrested on Friday night. The interrogation with them lasted from Friday – they arrived at Jalama at 12-1am, and the interrogation went on continuously until 8am,” he said.

“After that, they went to sleep. The interrogation ranges, he is interrogated everyday between 7 to 8 hours every day. But he sleeps at night. He said they are not exposed to torture,” Mahajneh said.

And, according to a statement by the PA Commission, lawyer Avigdor Feldman met with Zakaria Zubaidi at noon on Wednesday.

“It was found that the prisoner Zubaidi was beaten and abused during his arrest with the prisoner Mohammed al-Ardah, causing him a broken jaw and two broken ribs,” the Commission said.

Zubaidi, the statement continued, “was transferred to an Israeli hospital and was given painkillers after the arrest” and he “suffers from bruises and scratches all over his body as a result of the beatings and abuse”.

While the Israeli Supreme Court outlawed the use of torture in 1999, interrogators – particularly the intelligence services – have continued to use violence against Palestinian detainees, which courts have retroactively sanctioned. The four prisoners are undergoing interrogation by the Israeli intelligence services in cooperation with Lahav 443 unit of the police, which lawyers say could last for up to 45 days.

The prisoners appeared separately on Saturday before the Israeli Magistrate Court in Nazareth, which decided to extend their detention until September 19 to “complete the investigation”.

Trial proceedings

At the court hearing on Saturday, according to the PA Commission, several initial charges were presented against the four: “Escape, aiding and abetting in an escape, conspiracy to commit an attack, and membership in a hostile organisation and providing services to it.”

Khaled Mahajneh told Al Jazeera after the hearing that authorities refused to provide information about the “conspiring to commit an attack” allegation, claiming the file is secret.

In his interview with Palestine TV, Khaled said Mohammed al-Ardah is “fully rejecting the security allegations that the intelligence are trying to place on him”. Mohammed reportedly told Khaled he “could have done anything in the five days” he was free, but he “sought for freedom, and sought to walk on the streets of occupied 1948 Palestine.”

Under international law, a prisoner of war who escapes from prison “shall be liable only to a disciplinary punishment”, meaning no additional years should be added to their initial sentence, even if it is a repeated attempt.

In previous incidents where Palestinian prisoners escaped from Israeli prisons and were re-arrested, several faced punitive measures such as long periods in solitary confinement but did not receive longer sentences, according to lawyers.

Most Palestinians view detainees in Israeli prisons, which number 4,650 Palestinians including 200 children and 520 administrative detainees held without trial or charges, as political prisoners who are in detention because of the Israeli military occupation or their resistance to it.

Before breaking out of the prison, four of the six prisoners had been serving life sentences, while two were being held in detention awaiting military trial.

Those sentenced were arrested between 1996 and 2006 and had been convicted of carrying out attacks against Israeli military and civilian targets. Five of them are affiliated with the Palestinian Islamic Jihad group, while one is a senior member of the armed wing of Fatah, a Palestinian group that dominates the PA.

After the prisoners escaped through a tunnel that opened up a few metres beyond the prison wall, Israeli forces launched an enormous manhunt to search for them and arrested some of their family members.

Dutch court to hear Palestinian's civil case against Israeli commanders (Al-Monitor)

September 21, 2021

Ismail Ziada's case accuses Israeli Defense Minister Benny Gantz of responsibility for killing members of his family in Gaza during the 2014 war.

A Dutch court will hear a war crimes case Thursday brought by a Palestinian man against Israeli officials.

An appeals court at The Hague will hold a hearing on Ismail Ziada's case against Israeli Defense Minister Benny Gantz and former Israeli air force head Amir Eshel. Ziada, a Gaza-born Dutch citizen, first filed the case over Israeli forces allegedly bombing his family home in the Gaza Strip in 2014. The strike killed six members of his family and a family friend, the Palestinian Authority's Wafa news agency reported Tuesday.

Ziada is seeking damages from the Israeli officials via a civil suit. In 2020, a Dutch court ruled it could not hear the case. Some countries' courts hear war crimes cases regardless of where the incidents took place. However, this universal jurisdiction does not apply to civil cases and Gantz also has immunity in civil cases in national courts due to his role in government, the judge said at the time.

Ziada is arguing that there is no legal immunity for war crimes and that the court denied his right to seek justice, according to activists supporting the campaign.

International legal organs at The Hague have been involved in the Israeli-Palestinian conflict for some time. In May, the International Criminal Court said it was monitoring the violence at the time between Israelis and Palestinians. Last year, the court said it had the authority to investigate alleged Israel Defense Forces crimes against Palestinians, a ruling Israel rejected. The Palestinian Authority's pursuit of war crimes charges against Israel is a major sore point with the Israeli government.

The case refers to the 2014 war between Israel and Gaza-based groups including Hamas. More than 2,000 Palestinians were killed in the fighting, in addition to more than 60 Israelis.

Collective Punishment as Israel Conducts Mass Arrests, including the Family Members of Prisoner Escapees Arrested in Jenin, High School Student Shot by Israeli forces is Hospitalised (Al-Haq)

September 21, 2021

Background On 6 September 2021, six Palestinian prisoners escaped from the Israeli Gilboa Prison, located outside of the Occupied Palestinian Territory (OPT).[1] All six Palestinians are from the West Bank governorate of Jenin,[2] which has prompted waves of collective punishment against the residents of Jenin and nearby communities by Israeli authorities. The six Palestinians are: Ayham Kamamji, Munadel Infai'at, Mahmoud al-Ardah, Yaqoub Qadri, Zakaria Zubeidi, and Mohammed al-Ardah.[3] During the reporting period, Al-Haq documented a number of unlawful collective punishment measures, including the arbitrary arrest of family members of the escapees, the repression of Palestinian assemblies, and aggravated movement restrictions. Al-Haq documented the arrest of dozens of Palestinians across the West Bank, including 19 in Jenin, and the re-arrest of the four of the Palestinian prisoner escapees, Mahmoud Al-Ardah and Yaqoub Qadri in Nazareth, and Zakaria Zubeidi and Muhammad al-Ardah near the town of Ein al-Shibli in the lower Galilee. The remaining escapees Ayham Kamamji, Munadel Infai'at, were re-arrested on Sunday 19 September.

Military Raids and Arrests

On 7 September 2021, at around 5:30 am, Israeli Occupying Forces (IOF) raided the towns of Araba and Ya'bud in the Jenin governorate for two hours, and searched the homes of relatives of Mohammad Al-Ardah and Mahmoud Al-Ardah, two of the escaped prisoners. During the military raids, Israeli forces arrested Yaqoub Nafi'at, Raddad Al-Ardah, Shaddad Al-Ardah, Ahmed Al-Ardah, Bassem Al-Ardah and Nidal Al-Ardah, all of whom are residents of Arrabeh.

Later, at 10:00 am that morning, the Palestinian intelligence service in Jenin summoned Majd Ahmed Ibrahim Al Weshahia for an interview, accompanied by her husband, Tayeh Yusr Al Weshahia. They were later released.

The IOF then approached a high school in the northwestern part of Araba, to which students responded by throwing rocks to ward them away. The IOF retaliated with tear gas canisters and rubber-coated bullets. Mohammad Abed, 15, a high school student was shot by an Israeli soldier with a rubber-coated bullet in the forehead and was subsequently transported to medical facilities. The IOF fired tear gas so close to the school that the gas entered the classrooms and facilities, causing between 40-50 schoolchildren to suffer from suffocation, in addition to several faculty members.

The next day, on 8 September, at approximately 6:00 pm, the IOF arrested Ezz El-Din Marzouk, while he was passing through a mobile military checkpoint set up at the entrance to the town of Araba, south of Jenin, on his way to visit relatives from the Al-Ardah family, who live in the same house as some of the escaped Palestinian prisoners. Later that morning, at about 11:00 am, the Palestinian intelligence service arrested Hamza Fathi Qarawi in the city of Tulkarm, while he was on the main street. He was transferred for interrogation the following day to the city of Jericho.

On 9 September, Israeli forces raided several homes in Araba and Bir Al-Basha, south of Jenin city, in search of the escaped prisoners, arresting Basma Ardah and Raed Ardah in Araba, and Yousef Qaderi and Raafat Ghawadra in Bir Al-Basha, only to release them the next day after interrogation.

In Jerusalem, on 9 September, the IOF arrested two young men, Musa Al-Abassi and Osaid Al-Zeer, from their homes in Silwan, south of the Old City of Jerusalem. Then at approximately 20:00 pm, the IOF attacked a stand in solidarity with the prisoners at the Bab Al-Amoud area (the northern entrance to the Old City), beating and pushing the solidarity activists, and using police dogs to intimidate them.

On 10 September, at approximately 4:00 am, the IOF raided several homes in Ya'bud, south of Jenin, and arrested Majd Ahmad Bajawi, Amjad Jaber Hamrasha and Asaad Essam Quneiri. The detainees were all released the following day after interrogation. Meanwhile, on September 10, at approximately 9:00 pm, the IOF announced the re-arrest of Mahmoud Al-Ardah and Yaqoub Qadri in the city of Nazareth within the Green Line, both of whom were among the six detainees who managed to escape from the Israeli Gilboa-Shata prison on September 6.

The following evening on 11 September, Israeli forces conducted evening military raids in the towns and villages of Al-Taybeh, Ya'bud, Al-Arqa, and Zabouda, west of Jenin, raiding several homes as part of their pursuit of the escaped prisoners. On 11 September, at dawn, the Israeli authorities announced the re-arrest of Zakaria Zubeidi and Muhammad al-Ardah near the town of Ein al-Shibli in the lower Galilee inside the Green Line, both of whom were among the six detainees who managed to escape from the Israeli Gilboa-Shata prison on September 6, both of them are residents of the Jenin area.

On the night of 11 September, at approximately 10:00 pm, Israeli soldiers raided a number of homes of residents in the towns and villages of Al-Taybeh, Ya'bad and Irqa and Zabouba, west of Jenin, where the occupation soldiers conducted house searches in addition to combing and searching the agricultural lands and natural forests scattered in those areas, as part of the pursuit of a number of Palestinian detainees

On 13 September, Israeli forces arrested Imad Fouad Kammaji and Qusair Nasir Kammaji after raiding and searching their homes in Kafr Than and Al Yamoun, respectively, west of Jenin. Imad and Qusair are relatives of the escaped Palestinian prisoner Ayham Kamamji. Imad's cell phone was also confiscated by Israeli soldiers. The same day, Israeli soldiers surrounded the home of Munadel Infai'at, one of the escaped prisoners, in Ya'bud, searching his home as well as several neighboring homes. At approximately 6:30 am on 13 September, the IOF surrounded and searched the house of Munadil Ya'qub Nafi'at, located in the town of Ya'bad, south of Jenin, in addition to searching several nearby houses. The IOF withdrew at approximately 8:00 am.

Restrictions on Movement

On September 11, at around 2:00 am, the Israeli military bulldozed agricultural land near the illegal Israeli annexation wall near the Anin village west of Jenin. The aim of this operation was to prevent Palestinians from crossing the Green Line into either side, as part of their pursuit of the escaped Palestinian prisoners. On the same day, the Israeli military strengthened its presence around the cities of Jenin and Tulkarem. This prevented hundreds of Palestinian workers from reaching their workplaces across the Green Line.

Denial of Assembly

On 8 September, at approximately 8:00 pm in the evening, the occupation forces attacked a solidarity stand with the prisoners at Bab al-Amud area (the northern entrance to the Old City of Jerusalem), where the occupation forces used tear gas and rubber bullets, in addition to beating and pushing, which resulted in the injury of 4 persons. 2 of them were hit with rubber bullets, one of them was hit by a stun grenade, and the last one was the result of beatings. He was taken to the hospital to deal

with his injury. As for the rest of the injuries, they were dealt with in the field.

On September 9, a march started at approximately 9:00 pm from Bab Zukaq area in the center of Bethlehem towards the northern entrance to Bethlehem city where checkpoint 300 is located, in solidarity with the prisoners in the occupation detention centers after they were attacked by the Israeli prison warders after the escape of six prisoners from Gilboa detention center in northern Palestine. Clashes erupted between the occupation soldiers and the participants, during whereupon the IOF fired tear gas canisters at the participants who threw stones at the soldiers. No injuries were reported.

On 9 September, and in response to Palestinian protests against the closure of the Jamla crossing as part of search operations for the escaped prisoners, Israeli forces fired tear gas and rubber-coated bullets, causing several to suffocate and injuring one with a bullet. The clashes were repeated the following evening.

Legal Analysis Article 50 of the Hague Regulations (1907) specifically prohibits the infliction of penalties on the population, “on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible”. This prohibition is echoed in Article 33 of the Fourth Geneva Convention (1949). As emphasised, in the commentary to the Fourth Geneva Convention, “Responsibility is personal and it will no longer be possible to inflict penalties on persons who have themselves not committed the acts complained of”. In this respect, mass arrests, movement restrictions, denial of assembly and intimidatory measures against the general population for the acts of others amount to a collective penalty.

Such acts may further amount to an act of persecution against the protected population, when committed as part of a widespread and systematic attack against the civilian population. Given the extensive arrests and the geographical scope spanning from Jenin to Jerusalem, this may well fall within the purview of a crime against humanity. Notably, Article 7(1)(h) of the Rome Statute criminalises persecution as a crime against humanity at the International Criminal Court. Further the arbitrary arrest and illegal imprisonment of Palestinians as members of a racial group amounts to an act inhumane act of apartheid, also a crime against humanity prohibited by the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Al-Haq calls on the international community to intervene to ensure the humane treatment of all prisoners and for third States to work collectively to dismantle Israel’s illegal apartheid regime and the system of mass incarceration of Palestinians it employs to segregate the population, in continuance of its denial of the right of self-determination of the Palestinian people as a whole.

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Gulf Region

Despite a Danish export ban, Denmark’s largest IT company is arming the UAE military (Danwatch)

September 20, 2021

Systematic A/S, a software and systems company headquartered in Aarhus, Denmark, never ceased to supply military software to the UAE, even though Denmark has put a stop to all military exports to a country suspected of war crimes in Yemen. Experts estimate that the IT company actively circumvents a Danish export ban.

In Denmark, exporting military equipment to the United Arab Emirates is forbidden.

In late autumn 2018, the Danish government suspended all new arms export authorizations to the tiny Gulf state, due to a perceived risk that products could be used in the ongoing war in Yemen, in which UAE has played and continues to play a leading role.

At the time, 85,000 children had already starved to death as a result of a war that has prompted what the UN describes as “the world’s worst humanitarian crisis”.

Today, almost three years later, the UEA's war in Yemen goes on. And so does business in the UAE for Denmark's biggest IT company, Systematic A/S.

Despite the export ban, Systematic continues to supply and implement SitaWare, an advanced command and control system, to the Emirati military.

Systematic's continued rearmament of a warring country is exposed in accounts on social media, job advertisements, annual reports and freedom of information requests into Systematic's activities, which Danwatch has investigated in collaboration with TV2 and the international research center Lighthouse Reports.

Human rights organizations consider it highly problematic for a Danish company to continue in supplying military software to the UAE, which stands accused of committing serious war crimes in Yemen.

"There is a very high risk that equipment exported to the UAE would be used in serious violations of human rights and International Humanitarian Law in Yemen", says Patrick Wilcken, an expert in arms control at Amnesty International.

A Yemen expert at Human Rights Watch, Afrah Nasser, agrees.

According to the UN, the war in Yemen has already caused more than 230,000 deaths, and the UN expects that the country is now heading for the worst famine disaster the world has seen for decades.

The Emirates are accused of being co-responsible for the hunger in Yemen by keeping food and emergency aid from reaching the country.

A British loophole

A British subsidiary became an alternative channel when the Danish government put an end to Systematic's exports to the Emirates.

In the years before the export ban, Systematic, which also delivers customised IT solutions such as electronic patient records and library lending systems to the public sector in Denmark, exported its military software products to the UAE directly from their head office in Aarhus.

On 16 October 2018 however, the Danish Ministry of Foreign Affairs discontinued the company's exports in order to eliminate any risk that it could be instrumental in serious human rights violations.

Only three weeks later, on November 8th 2018, Systematic's British subsidiary applied for an export permit to the United Arab Emirates in the UK. On November 28th 2018 Systematic applied for yet another export license in the UK.

This comes into view in a number of documents from the British and Danish authorities, which Danwatch, TV2 and Lighthouse have been able to access.

To this day, Systematic continually supplies the UAE with military software, now simply exported from Denmark to the Emirates via its British subsidiary.

Systematic insists, however, that they are not doing anything wrong when exporting Danish military software to the UAE via the United Kingdom.

"It goes without saying that we do not seek to bypass Danish rules", the company's press manager, Maia Lindstrøm Sejersen, stated in an email to Danwatch.

Job ads point to close collaboration

The IT company's ongoing deliveries of military software to the Emirates appear, among other things, from a number of job ads published on Emirati job portals in 2020 and 2021.

They show that several times since the Danish export ban came into force in 2018, Systematic has advertised for hiring professionals to supply and implement SitaWare within the Emirati military systems.

"Our engagement in the United Arab Emirates is growing, and we need an ambitious and experienced manager", a job posting from the summer of 2020 reads.

It further states that Systematic's office in Abu Dhabi is looking for a project manager for "the delivery, deployment and support" of the SitaWare and IRIS product packages for the Emirati Navy.

The job postings also show that the joint venture with the UAE Armed Forces takes place in close co-operation with the Danish head office.

The job ad from Systematic specifies that the project manager, who is assigned to implement SitaWare for the Emirati Navy, must also be able to pay regular visits to Systematic's headquarter in Aarhus, and must possess "natural ability to build bridges between Systematic's office UAE and our headquarters in Aarhus, Denmark".

SitaWare, according to experts, is a crucial contribution to the armament of the UAE military.

It is a command and control system that makes it possible to monitor and coordinate military operations as they unfold in real time. Experts describe this capacity as the heart of modern warfare, and therefore the very same system is also used by Denmark, the United States and a number of other NATO countries to create an overview during military operations, coordinate attacks and designate bomb targets.

Circumventing Danish rules

Danwatch and TV2 spoke with several experts who all concur in the view that Systematic's exports to the Emirates very much look like a deliberate circumvention of the Danish export ban.

"Certainly, it seems that they are applying for export licenses in the UK to circumvent the ban", says Tom Kirchmaier, professor of economic crime at Copenhagen Business School and the London School of Economics.

"I do not necessarily think that they are breaking the letter of the law, but they are circumventing it. It is very clear that they are breaking the spirit of the law," he says.

His assessment is backed up by William Hartung, an expert in international arms trade at the American think tank Center for International Policy:

"Using a subsidiary to export to the UAE is a way to undermine the spirit of the Danish government decision to stop arming the UAE", William Hartung said.

"If this is legal, it is a huge loophole in the Danish export regulations".

Systematic denies any allegation that their application in November 2018 for an export permit in the UK was a deliberate attempt to bypass Denmark's export ban.

"It is our normal business practice for our office in the UK to handle customers outside the Nordic region and Northern Europe", the company's press manager Maia Lindstrøm Sejersen explains in an email to Danwatch.

The press manager refers to the fact that Systematic also applied for export permits to the Emirates from the United Kingdom in 2011 and 2013.

However, these permissions only concerned a go-ahead to demonstrating SitaWare to potential customers.

The next time Systematic was granted export licenses to the Emirates was in 2016 and 2017, and both authorizations came from the Danish authorities, with the UAE Armed Forces as the stated recipient.

Application withdrawn

In the autumn of 2018, Systematic ran into problems with renewing their authorizations from the Danish authorities.

An access to information request at the Danish Ministry of Foreign Affairs shows that it had become an urgent matter for Systematic to obtain permission to continue exporting military software to the Emirates.

"It is important that we get the permit", an employee of Systematic writes in mid-August 2018 to a special adviser in the Ministry of Foreign Affairs' security policy department.

Systematic's Danish export permit to the Emirates had just expired, and it was imperative to get a new one. This emerges in a number of follow-up emails from Systematic.

"We are unable to understand why this cannot simply be arranged momentarily", a Systematic- employee wrote a month later.

But to no avail.

16 October 2018, the Ministry of Foreign Affairs wrote in a consultation response to the Ministry of Justice that Systematic's

application could not be granted.

The Ministry of Foreign Affairs referred to criteria 2 and 4 of the EU Common Rules on Arms Exports, which state that member states may not export military equipment if this involves a serious risk that it could be used in gross human rights violations.

The day before, on October 15, 2018, Systematic sent a short email to the Ministry of Justice and withdrew its application.

“Please confirm receipt of the withdrawal,” Systematic’s employee wrote.

Systematic denies having withdrawn the application because of the Danish authorities’ export ban to the Emirates.

“We have not been aware of the consultation response you are referring to”, press manager Maia Lindstrøm Sejersen wrote with reference to the Ministry of Foreign Affairs’ rejection.

“We withdrew our application because we did not receive an expected order. Systematic UK’s export applications from November 2018 have nothing to do with the missing order”, she further stated.

Freedom of information requests in Denmark and the United Kingdom confirm that in both cases the application concerned a license to export SitaWare to the UEA Armed Forces, but information about the specific software licenses and recipient addresses are crossed out in the documents at hand.

Systematic itself has refused to document that the Danish and British applications concern different products and recipients.

“We cannot share commercially confidential information and documents regarding our agreements, offers and orders with customers with the media”, Systematic’s press manager said.

On November 22, 2018, the Danish government suspended all military exports to Saudi Arabia and the Emirates, because of the war in Yemen. In February 2019 however, Systematic was given a green light by the British authorities to continue their exports to the Emirates.

Systematic’s export licenses in the UK are valid until spring 2024.

CEO has ‘no idea’ whether Sitaware was used in Yemen The UAE is currently waging war in Yemen for the seventh year, and for almost as long, organizations such as the UN, Amnesty International, Human Right Watch and Médecins Sans Frontières have warned of war crimes and violations of the Geneva Conventions.

Military experts believe that there is a high risk that the UAE will use the Danish command and control system in their controversial warfare.

“It would hardly make sense if the system was not used in Yemen”, said Pieter Wezeman, a military researcher at the Stockholm Peace and Research Center, SIPRI, referring to the fact that the Emirates desperately need overview data in complex battlefield arenas such as Yemen – exactly the kind of data SitaWare can provide.

Today, Systematic’s director Michael Holm does not want to make himself available for an interview by Danwatch and TV2. But in an previous interview from February 2021, he said he did not know whether the UAE military had used Systematic’s products to wage its war in Yemen.

“I have no idea. But they have a number of licenses that they can use wherever they want”, he said.

End user unknown

Systematic’s latest Danish license to export their military software SitaWare and IRIS from Aarhus to the subsidiary in the UK states that “the end user is unknown”.

Systematic applied for the permit in November 2020, several months after they posted local job advertisements for employees to implement SitaWare and IRIS at the Emirates military.

Systematic’s UK subsidiary has been in existence since 1992. According to account data, there are extensive exports form the subsidiary to the ‘rest of the world’ – a category, which consists of undefined countries outside the UK and the EU.

In an email, Systematic’s press manager explains that the export via the UK takes place on a basis of Danish licenses to export a ‘master version’ of each of Systematic’s standard products from Denmark to the subsidiary in the UK.

The UK subsidiary then copies the software licenses and exports them to their respective customers ‘with possible

modifications’, Systematic explains in an email.

“In that way, Systematic UK can deliver Systematic software to customers around the world based on the English export permits, issued on the basis of English rules”, Systematic’s press manager, Maia Lindstrøm Sejersen, explained.

Ignoring Danish policy makers

Systematic’s ongoing exports to the UAE contravene promises from both the previous Lars Løkke cabinet as well as the current Social Democratic government.

On numerous occasions, current Foreign Minister Jeppe Kofod has emphasized that Denmark should refrain completely from exporting military equipment to the UAE.

“My line is very clear: weapons and military equipment should not be exported to either Saudi Arabia or the United Arab Emirates from Denmark, as long as the products in question risk being used in the Yemen conflict”, Denmark’s foreign minister said in May 2020.

Still, Systematic’s CEO, Mr. Michael Holm does not think he is doing anything wrong by having his company continuing its exports to the UAE from the company’s subsidiary in the UK.

He also does not believe that the Danish authorities are entitled to know who the end user could be.

“We do not always have to have an end-user certificate. For example, we can sell our products to our English company, which in turn can sell them on without us having to tell Denmark’s authorities where it’s going,” he told TV2 and Danwatch in February 2021.

Tom Kichmaier, a professor of governance at Copenhagen Business School, does not buy that explanation:

“There is a political agreement in Denmark to stop exports to the UAE. Are Danish policy makers happy to be so blatantly ignored?” he asks.

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ASIA

Afghanistan

Forgotten victims of 9/11: The 363,000 civilians killed during the War on Terror (Independent) By Josh Marcus
September 9, 2021

Ahmad Naser came to Kabul to escape the Taliban. The 30-year-old had been a guard at the American military’s Camp Lawton, in Herat, and had applied for a US Special Immigrant Visa to leave the country, given the risk of reprisals. His fears were directed at the wrong army. In the early evening of 29 August, the day before the last American military planes left Afghanistan, a US drone lit up Khwaja Burga, a densely populated district in Kabul. The strike killed a total of 10 civilians, including Mr Naser and seven children, according to family members. They had reportedly been coming outside to greet relative Zemari Ahmadi, also killed, who worked with a US aid group distributing food to refugees.

The US initially praised the strike for “eliminating an imminent Isis-K threat” to the Kabul airport, adding that it didn’t have

indications of any apparent civilian deaths in the residential neighborhood it just hit with a missile. US Central Command (CENTCOM) eventually issued an update, saying, “It is unclear what may have happened, and we are investigating further”, though it maintained it had foiled an Isis plot. Relatives of the deceased insist no one present was a terrorist.

“The Americans said the airstrike killed Daesh members,” a neighbor told The Washington Post, using the Arabic abbreviation for Isis. “Where is Daesh here? Were these children Daesh?” After the Kabul strike, Pentagon spokesperson John F. Kirby told NPR: “No military on Earth does as much as we do to try to prevent civilian casualties.”

Even if that is true, Ahmad Naser will very likely be forgotten in the US, where the vast, uncounted mass of civilians slain by Americans remains far outside the popular understanding of 9/11. On that day, 2,977 people were killed, and the US has avenged these innocents many hundreds of times over. US airstrikes alone have killed as many as 48,308 civilians, according to conflict monitor Airwars.

But neither the public, nor the victims’ families, will likely ever get a full accounting of the deaths. The American government has steadfastly avoided true accountability on the ‘War on Terror’, from explicitly refusing to count bodies, to half-heartedly committing to transparency, to outright revelling in the killing of innocents.

Each year, America and the world mourns those lost in the atrocities of 9/11. Yet 20 years later, we still don’t know how many others should be mourned along with them for the atrocities that followed.

More than 363,000 civilians have been killed in the War on Terror, according to an estimate from Brown University’s Costs of War. And many times more people have been slain after the battles are over. Cumulatively, the overall civilian death toll could very well exceed 1 million people, when taking into account indirect deaths from war that come from destroyed infrastructure and hospitals, disease, and displacement, Neta C. Crawford, a Boston University political science professor who directs the Costs of War project, told The Independent. And that’s just what we know from afar.

Because Afghanistan, Iraq, Syria, Pakistan, Yemen and other post-9/11 battlefields are war zones – where the US has launched more than an estimated 90,000 strikes – large-scale attempts from researchers to count the dead remain difficult. “It’s going to be very hard until these places are peaceful to figure that out,” Ms Crawford said.

The biggest hurdle, however, has been the US government itself. After years of agitation from families, rights groups, and journalists, the US military began publicly disclosing how many civilians it kills each year in 2018, but it regularly undercounts that figure to the point of near-irrelevance. A New York Times investigation, for example, found that during the air campaign against Isis in Iraq, 31 times more civilians were killed than officially acknowledged.

The US military tends to look into cases when someone else, be they a grief-stricken family or a crusading journalist, demands more information. Some estimates suggest two thirds of US casualty estimates come from referrals, rather than internal investigations. Inquiries that do go forward, on attacks such as drone strikes, are often threadbare at best.

“They’re not speaking to local witnesses,” said Aisha Dennis of Reprieve, a civil rights organisation that advocates for victims of drone strikes. “All of the basic investigatory tools that you would normally use to find out what happened in a crime scene or when somebody has been killed ordinarily, they’re not using those.”

The Independent requested comment from CENTCOM, which oversees US forces in the Middle East, on the number of civilians killed during the War on Terror. A spokesperson recommended submitting a Freedom of Information Act request, a public records request that often takes months or years to get a satisfactory reply to, and declined to answer policy questions about how the military counts civilian deaths.

Many attacks that kill civilians are never officially acknowledged in the first place. In 2019, the Trump administration limited the number of air strikes US forces had to disclose to the public, and numerous attacks go unconfirmed, even if the effects on the ground are very real. “It’s a manifestation of the project of elite impunity that has always run through this entire enterprise and a manifestation of American exceptionalism, whereby the people that America kills are not somehow as real human beings as Americans are,” said Pulitzer Prize-winning national security reporter Spencer Ackerman, author of *Reign of Terror*, a recent history of the War on Terror. “The United States has made detailed announcements every time a service member was killed in the War on Terror. They know how to count this. They choose not to do it.”

This impunity has been a central feature of the War on Terror for the last 20 years, regardless of whether a Democrat or Republican was in the White House. During the Bush administration, American officials talked openly about how unimportant they felt counting civilian deaths was. Their argument was both that body counts were “not knowable”, as a CENTCOM spokesperson once put it, but also not helpful. They worried a detailed picture of the war could turn the public against it, as had happened during the Vietnam War.

“Having been a rifle platoon leader in Vietnam, asking questions from Washington about how many dead today is truly

counterproductive,” general Peter Pace said in 2002. “You know, we don’t do body counts,” general Tommy R. Franks added that same year. As late as 2006, well into serious fighting in Iraq and Afghanistan, George Bush told a group of conservative reporters, “We have made a conscious effort not to be a body-count team.” “That was a lie,” said Chris Woods, co-founder of Airwars, a group that meticulously tracks civilian casualties.

The information was always there, Mr Woods said, it just hasn’t been made public. “We found out from the WikiLeaks releases on Afghanistan and Iraq that of course the US was counting civilian casualties, not only from its own actions, but from terrorists like Al Qaeda. It just wasn’t releasing its own information.”

As a result, the early, crucial years of the War on Terror remain factually hazy, even as their geopolitical impact was fundamental.

There was a measure of hope that the administration of Barack Obama, a former constitutional law professor, would be different, more humane.

In 2009, the commander of US forces in Afghanistan at the time, general Stanley McChrystal, made the rules for airstrikes far stricter, drastically reducing the number of unintended casualties for the next few years.

“We’re going to lose this f***** war if we don’t stop killing civilians,” he told his staff, according to his memoir.

Mr Obama also instituted more inter-agency deliberation on issues like civilian harm before launching strikes, and late in his administration, signed an executive order mandating the US train its personnel to protect civilians, accept responsibility for attacks, and make regular public reports about strikes outside of traditional war zones, explaining the general differences between official and NGO analyses of the killings.

But President Obama was no dove. He pioneered the most controversial weapon in the US arsenal: unmanned combat drones, launching 10 times more strikes than his predecessor, publicly disclosing casualty numbers that fell far below outsider estimates or made dubious claims to killing not a single civilian. Civilians and non-combatants were, and are, often killed in “signature strikes”, launched not at a known target, but rather individuals who seemed like they might be terrorists based on their personal networks, as well activities such as driving in convoys or carrying weapons, a common practice for non-militant young men in war zones in the Middle East.

Mistakes were rampant. In Yemen, for example, a cluster of five US drone strikes and a special forces raid killed 34 members of two families, including nine children, the youngest being a three-month-old baby shot by a US Navy SEAL. One of these attacks, in 2013, killed 12 men in a wedding convoy, all farmers and construction workers, leaving 73 children without breadwinners.

The Yemeni government and United Nations both condemned the strike. The US has never issued an apology.

“People in the village are afraid to gather,” Abdullah Mabkhout Al Ameri, some of whose family was killed during the strikes, told Reprieve. “Everybody feels that they are a target. We thought these drones only kill wanted people, never innocent people. Some people now when they walk, they just keep staring at the sky.”

The unmanned aircraft, often portrayed as silent, surgically precise weapons, make an audible buzz for those living underneath them. For many, it’s a sound on the numerous, obscure battlefields of the War on Terror that stands for accidental death far more than intentional peacekeeping.

Whatever safeguards were in place drifted off as the Obama administration confronted Isis in Iraq and Syria. The battle for Mosul, which one general called the “most constant heavy combat that we have [seen] probably since before Vietnam”, killed as many as eleven thousand civilians, 10 times more than the official US estimate.

“It’s been shockingly bad,” Mr Woods, of Airwars, said. “There have been periods when the US has done a better job of holding itself to account, admitting it, reducing it. Those periods are often short and often come about after really catastrophic local casualty numbers. The lessons that should’ve been institutionalized are almost immediately lost.”

Donald Trump, as he so often did, said the quiet part of US politics out loud. He explicitly fantasized about going after civilians on his campaign to “bomb the shi** out of Isis” and stop fighting a “politically correct war”, as he once put it.

“You have to take out their families,” he told Fox News in 2015, as he prepared to run for president.

He kept his campaign promises, ramping up the drone war even further in places like Somalia, and unleashing so many strikes on Afghanistan that one study found civilian casualties spiked 330 percent by December 2020. Meanwhile, the year before, Mr Trump rolled back the Obama mandate about disclosing civilian deaths outside conventional war zones, turning already

murky, unofficial US wars into full-on data dark zones.

More than that, Donald Trump went out of his way to protect US service members accused of deliberately targeting civilians. He pardoned Clint Lorance, an Army lieutenant serving a 19-year sentence for ordering his men to fire on Afghan civilians. Mr Trump intervened to stop the war crimes prosecution of Eddie Gallagher, a Navy SEAL turned in by his own squad mates for alleged abuses like stabbing a teen in Isis captive with a hunting knife, and targeting women and children while boasting that “burqas were flying”.

Both men deny wrongdoing. Mr Trump called them “great warriors” at a rally in Florida in 2019.

Whether the Biden administration will work against this pattern remains to be seen. The administration has withdrawn from Afghanistan entirely, and, as of July, had reportedly conducted an all-time low number of drone strikes. But a promised government-wide review of counter-terrorism policy is behind schedule, and the president has vowed, like three other presidents before him, to go after terror groups in Afghanistan.

“To Isis-K: We are not done with you yet,” Mr Biden said in a 31 August speech at the White House.

With no US military presence inside of Afghanistan, that will all but certainly mean more drone killings. That may mean more killed like Ahmad Naser and his family in Kabul.

Even if Mr Biden changes course, “we’ll never know” how many civilians the US has killed in the 9/11 wars, according to Mr Ackerman, the Reign of Terror author.

“It made the end of their existence an official secret,” he said. “It made them, in death, un-people. This isn’t just about what the US tells itself. It’s about what the US acknowledges it has done to hundreds of thousands of people.”

Many endeavour to “never forget” 9/11. But for those civilians killed by America, the US government has never allowed the public to remember.

War crimes in Afghanistan should not go unpunished (MEHR News Agency) By Kamal Iranidoost
September 10, 2021

Iran's permanent envoy to the United Nations Majid Takht-Ravanchi said before a UN Security Council meeting on Afghanistan that "Afghanistan is going through a critical period. Hundreds of thousands have fled the country; Nearly 600,000 others have been displaced; Basic food is running out and 18.4 million people are in need of humanitarian assistance."

The Iranian ambassador said that the current situation in Afghanistan is first of all a direct result of the intervention of the United States and other foreign powers in Afghanistan and their irresponsible withdrawal.

"When they entered Afghanistan, they brought disaster to the Afghans, and when they left, they left a tragedy for the Afghans," Takht-e Ravanchi said.

The senior Iranian diplomat said that the people of Afghanistan should be assisted to achieve lasting peace, stability and prosperity.

Elsewhere, the senior Iranian diplomat said that any government that comes to power in Afghanistan by force will not be recognized, condemning the attack on the Panjshir region.

The path to stability, lasting peace and sustainable development in Afghanistan is practically through inter-Afghan negotiations with the active participation of real all ethnic, linguistic and religious groups, Takht-e Ravanchi said.

He said that like Afghanistan's other neighbors, Iran is deeply concerned about insecurity and instability in the country, as well as the threat posed by terrorists and drug and human trafficking networks.

Iran also strongly believes that under no circumstances should Afghan territory be used to threaten or attack a country or to shelter or train terrorists, or to plan or finance terrorist activities, the diplomat added.

"Terrorist groups such as ISIL, which are a major threat to Afghanistan and the region, should not be allowed to operate in Afghanistan," he stressed.

"Afghanistan needs help to overcome its current problems," Takht-e Ravanchi said, adding that Iran has linked Afghanistan as a landlocked country to Europe through building the Khaf-Herat railway and to international waters through the Iranian port

of Chabahar.

He also said Iran is ready to further develop and deepen its cooperation with Afghanistan in all areas to help build a secure and prosperous Afghanistan.

The Failure of Transitional Justice in Afghanistan: Impunity Turned into Law (Just Security) By Huma Saeed
September 16, 2021

Afghanistan's long, complex, and multi-layered conflicts across the decades have taken a heavy toll on Afghan civilians, yet justice and accountability have always been elusive. A once-hopeful effort in the aftermath of the 2001 toppling of the Taliban regime turned out to be no different.

Instead, when a small window of opportunity opened in 2005 to address gross human rights violations over 23 years of war from the 1978 Soviet-backed coup to the 2001 fall of the Taliban, the endeavor was ultimately snuffed out by hegemonic powers making bogus arguments for “peace” and “stability.” This included not only local actors such as warlords and mujahedeen, who feared prosecution and loss of power in the new political landscape, but also, and importantly, the United States and allied countries, who believed the “time was not right” to address the justice demands of war victims and seek accountability for perpetrators.

In many post-conflict contexts, the process of reckoning with a country's bloody past through a number of judicial and non-judicial mechanisms, often referred to as transitional justice, has become a norm. In Afghanistan, more than 1 million were killed, 1.3 million disabled, and tens of thousands forcibly disappeared from 1978 to 2001. An estimated 241,000 people lost their lives as a result of the War on Terror between 2001 and 2021. Moreover, Afghanistan has one of the largest populations of internally displaced people (IDPs) – more than 3.5 million from conflict and violence alone (not to mention 1.1 million due to disasters), as of December 2020. And the United Nations Refugee Agency, UNHCR, also counts its 2.6 million registered Afghan refugees among the largest such populations in the world. (Even at that, 2.6 million is only the registered figure; there are millions -particularly in Iran and Pakistan, and increasingly Turkey, who are not registered. According to the former Afghanistan Ministry of Refugees and Repatriation, registered and non-registered Afghans outside the country numbered 6 million as of 2018.)

A ‘Call for Justice’

In 2005, the Afghanistan Independent Human Rights Commission (AIHRC), established in the December 2001 Bonn Agreement that outlined a transitional government and new institutions after the fall of the Taliban, conducted a national consultation with 6,000 Afghans. The aim was to collect public input in preparation for “a national strategy for transitional justice and for addressing the abuses of the past.” The result was the publication of a document aptly titled “A Call for Justice.” The commission found that 69 percent of those interviewed identified themselves or immediate family members as direct victims of human rights violations in the previous 20 years, 45 percent wanted immediate accountability in the form of trials, and 76.4 percent believed bringing war criminals to justice would “increase stability and bring security.” A majority of respondents (61 percent) rejected the idea of offering amnesty in exchange for confessions.

Considering such high demand among Afghans for justice and accountability, the report was instrumental, among other factors, in setting the stage for the next step, the drafting of an “Action Plan for Peace, Reconciliation and Justice” (the Action Plan) by the President's Office, the AIHRC and the U.N. Assistance Mission to Afghanistan (UNAMA). The 2005 Action Plan identified five key components of justice and reconciliation for Afghanistan: truth-seeking (especially establishing a record of abuses), symbolic measures (such as memorials or days of remembrance), accountability mechanisms involving vetting procedures for public office, institutional reform, and reconciliation. The Action Plan again emphatically rejected amnesty provisions, stating that neither Islam nor international law allows amnesty for gross violations of human rights, including crimes against humanity.

Nevertheless, the only measures called for in the Action Plan that were actually implemented before it expired in March 2009 were a few that were deemed to be less controversial, including, for example, the establishment of a memorial site in Badakhshan or naming Dec. 10, International Human Rights Day, as victims' day in Afghanistan. This failure to adopt any of the more substantive mechanisms – such as the publication of the 1978-2001 conflict mapping report completed by the AIHRC or vetting of war criminals from public office – was due mainly to power dynamics within Afghanistan and among external forces.

Reinvigorating the Warlords

Internally, elements within the Afghan government and Parliament were fiercely opposed to any significant transitional justice mechanisms. After all, many of those in the government and Parliament were former mujahedeen and warlords accused of

committing serious human rights violations during the civil war in the 1990s. Any transitional justice measure, therefore, might have targeted them directly or would have jeopardized their political, social, and economic interests, depending on the form of justice delivered. Instead, in March 2007, the Parliament passed the “National Reconciliation, General Amnesty and National Stability Law” (the Amnesty Law) that ensured a blanket amnesty for all perpetrators of human rights abuses of the past regimes, exactly what the majority of 6,000 Afghans interviewed in the consultation had opposed. Thus, impunity turned into law.

Externally, the U.S.-led coalition forces prioritized their perceived immediate geopolitical interests over justice. In pursuing their military conflict with al-Qaeda and the Taliban, the coalition repeatedly entered nominal partnerships with the very armed factions — often bundled together under the umbrella term of “warlords” — who had committed the atrocities in the past and continued to do so under the eyes of the coalition. But these warlords persuaded the coalition that they were opposed to the Taliban (though some routinely made deals with them, too), and the international community also believed that coopting some of them to work within the new system could put their influence to productive use while defusing their interest in making trouble. So the United States and its allies backed them militarily, politically, and financially.

In effect, the United States reinvigorated warlords who had been militarily defeated and politically relegated to obscurity under the Taliban. Some factional commanders even anticipated disarmament after the Bonn conference; instead, they became entrenched in the new power structure “due to US pressure to include them,” as Patricia Gossman and Sari Kouvou wrote in a report for the Afghanistan Analysts Network. And Rama Mani wrote in 2003 for the Kabul-based Afghanistan Research and Evaluation Unit that there was an implicit agreement within elite political circles of both national and international players that it was “not the right time” to tackle transitional justice. Thus, the human rights records of these ostensible partners did not matter as long as they served U.S. and international interests.

As history has shown, unless the demands of war victims for justice are addressed and some measures are undertaken to reckon with the past, peace and stability cannot prevail in any country. Afghanistan is a case in point today. After 20 years and the expenditure of trillions of dollars on a military campaign and patchy work toward state building and democracy, the country has neither justice nor peace.

Afghanistan: Taliban wasting no time in stamping out human rights says new briefing (Amnesty International)

September 20, 2021

The Taliban are steadily dismantling the human rights gains of the last twenty years, said Amnesty International, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) in a new briefing published today, which documents the group’s wide-ranging crackdown since their seizure of Kabul little more than five weeks ago.

Contrary to the Taliban’s repeated claims that they will respect the rights of Afghans, the briefing, Afghanistan’s fall into the hands of the Taliban, details a litany of human rights abuses including targeted killings of civilians and surrendered soldiers and the blockading of humanitarian supplies in the Panjshir Valley, which constitute crimes under international law. Restrictions have also been reimposed on women, freedom of expression and civil society.

“In just over five weeks since assuming control of Afghanistan, the Taliban have clearly demonstrated that they are not serious about protecting or respecting human rights. We have already seen a wave of violations, from reprisal attacks and restrictions on women, to crackdowns on protests, the media and civil society,” said Dinushika Dissanayake, Amnesty International’s Deputy Director for South Asia.

“Given the prevailing climate of fear, lack of mobile connectivity in many areas, and internet blackouts enforced by the Taliban, these findings are likely to represent just a snapshot of what’s happening on the ground. The UN Human Rights Council must establish a robust, independent mechanism with a mandate to document, collect and preserve evidence of ongoing crimes under international law and other serious human rights violations and abuses across Afghanistan.”

Climate of fear for Human Rights Defenders

Attacks on human rights defenders have been reported on a near-daily basis since 15 August. The Taliban are conducting door-to-door searches for human rights defenders, forcing many into hiding.

Researchers spoke to Mahmud*, an Afghan human rights defender who managed to get out of the country. Mahmud described how, on the day the Taliban entered Kabul, he received a call asking him to hand over his organizations’ vehicles, equipment and money. The caller knew his name and warned him he had no choice but to cooperate.

Over the following days, Mahmud received further phone calls and WhatsApp messages, asking for his home address and

requesting to meet him at designated locations. Two colleagues at his NGO had been beaten by the Taliban. Images shared by one of his co-workers and verified by Amnesty International and a forensic pathologist show classical assaultive ‘whipmarks’ to the back and yellowing bruising to the victim’s left arm.

“The threat faced by human rights defenders stranded in Afghanistan is real. They are under attack on all fronts as they are seen as enemies of the Taliban. Their offices and homes have been raided. Their colleagues have been beaten. They are forced into permanent hiding. They live under the constant threat of arrest, torture or worse. Those who managed to leave the country are now stranded in military camps or in neighbouring countries, not knowing their final destination nor how they will be able to rebuild their lives that have been shattered overnight,” said Delphine Reculeau, Human Rights Defenders Programme Director at the World Organisation Against Torture (OMCT).

“The international community must uphold its moral and political commitments and not fail the people who have dedicated their lives to the defence of human rights, gender equality, the rule of law and democratic freedoms in their country, but protect them at all costs.”

Persecution of journalists

Two Kabul-based female journalists that Amnesty International spoke to, shared the threats and intimidation they faced following the Taliban takeover. Ayesha*, who has now fled the capital following warnings from her employer that her life was at risk, said her family had since been visited by the Taliban, and threatened after they informed the group that she was not at home.

Aadila* described the first two weeks of Taliban rule as a time of fear and uncertainty. She had initially decided to stay in Afghanistan and continue her work, until the Taliban came to her home one night asking for her. Upon the insistence of relatives, she left the country shortly afterwards.

Abdul, a male journalist said that editors, journalists and media workers had received instructions from the Taliban that they could work only under the terms of Sharia law and Islamic rules and regulations.

“I have not reported to my job since the fall of the republic. Taliban came to my house several times, but I hid myself. From the time of the collapse, our office is closed” he said.

Women and girls and the right to protest

As a result of a climate of fear bred by the Taliban’s takeover, many Afghan women are now wearing the burka, refraining from leaving the house without a male guardian, and stopping other activities to avoid violence and reprisals. Despite the myriad threats now presented to women’s rights, women across the country have been holding protests.

While some protests have been allowed to continue peacefully, many were violently repressed by the Taliban. On 4 September, approximately 100 women at a protest in Kabul were dispersed by Taliban special forces, who fired into the air and reportedly fired tear gas. Nazir*, a human rights defender, told Amnesty International how his male friend Parwiz* was severely beaten by the Taliban after attending a women’s rights protest on 8 September. “Parwiz was detained during women’s protests on 8 September. He was severely tortured. He had his arm broken. He was taken inside the Police district [district number withheld]. When the Taliban released him, they made him wear new clothes because his clothes had become wet from his blood.”

On 8 September, the now Taliban controlled Ministry of Interior issued an order banning all demonstrations and gatherings across Afghanistan “until a policy of demonstration is codified.”

“The international community must not turn a blind eye to the violations being committed by the Taliban. Taking concrete action at the UN Human Rights Council will not only send the message that impunity will not be tolerated, but also contribute to preventing violations on a broader scale. This should go hand in hand with support for the ongoing investigation at the International Criminal Court, in order to secure accountability for crimes against humanity and war crimes committed by all parties,” said Juliette Rousselot, FIDH’s Program Officer for South Asia.

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Khmer Rouge tribunal to close by end of 2022 despite controversial case (Radio Free Asia) By Moung Nareth
September 13, 2021

The tribunal, which has been open for 15 years, is scheduled to close by the end of 2022, despite a controversial case.

The mission is the green light from the UN, which will issue a decision at its General Assembly in early July.

Meanwhile two controversial Case 003 involving Meas Muth and 004 involving Yim Tith is not yet ready for judges. Investigators and national prosecutors disagree with investigating judges and international prosecutors over whether or not to send these cases to trial. Continue.

Due to this disagreement, the same investigation unit issued two separate settlement orders. The National Investigating Judge issued a Closing Order dropping the charges, while the International Investigating Judge issued a separate Closing Order. Things go to trial.

The Pre-Trial Chamber found that this was due to a serious error by the investigating judge that undermined the foundations of the hybrid judiciary. This will cause all parties to fall into legal uncertainty, affecting the applicant as a plaintiff. Tens of thousands of civilians and victims in those cases. Ang Pre decided to close the case now and close the protest route.

However, the Pre-Trial Chamber did not impose any punishment on the investigating judge who committed these serious misconduct.

News of the planned closure of the Khmer Rouge tribunal mission comes at a time when many issues remain unresolved. There are still cases left to be resolved in accordance with legal procedures. Khmer Rouge tribunal spokesman Neth Pheaktra said the tribunal must complete all cases before it can Close the door. He said he could not confirm when the court would end its mission.

The Khmer Rouge tribunal has spent more than \$ 330 million on the trial since 2006. Three former Khmer Rouge cadres were sentenced to life in prison by the hybrid tribunal. The three include former Tuol Sleng prison chief Kaing Guek Eav alias Duch, the second eldest brother of the Khmer Rouge regime, Nuon Chea and the former presidency. State Khieu Samphan . Two of them died while in custody. Kaing Guek Eav alias Duch died in the Kandal Provincial Prison. Nuon Chea died in custody at the Khmer Rouge tribunal's detention center.

Separately, the former Khmer Rouge cadre, two other former Khmer Rouge Foreign Minister Ieng Sary died during the process. His wife and her former social affairs minister Ieng no judicial died later released due to mental fitness is not enough to Continue the proceedings. The only former former Khmer Rouge cadre who is still alive and is on trial is Khieu Samphan, 90, who was tried this year. Imprisoned twice for different offenses.

Although the Khmer Rouge tribunal will close at the end of 2022, there are still many issues that remain unresolved. Soon, especially the issue of civil compensation for the victims of the Khmer Rouge regime.

As a result, a national judge and an international judge were appointed by the Office of Judicial Administration in early September to serve as judges for the position. The rest are related to this victim. The judges are calling for input from the general public to address these remaining issues.

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War Crimes Investigation in Myanmar

Myanmar's exile government signs up to ICC prosecutions (East Asia Forum) By Adam Simpson
September 17, 2021

A recent decision by Myanmar's National Unity Government (NUG) may offer a path to justice for the victims of war crimes, crimes against humanity or genocide in Myanmar. The NUG was formed by elected representatives of the parliament and others who were ousted by the February military coup. On 20 August the NUG announced that it had lodged a declaration with the International Criminal Court (ICC) accepting the court's jurisdiction with respect to all international crimes in Myanmar since 2002.

The NUG had been considering this option since March, but this was the first formal submission by the government-in-exile under Article 12(3) of the Rome Statute. The day prior to the announcement, Fortify Rights, an NGO, released a lengthy report on the legal basis for the diplomatic manoeuvre.

This announcement was significant for four reasons. First, this was a major shift in policy regarding the ICC since the former National League for Democracy (NLD) government led by Aung San Suu Kyi was openly hostile to any prosecutions under the auspices of either the ICC or the International Court of Justice. The NLD government refused to accede to the ICC under the Rome Statute or respect its rulings and repeatedly aligned itself with Myanmar's military over the ethnic cleaning of the Muslim Rohingya population in 2017.

Second, it would mean that the ICC could investigate crimes against the Rohingya in Rakhine State itself, as well as any crimes committed in ethnic conflicts within Myanmar dating back to 2002.

Since November 2019, the prosecutor of the ICC has been undertaking an investigation of crimes against the Rohingya, but the case has been strictly limited to those crimes that occurred 'at least in part' in Bangladesh, a signatory of the ICC. This included 'crimes against humanity of deportation across the Myanmar-Bangladesh border and persecution on grounds of ethnicity and/or religion against the Rohingya population'.

However, individuals could not be charged for crimes committed only within Myanmar. In addition, the prosecutor was only examining events since August 2017, when the most significant wave of refugees flooded across the Bangladesh border despite historical and ongoing ethnic conflicts in the region.

Third, it would allow the court to prosecute the Myanmar military for crimes committed during the coup and its ongoing repression of the opposition. Over 1000 opponents of the regime have been killed since the coup, with over 6000 currently under arrest and another 2000 in hiding. Most of these events cannot be examined under the existing ICC case since there is no link to Bangladesh or other signatories of the Rome Statute. Fourth, the announcement effectively legitimises the historically ignored grievances of the Rohingya ethnic minority. The previous government argued that the military operations against the Rohingya only targeted militants and were therefore justified, even while all evidence pointed to the contrary.

In early June, the NUG challenged this argument and decades of settled policy on the Rohingya in Myanmar by promising to repeal the 1982 law on 'national races', base citizenship on birth in Myanmar and abolish the process of issuing National Verification Cards.

This commitment of citizenship for the Rohingya was followed up by another statement on the fourth anniversary of the atrocity crimes committed against the Rohingya people, acknowledging the 'horrendous violence, gross human rights violations and massive displacement' experienced by the Rohingya. In another unprecedented move, a Rohingya activist, Aung Kyaw Moe, was appointed as an advisor within the NUG's Ministry of Human Rights. These changes have reflected a broader reassessment of the treatment of the Rohingya in Myanmar following the coup.

While some argue that the ICC is irrelevant in bringing autocrats to justice, just a week prior to the NUG announcement Sudan informed the ICC prosecutor that former dictator of Sudan Omar al-Bashir and other ‘wanted officials’ would be extradited to the ICC.

The next step for the NUG will be to sign up to the Rome Statute, which is a complicated process. While any country acceding to the ICC is welcome, an impending ICC prosecution may inadvertently extend military rule in Myanmar because the military leadership could be concerned about future prosecution.

A contributing factor in the coup may have been Commander-in-Chief of the Myanmar military Min Aung Hlaing’s concern over being prosecuted under the existing ICC case. But immunity from prosecution in an active ICC case could bring the military junta to the negotiating table.

The NUG’s announcement tightens its embrace of a federal democracy that respects international human rights norms. The more the international community supports the NUG with recognition and resources, the more the NUG will stay true to these policy commitments.

States within the international community must decide whether to accept the Article 12(3) submission and thereby implicitly accept the NUG as Myanmar’s legitimate government and international voice rather than the military junta. There have already been ‘weeks of behind-the-scenes diplomatic negotiations’ at the United Nations and elsewhere regarding the status of Myanmar’s ambassadors and diplomats abroad who have spoken out against the coup. While some of these diplomats, and members of the NUG, have defended the actions of Myanmar’s military against the Rohingya in the past, the recent efforts towards reconciliation should provide sufficient impetus for granting international recognition. Russia and China – which would likely veto the ability of the NUG to speak for Myanmar if this were a UN Security Council resolution – are not members of the ICC and therefore have no say in the approval of representatives. This submission therefore provides an ideal opportunity to increase the legitimacy and recognition of the NUG while bolstering the international criminal justice framework for war crimes and crimes against humanity.

Myanmar Troops Massacre 24 in Village Attacks in Magway (Radio Free Asia) By Myanmar Troops Massacre 24 in Village Attacks in Magway (Radio Free Asia)
September 17, 2021

Myanmar military forces killed at least 24 civilians in attacks this month on three villages in the country’s central Magway region, murdering eight after taking them alive as prisoners, sources in the region said, with rights groups calling the killings war crimes.

Those killed in the assaults Sept. 9 and 10 on Myin-thar, Mway Le, and Yay Shin villages in Gangaw township included elderly men in their 70s and high school students under the age of 18, family members and resistance fighters told RFA.

Gyo Byu, a member of the local People’s Defense Force unit set up to fight government troops in the wake of the Feb. 1 military coup that overthrew the elected government, said the elderly men who were killed were found tied to chairs and shot in the head, while the young men were shot dead after being captured.

Gyo Byu had helped to bury the bodies after they were found, he said. One resident of Myin-thar, where 19 were killed on Sept. 9 alone, said that her 15-year-old brother and other high school students were among those killed in the massacre. “My brother was not even 16 yet. He had just finished the 8th grade,” the woman said, adding that some of the other young boys who were killed had recently graduated from 10th grade, some passing their classes with honors.

“The kids had formed a local security force because we had heard the soldiers set fire to houses when they leave a village.”

“It was raining hard when the armed clash took place, and their Tumeer hunting rifles didn’t fire, and that’s why our young heroes had to give up their lives,” she said, referring to the antique rifles now used by villagers desperate to defend themselves against government forces.

“We can’t even flee our homes in peace, since we can’t go back to recover their bodies. When the mothers return, they won’t be able to find their sons,” she said.

Ten of those killed in Myin-thar on Sept. 9 were found lying in a group in a nearby field, one villager said, speaking to RFA like other villagers on condition of anonymity for security reasons.

“At least 11 houses were set on fire that day, and 19 people were killed, a few of them during the initial shelling in the attack,” the source said. “Ten bodies were later found in a group in the sesame fields. The rest died near their homes.”

“Witnesses said that two or three of these died right away, and that when the rest turned back to get them they were arrested by the soldiers, and it seems they were then shot at close range. It was very gruesome,” he said.

Three more people from Myin-thar and Mway Le village were killed that day, and on Sept. 10 two residents of Yay Shin village were also killed, making a total of 24 civilians killed during the two days of attacks.

Sources have told RFA that Myanmar troops have repeatedly raided villages in the Magway region since the beginning of September, destroying homes and arresting and killing villagers. Young people are often accused of being dissidents or People’s Defense Force members, and are sometimes tortured and killed under questioning.

Elderly villagers are also not spared, residents say.

Calls seeking comment from Myanmar military spokesman Zaw Min Tun received no replies this week.

'Unacceptable anywhere'

The killings of civilians reported in Magway should be considered war crimes, said Aung Myo Min, Minister for Human Rights in the shadow National Unity Government (NUG) set up in opposition to rule by the military.

“Any crime against civilians is a crime under the law and a violation of human rights,” Aung Myo Min said. “These people were not killed while fighting or running. They were tortured and killed, and some were shot in the head.”

Another victim was found killed after his genitals were mutilated, he said.

“These were not casualties of war but intentional atrocities—which are unacceptable anywhere, and for anyone.”

Kyee Myint, a veteran Myanmar lawyer, said that the killing of civilians and captives taken in battle by Myanmar forces in Magway and other parts of the country should be reported to the UN Commission on Human Rights.

“Prisoners of war should not be killed,” he said.

“These incidents are happening now because opposition groups are only speaking big words and are unable to provide any assistance—material or financial—or to protect the young people who are taking up arms on their behalf,” he said.

Myanmar’s People’s Defense Forces do not constitute formed armies, said Brad Adams, Asia director at New York-based Human Rights Watch. “So we do not see these [killings] as war crimes. Instead, we see them as human rights abuses.”

“Some people seem to think that a war crime is worse than an extrajudicial killing. It’s not any worse, it’s just a term that people recognize,” he said.

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AMERICAS

North & Central America

US House set to vote on measure demanding Baku release Armenian POWs; requiring investigation into Azerbaijani war crimes (Armenian Weekly) September 21, 2021

backed amendment led by Representatives Tony Cardenas (D-CA), Adam Schiff (D-CA), and Brad Sherman (D-CA) calling for Azerbaijan’s immediate release of Armenian prisoners of war and requiring an investigation into the use of U.S. technology in drones used by Turkey and Azerbaijan to target civilians during their

2020 attacks against Artsakh.

The Rules Committee also voted to allow full House votes on pro-Artsakh/Armenia amendments led by Representatives Frank Pallone (D-NJ), David Valadao (R-CA), Dina Titus (D-NV), and Jim McGovern (D-MA).

The amendments will be voted on during House consideration of the FY2022 National Defense Authorization Act (H.R.4350), which may begin as early as Tuesday evening, September 21st. Pro-Artsakh/Armenia advocates can write, call, and tweet their U.S. Representatives to vote for the amendment.

“We thank Chairman McGovern and his colleagues in the House leadership and on both the Armed Services and the Rules Committees for providing each member of the U.S. House of Representatives with the opportunity to cast up-or-down votes on amendments demanding the immediate release of Armenian POWs, requiring an investigation of Azerbaijani war crimes, a report on U.S. aid to Artsakh, banning the Grey Wolves, and other ANCA-backed amendments to the National Defense Authorization Act,” said ANCA Executive Director Aram Hamparian. “We encourage our community activists and coalition partners – in the hours leading up to these House floor votes – to continue weighing in with their legislators, via calls, emails, and tweets.”

The Cardenas-Schiff-Sherman amendment states it is the sense of Congress that “Azerbaijan must immediately and unconditionally return all Armenian prisoners of war and captured civilians.” It goes on to demand a report from the Secretary of Defense on the use of U.S. technology in Turkish drones used by Azerbaijan to attack Armenia and Artsakh during the 2020 war. The bi-partisan amendment was also cosponsored by Representatives Gus Bilirakis (R-FL), Judy Chu (D-CA), Anna Eshoo (D-CA), Young Kim (R-CA), Raja Krishnamoorthi (D-IL), Andy Levin (D-MI), Zoe Lofgren (D-CA), Frank Pallone (D-NJ), Katie Porter (D-CA), Janice Schakowsky (D-IL), Jackie Speier (D-CA), Dina Titus (D-NV), and David Valadao (R-CA).

“It is critical that we get a full accounting of the facts as we look to hold Azerbaijan accountable for its actions in Nagorno Karabakh last year,” said Rep. Cardenas. “I am glad to have worked closely with Reps. Schiff and Sherman to produce an amendment that does exactly that. This report is critical to getting a clear picture of the extent of Azerbaijan’s actions and any potential violations of international law. Additionally, it will make clear that the United States Congress expects Azerbaijan to honor its obligation to carry out the unconditional return of any remaining Armenian prisoners of war safely to Armenia. I am thankful for the bipartisan group of cosponsors that has joined us in this effort, and will work hard to see that the report gets done.” Rep. Schiff concurred, adding, “It is unconscionable that as we approach the one-year anniversary of the war in Nagorno-Karabakh, Azerbaijan continues to illegally detain Armenian service members and captured civilians – a reality made even more horrific by ongoing reports that these prisoners of war are subject to torture in violation of international human rights conventions.” Rep. Schiff went on to note, “With this amendment, we are making it absolutely clear to the Aliyev regime that they have the obligation to release these prisoners immediately and unconditionally, and that the Biden administration should take every possible diplomatic action, including through the OSCE Minsk Group, to hold them to account.”

Other ANCA-backed amendments ruled “in order” by the House Rules Committee include:

– An amendment led by Rep. Frank Pallone (D-NJ), which requires a report from the Secretary of Defense, in collaboration with the Secretary of State, addressing allegations that some units of foreign countries that have participated in security cooperation programs under section 333 of title 10, U.S.C. may have also committed gross violations of internationally recognized human rights before or while receiving U.S. security assistance. Since 2016, Azerbaijan has received over \$120 million in U.S. military assistance under section 333 funding, and would be in the list of countries scrutinized for committing human rights violations during and after the 2020 Artsakh War. The bi-partisan amendment was cosponsored by Representatives Gus Bilirakis (R-FL), Judy Chu (D-CA), Jim Costa (D-CA), Anna Eshoo (D-CA), Zoe Lofgren (D-CA), Grace Meng (D-NY), Linda Sanchez (D-CA), Adam Schiff (D-CA), Abigail Spanberger (D-VA), Jackie Speier (D-CA), Rashida Tlaib (D-MI), and David Valadao (R-CA).

– An amendment led by Representatives David Valadao (R-CA) and Brad Sherman (D-CA), which requires a report within 180 days of all US humanitarian and developmental assistance programs in Artsakh (Nagorno Karabakh), including an analysis of the effectiveness of such programs and any plans for future assistance. The amendment was cosponsored by Representatives Don Beyer (D-VA), Judy Chu (D-CA), Jim Costa (D-CA), Young Kim (R-CA), Raja Krishnamoorthi (D-IL), Andy Levin (D-MI), Zoe Lofgren (D-CA), Frank Pallone (D-NJ), Katie Porter (D-CA), David Schweikert (R-AZ), Abigail Spanberger (D-VA), David Trone (D-MD), and Susan Wild (D-PA).

– An amendment led by Rep. Dina Titus (D-NV) requiring a report by the Secretary of State on the activities of Turkey’s Grey Wolves organization undertaken against U.S. interests, allies, and international partners, including a review of the criteria met for designation as a foreign terrorist organization. The amendment had the support of a coalition of organizations including the Hellenic American Leadership Council, In Defense of Christians, American Friends of Kurdistan, Middle East Forum, as well as the ANCA. It was cosponsored by Representatives Judy Chu (D-CA), Jim Costa (D-CA), Anna Eshoo (D-CA), Young

Kim (R-CA), and Zoe Lofgren (D-CA).

— An amendment by Rep. Jim McGovern (D-MA) modifying the Global Magnitsky Human Rights Accountability Act to authorize sanctions for serious human rights abuse, any violation of internationally recognized human rights, or corruption. The amendment was cosponsored by Representatives Don Beyer (D-VA), David Cicilline (D-RI), Gerald Connolly (D-VA), Anna Eshoo (D-CA), Sheila Jackson Lee (D-TX), Ted Lieu (D-CA), Tom Malinowski (D-NJ), Jamie Raskin (D-MD), Dina Titus (D-NV), Norma Torres (D-CA), and Peter Welch (D-VT).

Prosecuting Western and Non-Western Islamic State Fighters (War on the Rocks) By Ayesha Rey
September 22, 2021

How are countries dealing with their citizens who travelled abroad to fight for the Islamic State? In short, they have taken two approaches. Some states like the United States and Germany are strong advocates of repatriation. This process allows citizens to be brought back to their countries, and charged and prosecuted in their courts according to their laws. Other states like France and the United Kingdom have been cautious in allowing Islamic State members from their countries to return home. These countries are quite firmly against repatriation, and argue that a lack of evidence to fairly prosecute their citizens who went to fight for the Islamic state as one of the major reasons. The Canadian government also appears to be in the anti-repatriation camp, even though police and prosecutors are willing to charge Islamic State fighters for their crimes. So far, France has only repatriated children. Meanwhile, states like Russia, Turkey, Tunisia, and Saudi Arabia have a dodgy record on prosecuting their citizens.

According to most recent estimates, the Islamic State attracted over 40,000 fighters from 120 countries. The majority came from Tunisia, Saudi Arabia, Morocco, Russia, Egypt, and other predominantly Arab and Asian countries. Those from the West included individuals from the United States, United Kingdom, Canada, Australia, New Zealand, Germany, and France.

The debate on repatriating foreign Islamic State fighters to prosecute them in their home countries is a contentious one. There are deep divisions in the way Western countries have approached the problem. Some like France and the United Kingdom appear unwilling to take them back for political reasons: Repatriating terrorists is deeply unpopular among the public and the additional lack of evidence would complicate prosecutions for Islamic State crimes. A 2019 poll in France found 89 percent of respondents were opposed to the return of foreign fighters.

In contrast, United States has urged the repatriation of foreign fighters on grounds that they pose a greater threat in the long term if not brought to justice. The United States fears that while they stay in camps in Iraq and Syria, they will have the incentive to break out of their prisons, escape, and rejoin terrorist groups. Meanwhile, the Trump and Biden administrations have repatriated a total of 28 U.S. citizens, including 12 adults and 16 children. Ten of the adults have been prosecuted on terrorism-related charges.

Notwithstanding the merits or demerits of repatriation, the entire debate has been solely focused on foreign fighters from Western countries. This exclusive focus on repatriating Western foreign fighters with little attention to the remaining non-Western foreign fighters is fostering an unfair and skewed system of international arbitration in bringing perpetrators of terrorism and genocide to justice. Instead, an international war crimes tribunal that charges and sentences all Islamic State fighters, both Western and non-Western, for membership in a terrorist organization and participation in genocide, would offer a more equitable system of delivering justice. Once charged, it would then be prudent for Western and non-Western foreign fighters to serve their respective sentences in their home countries. In other words, repatriation is a good idea only once these fighters are charged for their crimes in an international court, as the Islamic State threat is fundamentally an international security challenge — and not just a challenge for individual states.

As the debate on the repatriation of foreign Islamic State fighters gained ground in the United States, Canada, and Europe, the focus, by both scholars and analysts, has for the most part been narrowly confined to the repatriation of Westerners. The repatriation of thousands of non-Western Arab, Asian, or Russian Islamic State fighters being held in the same prisons has barely sparked any concern or discussion among academics and policymakers.

Why is this the case?

While it is, in part, natural that Western countries would be more concerned about prosecuting their own citizens who traveled overseas to commit war crimes and genocide, Western academics and journalists have an obligation to include analyses of non-Western fighters to deliver a more complete picture on prosecutions, the Islamic State, and counter-terrorism threats. It seems the predominant Western focus on bringing their citizens to justice while ignoring the status of non-Western

fighters is a function of Western nations' determining and defining the international order of norms and justice tailored to suit their sovereign interests. U.S. officials have mostly viewed a liberal international order as a tool to serve U.S. interests. However, other countries view and interpret the international order in accordance with their unique political systems and cultures. In a diverse milieu of nations, the interests of Western states are not always aligned or weighted proportionately to the interests of non-Western states. The results of repatriation and prosecution of Islamic State fighters clearly reflects these stark differences. While cold hard realpolitik may serve what's best in the interests of the most powerful Western nations, this approach, when applied uniformly to laws and rules that affect the prosecution of Western versus non-Western Islamic State fighters, is likely to have the opposite effect of building less representative and less equitable international laws on war crimes and genocide. If justice for victims of Islamic State crimes is the primary motivator of all states, then laws on prosecution need to reflect that reality uniformly.

The prosecution of Western and non-Western Islamic fighters deserves further attention because of glaring inconsistencies in methods, procedures, and processes embedded in the internal justice systems of different countries. Prosecution of Islamic State foreign fighters is a grey zone where the most conspicuous differences in the treatment of Western and non-Western Islamic State foreign fighters have emerged. The causes for the differences are manifold and range from a product of laws specific to each country, inadequate evidence, and inconsistent sentencing.

Many nations in the Arab and Asian world follow very stringent laws on terrorism that carry a life sentence for membership in a terrorist organization and the death penalty for more serious offences. For example, Islamic State fighters from Tunisia, Egypt, and Russia face severe legal penalties — most often, the death penalty — in their home countries. In Iraq, 9,000 Islamic State prisoners were convicted of terrorism related charges and many have received the death penalty. In other states like Kazakhstan, Uzbekistan, and Tajikistan, many fighters have been released without trial, with very few even being prosecuted for their crimes. In contrast, Western states hold higher standards on due process. But these standards are not quite uniform and again, vary according to each nation's internal legal system. The United States has repatriated 28 Americans from Syria and Iraq and 10 have been charged with terrorism-related offenses. Most have been charged with conspiring to provide material support to the Islamic State. Currently American Islamic State members like Omer Kuzu face anywhere between 20 and 35 years in prison for providing communication support to Islamic State fighters on the frontlines. According to the George Washington University's Program on Extremism, the average prison sentence is 13.4 years in the United States. A brief look at the prosecution data in these countries reveals the widely divergent sentences Western and non-Western Islamic State foreign members are receiving.

Laws on prosecution become murkier when prosecuting male versus female Islamic State members. In December 2020, Germany and Finland repatriated five women and 18 children from Syrian camps housing suspected family members of Islamic State militants. It's not clear how many of these women have been prosecuted except for a German Algerian woman who was convicted in June 2021 for Islamic State membership and for holding Yazidis as slaves but was sentenced only to six-and-a-half years in prison. Many of these women are at times perceived as having no agency whatsoever. The media often portrays them as victims who either had no idea what they were getting into, were merely accompanying their husbands, or were just confined to cooking and cleaning duties in the Caliphate. Women Islamic State members, in fact, have been notorious participants in the genocide and sexual enslavement of Yazidi women.

Another issue in prosecuting Western Islamic State foreign fighters that has received inadequate attention is the genocide against Yazidis. In 2014, when the Islamic State captured Sinjar, the terrorist group killed between 3,000 and 5,000 Yazidis and abducted approximately 6,000 Yazidis, confining them to years of torture and sexual enslavement. In September 2017, the Security Council established the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State of Iraq and the Levant. The Baghdad-based team collected evidence of atrocities and war crimes. In May 2021, the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State of Iraq and the Levant referred to as UNITAD, stated that it had found "clear and compelling evidence" that the Islamic State committed genocide against the Yazidis in the northern Sinjar region in 2014. To date, the U.N. investigative team has provided evidence for 30 trials in 10 countries. In addition to being members of a terrorist organization, both Western and non-Western Islamic State foreign fighters participated in the genocide of the Yazidis.

However, most foreign Islamic State members are being prosecuted in the West only on terrorism charges and not genocide. The Netherlands and the Belgium are the only two countries to have officially recognized the genocide of Yazidis. But even some parliamentarians in these countries recognize the limitations of prosecuting them on genocide charges because their laws at a minimum will only prosecute them for terrorism-related offenses. This discrepancy in failing to bring genocide charges against Islamic State members is a travesty for the Yazidis — the actual victims of genocide. According to findings published by the Counter Terrorism Project, at least half of the Yazidi survivors polled had contact with Westerners in captivity, often revealing the extent of horrific crimes perpetrated by their British and German captors. Many of the Western Islamic State foreign fighters have already been prosecuted only on terrorism-related charges effectively erasing their participation in the Yazidi genocide. Any future prosecutions, therefore, should include both terrorism and genocide charges.

To create and implement a truly fair and representative body of international laws that applies to all Islamic State members, Western or non-Western, domestic or foreign, an international tribunal is the most optimal answer. An international tribunal would convict and prosecute all Islamic State fighters, irrespective of their nationality, according to a uniform set of principles instead of creating a situation where some countries succeed in prosecuting these fighters while others completely fail. Further, it would prevent the issue from being politicized by individual states and their governments producing disproportionate outcomes in sentencing and prosecution. Here, the international community and particularly the United States, United Kingdom, Germany, France, and other European nations have demonstrated a complete lack of political will. Others like Russia have even vetoed resolutions in the United Nations to create ad-hoc tribunals. A multilateral treaty outside the U.N. framework would allow the setting up of a tribunal that could maintain legal jurisdiction over crimes committed by Islamic State foreign fighters using the active personality principle. The active personality principle — also known as the nationality principle — argues that a sovereign state is entitled to regulate the conduct of its own nationals anywhere, as its nationals are obligated to obey the state's laws even when they are outside the state. What this principle means is that states have the jurisdiction using this principle to prosecute their citizens if they commit crimes outside their nations' territory — on international soil. Moreover, an international tribunal would allow the prosecution of Islamic State foreign fighters prior to returning to their home countries. Abdulkarim Omar, the de facto foreign secretary of the self-styled Autonomous Administration of North and East Syria, and the co-chair of its foreign affairs committee, has made similar pleas calling for the establishment of an international tribunal to prosecute all Islamic State members. In Omar's words, "those people, the Isis criminals, committed their crimes in our region and against our communities. Evidence, proof and witnesses against them are in this region, and we can prosecute them."

The utter lack of political will by international states to take accountability for a more equitable system of international justice is a matter of deep concern. The repatriation debate, too, makes it much harder to push for an international tribunal because most Western states want to prosecute their citizens in their own countries. However, again, given wide disparities in national laws and loopholes in prosecution, the international community will inevitably be left with a situation where some Islamic State members get away with severe punishments while others get away with milder sentences or no trial at all. None of this represents either a fair system of arbitration or justice for the Yazidis.

The judicial processes of nations convicting Islamic State foreign fighters leave a lot to be desired. The differential treatment and sentencing of Western versus non-Western foreign fighters, inconsistencies in methods and procedures for prosecution, and the absence of convictions not just for membership in a terrorist organization but for crimes against humanity and genocide present the most immediate challenges. In the long term, this means that Islamic State members who either serve light sentences or no sentence at all will be released back into society while remaining a threat to the public while actual victims of Islamic State war crimes and genocide, the Yazidis, will never see justice served.

These policy problems can be addressed in three ways. First, the United States and its European partners should, in consultation with the United Nations — international institutions on war crimes like the International Criminal Court and the International Court of Justice — arrive at a consensus on the nature and types of crimes committed by Western and non-Western Islamic State fighters. As of now, an absence of consensus on the subject makes it difficult for these fighters to receive fair and appropriate sentences in accordance with their exact crimes. A good place to start is to collect evidence based on those who participated in war crimes and the genocide of Yazidis directly and those who did not. Second, crimes of women Islamic State foreign fighters should receive the same magnitude of attention as crimes of male foreign fighters. Women Islamic State foreign fighters participated equally in the enslavement of Yazidi women and many supported their husbands in capturing and torturing Yazidi women for years. And finally, to foster an equitable system of justice that deals with this international challenge, an international tribunal on prosecuting Islamic State fighters — Western and non-Western — should be created immediately. Such a tribunal would allow the same set of laws to be applied uniformly and without discrimination to all foreign fighters, Western and non-Western. The international community should show political will in ensuring that justice is served for the Yazidis.

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South America

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Venezuela

Venezuela: UN investigators accuse authorities of crimes against humanity (BBC) September 16, 2021

United Nations (UN) investigators say Venezuela's government has "committed egregious violations" amounting to crimes against humanity.

Cases of killings, torture, violence and disappearances were investigated in a fact-finding mission for the UN Human Rights Council.

The UN team said President Nicolás Maduro and other top officials were implicated.

Venezuela's UN ambassador has described the mission as a "hostile initiative".

Ambassador Jorge Valero said last year that the UN action was part of a US-led campaign. The UN team was blocked from travelling into the country.

Venezuela is suffering a severe economic and political crisis. Millions have fled in recent years.

In the report of its findings on Wednesday, the UN team said Venezuela's security services had been engaged in a pattern of systematic violence since 2014, aimed at suppressing political opposition and generally terrorising the population.

Mr Maduro and the ministers of interior and defence were not only aware of the crimes, but gave orders, co-ordinated operations and supplied resources, the report said.

"The mission found the government, state agents, and groups working with them had committed egregious violations," it said.

It called on Venezuela to hold those responsible to account and to prevent further violations from taking place.

"The mission found reasonable grounds to believe that Venezuelan authorities and security forces have since 2014 planned and executed serious human rights violations, some of which - including arbitrary killings and the systematic use of torture - amount to crimes against humanity," the mission's chairperson, Marta Valiñas, said in a statement.

"Far from being isolated acts, these crimes were coordinated and committed pursuant to state policies, with the knowledge or direct support of commanding officers and senior government officials."

A typical operation might involve weapons being planted in an area thought to be loyal to the opposition, with security services then entering the area and shooting people at point blank range, or detaining them, torturing them, and killing them.

The report also looked into the violent response to opposition protests and the torture of people detained at them.

Investigators made their conclusions after looking into 223 cases. They said almost 3,000 others corroborated "patterns of violations and crimes".

The report will be presented to UN Human Rights Council member states next week, when Venezuela will have a chance to respond.

The UN team was not allowed to travel to Venezuela for this report. This is not unusual; Syria has never allowed the UN to investigate alleged war crimes on the ground. Myanmar, China, and many other countries regularly resist the UN's presence. But this is the 21st Century, modern information technology means the evidence, indeed proof, of serious violations can be gathered without entering the actual crime scene.

And the evidence from Venezuela is detailed, and horrifying. Systematic killing, torture, and sexual violence. What's more, clear evidence the orders came from the very top: Nicolás Maduro, his government, and senior security officials.

The UN investigators have a list of 45 names of those believed to have been directly involved. The UN Human Rights Council is designed to investigate violations, to advise on upholding human rights, but not to sanction. That is the job of the UN

Security Council, and here Russia and China, who regularly oppose what they see as meddling in the affairs of a sovereign state, may oppose any action.

But that list of 45 names is significant; it suggests the UN investigators believe they may have a role to play building a case for a prosecution for crimes against humanity in an international tribunal.

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Terrorism

Cressida Dick: Tech giants make it impossible to stop terrorists (BBC News) By Mary-Ann Russon
September 12, 2021

The Metropolitan Police commissioner has accused tech giants of making it harder to identify and stop terrorists.

The tech giants' focus on end-to-end encryption was making it "impossible in some cases" for the police to do their jobs, Dame Cressida Dick wrote in the Telegraph on Saturday.

On Wednesday, Home Secretary Priti Patel launched a new fund for technologies to keep children safe.

She also called on tech firms to put user safety before profits.

But cyber-security experts have told the BBC that they are not sure the solutions the government wants are possible to build.

In her piece marking the 20th anniversary of the 9/11 attacks, Dame Cressida stressed that advances in communication technologies meant terrorists were now able to "recruit anyone, anywhere and at any time" through social media and the internet.

In response, the UK was needing to constantly develop its own digital capabilities to keep up with terrorists exploiting technology to their advantage.

Her message echoes that of Ms Patel, who launched the Safety Tech Challenge Fund at a meeting of the G7 interior ministers earlier this week.

The fund, open to experts from across the world, is aimed at tackling child sexual abuse online.

Five applicants will be awarded up to £85,000 each to develop new technologies that enable the detection of child sexual abuse material (CSAM) online, without breaking end-to-end encryption.

End-to-end encryption is a privacy feature that makes it impossible for anyone except the sender and recipient to read messages sent online.

While tech giants such as Facebook say using such technology will protect users' privacy, several governments including the US, UK and Australia have repeatedly objected to the idea since 2019.

Controversy over Apple plan Cyber-security and privacy experts believe that Ms Patel and Dame Cressida's views could be in response to Apple's decision to delay a plan to scan iPhones for CSAM earlier this month.

The detection technology, first announced in August, compares images before they are uploaded to iCloud against unique "digital fingerprints", or hashes, of known CSAM material on a database maintained by the National Center for Missing and Exploited Children.

Apple's technology was widely criticised by privacy groups and the cyber-security industry as setting a dangerous precedent, because it involved using an individual's own device to check if they could be a potential criminal.

"We already have end-to-end encryption in Apple's iMessage texting technology - it's strange that law enforcement and the government haven't hit out at Apple about that, but it's all about attacking Facebook and WhatsApp," Alec Muffett, who led the team that built end-to-end encryption technology for Facebook Messenger, told the BBC.

Much has been written about the wealth of data tech giants possess about the users of their services, particularly the fact they are constantly tracking user behaviour and interests in order to provide personalised ads.

He argues that tech firms already possess the technology they need to detect paedophiles and terrorists, simply by tracking their behaviour - they don't need to compromise a user's privacy by looking at all their personal files on their phone.

"If you've got an Facebook account of a middle-aged male who is randomly messaging a dozen teenagers out of the blue, then you have a potentially suspicious activity. It might be innocent, but it is certainly an issue worth delving into," said Mr Muffett, who has more than 30 years' experience in cyber-security and cryptography.

"The UK government is trying to detect CSAM by looking at the content, as in trying to snoop, rather than trying to observe behaviours."

On top of this, he says, multiple cyber-security researchers have tested Apple's NeuralHash algorithm and found that it is mistaking two completely different images, as being the same photo, so they fear Apple will falsely accuse users of having criminal content.

Criticism of new tech fund

One leading cyber-security expert who did not wish to be named told the BBC that what the government wants is not technically feasible.

"You can change the law of the land, but you can't change the law of science - there's no way of allowing the mass scanning of devices without undermining the protections of end-to-end encryption," the expert said.

"If somebody manages to viably protect end-to-end encryption while detecting child sexual abuse imagery, they're going to make a lot more than £85,000, so I just don't see what the economics are."

Another cyber-security boss agrees: "It's almost like the government is making a statement to make Facebook and other social media organisations do more and give them more access.

"If you read between the lines, Ms Patel is essentially saying they want to recruit hackers."

Then there's the privacy concerns. "Can we trust those in power not to abuse these powers?" questions online child safety expert Dr Rachel O'Connell, founder of a secure child age authentication tool TrustElevate.

As far as data protection expert Pat Walshe is concerned, Apple's solution is not legal. He says he has asked the tech giant to explain how it can be deployed in Europe, and has yet to receive an answer.

"The European Court of Justice (ECJ) says the mobile phone is an extension of our private sphere, and the courts have said that the device and any information on it is part of the private sphere of our lives, meaning it requires protection under the European Convention of Human Rights (ECHR)," he said.

Mr Walshe, who led a team at the mobile operator Three that was responsible for dealing with the government and law enforcement, also has grave concerns about the tech fund proposal, saying it prompts too many questions about privacy.

Instead, he says, there need to be better, more direct reporting channels to enable both citizens and communication providers

to report CSAM to either the tech firms or law enforcement.

"And law enforcement needs to receive a huge boost in training, manpower and funding to deal with the reports," he stressed.

"I'd like to see a greater emphasis on that, than on breaking technology that keeps us safe every day."

'Funeral of two-year-old terrorists' reveals US human rights crimes overseas (Global Times) September 15, 2021

Zhao Lijian, spokesperson of Chinese Ministry of Foreign Affairs, presented at Wednesday's routine press conference a cartoon titled "Funeral of two-year-old terrorists" done after the US air attacks in Kabul, before its final withdrawal from Afghanistan, turned out to be massacre of civilians.

The cartoon Zhao presented shows seven coffins ready to be buried with crowds surrounding and flames and smoke in the background. The scene was about a US air strike on August 29 at a house in Kabul, which the US troops claimed to be a terrorists hide-out but turned out to be the residence of a family of 10. Seven of the 10 killed were children, including two two-year-old babies.

In the past two decades, the US launched more than 90,000 air strikes in countries including Syria, Iraq and Afghanistan killing up to 48,000 civilians. When the Global Times asked Zhao to comment, he noted that the US has committed grave crimes against human rights overseas.

Zhao first noted that the US has used fake intelligence to launch a war and created a humanitarian disaster, including using a tube of detergent to start the Iraq War and a staged video to strike Syria. In its 240 years of history, the US has been without war for only 16 years. Since the end of the World War II until 2001 there were 248 military conflicts in 153 countries and regions and the US launched 201 or 80 percent of them. Since 2001, US' illegal wars and military operations have killed more than 800,000 and left tens of millions of people homeless.

Just like the cartoon revealed, the US also slaughtered civilians with the excuse of fighting terrorism and revenge. Zhao also noted that in addition to the Kabul tragedy, the US shot indiscriminately at civilians because one of its soldiers was attacked, killing 24 civilians including the elderly, women and children. The brutality is outrageous. The so-called "most accurate air strike in history" launched by the US on Raqqa, Syria in 2017 killed many civilians. A former US soldier once said that the US drone attacks are purely "killing for the sake of killing."

The US imposed unilateral sanctions and severely undermined the human rights of people in relevant countries. Since the COVID-19 outbreak, the US has ramped up the use and threat of unilateral coercive measures, causing countries like Iran, Cuba, Venezuela and Syria to face severe shortages in anti-epidemic supplies and food, limited access to information, and the block from humanitarian aids, Zhao stressed, adding that those unilateral sanctions unauthorized by the UN Security Council have brought about severe adversity for the lives and development of local people.

These are facts with solid evidence and people have their fair judgment. It is preposterous that the US claims to be "protecting human rights" at every turn. Is it protecting human rights when staging wars or invasions? Is it protecting human rights when shooting and dropping bombs on civilians? Is it protecting human rights when wielding the big stick of sanctions?

U.S. drone strike in Kabul mistakenly killed civilians, not terrorists, Pentagon says (NBC News) By Dareh Gregorian and Courtney Kube
September 17, 2021

An Aug. 29 drone strike targeting terrorists in Afghanistan mistakenly killed innocent civilians, including children, Pentagon officials admitted Friday.

"We now assess it is unlikely that the vehicle and those who died were associated with ISIS-K," Gen. Kenneth McKenzie, the head of U.S. Central Command, said. "It was a mistake."

He said he is "fully responsible for this strike and the tragic outcome."

"I offer my profound condolences to the family and friends of those who were killed," McKenzie said. The strike was launched after last month's deadly suicide bombing near Kabul airport that killed 13 U.S. military members and scores of Afghan civilians, and was initially said to have prevented another attack.

Central Command opened a formal investigation — called a 15-6 — after reports that the drone's Hellfire missile killed as many as 10 civilians, and had not prevented a terror strike, as U.S. officials initially claimed.

The 10 dead were all members of the same extended family, relatives told NBC News, and included the seven children. Some were as young as 2 and 3.

"They were 10 civilians," one member of the family, Emal Ahmadi, said earlier this month. He said his toddler, Malika, was among those killed. "My daughter ... she was 2 years old," he said.

The targeted car was driven by Ahmadi's cousin, Zemari Ahmadi, a technical engineer for a U.S. aid company.

An investigation by The New York Times found some of Ahmadi's actions on the day of the strike may have been misinterpreted by U.S. military surveillance, which was on high alert for a terror attack after the Islamic State Khorasan extremist group claimed responsibility for the suicide bombing outside the Kabul airport that killed 13 U.S. military personnel and more than 110 Afghans.

What the military feared were explosives being put into Ahmadi's car were canisters of water for his family, the Times reported, citing video of his actions earlier in the day.

McKenzie said officials had an "earnest belief" that there was "an imminent threat."

"This was not a rushed strike. The strike cell deliberately followed and observed this vehicle and its occupants for eight hours, while cross checking what they were seeing with all available intelligence to develop a reasonable certainty of the imminent threat that this vehicle posed to our forces," McKenzie said.

Defense Secretary Lloyd Austin said in a statement, "We now know that there was no connection between Mr. Ahmadi and ISIS-Khorasan, that his activities on that day were completely harmless and not at all related to the imminent threat we believed we faced, and that Mr. Ahmadi was just as innocent a victim as were the others tragically killed."

"We apologize, and we will endeavor to learn from this horrible mistake," he said. Rep. Adam Schiff, D-Calif, suggested there would be a hearing on what he called "a mistake with horrific consequences."

"We need to know what went wrong in the hours and minutes leading up to the strike to prevent similar tragedies in the future," Schiff said in a statement.

Gen. Mark Milley, the chairman of the Joint Chiefs of Staff, said after the strike that officials had "very good intelligence" on the target, and "at least one of those people that were killed was an ISIS facilitator."

"Were there others killed? Yes, there were others killed," he told reporters Sept. 1, but "at this point, we think the procedures were correctly followed, and it was a righteous strike."

President Joe Biden also initially touted the strike as a success, and proof that the U.S. could carry out "over the horizon" strikes from outside Afghanistan.

"We've shown that capacity just in the last week. We struck ISIS-K remotely, days after they murdered 13 of our service members and dozens of innocent Afghans," he said.

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Piracy

Kenya removed from piracy red list (The East African) By Anthony Kitimo
September 9, 2021

The global shipping industry has removed Kenya maritime waters within the Indian Ocean from the piracy red list, 12 years after it was designated a high-risk area (HRA).

The move will save Kenya and East Africa millions of shillings in insurance and other security expenses, and could open up Kenya's ports for more business.

The decision was communicated to the International Maritime Organisation (IMO), the United Nations (UN) agency

responsible for improving the safety and security of global shipping on Wednesday.

This was as a result of a heightened campaign by Kenya to end labelling of Kenyan waters as high risk, which made shipping prohibitively expensive and threatened the nascent blue economy.

Increased piracy

Kenyan maritime waters were designated as high-risk area in 2009 by BMP-5, which comprise five largest global shipping industry associations -- International Association of Dry Cargo Ship Owners, International Association of Independent Tank Owners, International Chamber of Shipping, Oil Companies International Marine Forum and Baltic and International Maritime Council.

This followed increased incidents of piracy in the Indian Ocean, including in Kenyan maritime waters. The re-designation will also benefit other regional port user countries such as Uganda, Rwanda, Burundi, the Democratic Republic of Congo, and South Sudan who depend on the port of Mombasa for both their exports and imports.

Traders will benefit from reduction of maritime insurance, thereby resulting in increased competitiveness of their products.

In the past 18 months, the Kenyan team has been negotiating to ensure the re-designation, with guidance from the National Development Implementation and Communication Committee (NDICC). The consequence of that designation of Kenyan maritime waters as HRA was an increase in maritime insurance premium for cargo destined for the port of Mombasa, as well as increased labour cost for seafarers aboard such ships due to the high risk of piracy attacks.

Cargo ships destined for Mombasa also took longer routes, beyond 300 nautical miles from the Indian Ocean coastline, to avoid encountering pirates, while others hired on-board private security for increased protection.

However, increased surveillance and joint maritime patrols by the Kenya Coast Guard Services and the Kenya Navy within the Kenyan maritime waters have resulted in significant reduction in piracy incidents, with no piracy incidents recorded since 2017.

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Gender-Based Violence

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Molestation becomes Indian forces' key war weapon in IIOJK (Associated Press of Pakistan) September 20, 2021

Another international peace day has arrived, but plight of Kashmiri women remains same who are facing worst form of suppression in the Indian IIOJK where molestation becomes a key war weapon of the Indian forces for countering the decades-long indigenous freedom movement. Sexual assault of young and old Kashmiri females with unprecedented immunity is a wake-up call for the entire international community which has already taken multiple initiatives to address gender-based violence in other conflict zones. The United Nations (UN) has adopted international commitments to address gender-related violence in the most turbulent regions. It includes the UN Security Council resolution 1960, which provides an accountability system for conflict-related sexual violence; stipulates coordinated and timely collection of information on such violence; and calls for countries to establish specific time-bound obligations. It is a high time for the international community to renew its commitment, on this International Peace Day to be held on Tuesday, to bring sexual violence in conflict zones especially in Indian Illegally Occupied Jammu

and Kashmir to a permanent end by implementing the relevant conventions. Sexual war crimes of Indian forces in the IIOJK are not novel, but a constant crime spree against innocent Kashmiri women who have been left at the mercy of the Indian government led by Narendra Modi's RSS-BJP (Rashtriya Swayamsevak Sangh-Bharatiya Janata Party) by the international community. The mass-sexual assault incident of Kunan Poshpora occurred 30 years ago on February 23, 1991, when units of the Indian army launched a search and interrogation operation in the twin villages of Kunan and Poshpora, located in Kashmir's remote Kupwara District, will continue to haunt the champion of women human rights who are yet to take any action against the Indian forces. Approximately 100 women were raped at that night, while minor girls, the dumb and deaf, the physically handicapped and pregnant women were not even spared during that despicable operation. Mothers were sexually assaulted in front of their daughters. Grandmothers and their granddaughters were sexually assaulted in the same room. A report based on women's testimonies from the Kashmir Valley confirmed that women were brutally targeted by security forces. Most of the sexual assault cases had occurred during cordon-and-search operations, it added. The conflict has affected the women folk in Kashmir in many different ways. Besides causing severe disruption in their education, job opportunities, and overall development, the ongoing conflict has taken, coerced, humiliated, and degraded the womenfolk, the report maintained and noted that the 15-month long military clampdown and information blockade imposed on Kashmir by the government of India on August 05, 2019 has added fuel to the injuries of Kashmiri women. Nusrat Siddiq, a Kashmir-based journalist covering human rights issues, said years of conflict had already fuelled alarming levels of untreated mental illness in Kashmir but the month long crippling clampdown was adding to civilian trauma in the disputed region. Dr Maria Sultan, President and Chairperson, South Asian Strategic Stability Institute (SASSI) University said Kashmiri women had turned stateless, human-less and selfless after the new act passed by the Indian legislators regarding the disputed territory. According to Kashmir Media Service, the Indian forces sexually assaulted more than 11,245 women in IIOJK during the past three decades as they used harassment and molestation as a weapon of war in the territory. A recent report also released by Kashmir Media Service said Indian forces' aggression in the occupied territory had left 22,923 women widowed since January 1989 to till date. It revealed that nearly 100 women were sexually assaulted by brutal Indian troops in IIOJK's Kunan and Poshpora villages on February 23, 1991. Rape was sanctioned as a matter of official policy in the occupied territory, it added. It said rights' bodies around the globe have also documented many cases of sexual assault and collective sexual assault by Indian forces in the territory and despite evidence, but not a single Indian soldier has been punished for committing sexual assault. The report maintained that rapist Indian forces were an ugly blot on humanity and the world community must wake up to stop sexual violence being used as war tactics in IIOJK. Human Rights Commission of Pakistan (HRCP) activist Tahira Habib while talking to APP on Monday condemned Indian military brutalities which were making the future of a large number of Kashmiri women and young girls bleak. She said abduction and molestation of young women during so-called cordon-and-search operations had been used as a tool by Indian forces to punish entire communities. The world must wake up from deep slumber to contain sexual violence being used as war tactics in the occupied territory. Talking to APP, human rights activist and wife of jailed Hurriyat leader, Yasin Malik, Mushaal Mullick, said, "Women and children as the vulnerable segments of society were suffering the most in the IIOJK due to rape, torture and mental trauma." She said the valley had numerous victims of sexual and the highest ratio of widows which were under reported. The human rights activist said that menfolk were not getting job opportunities in the occupied territory, therefore, due to socioeconomic pressure; women had to struggle hard and stepped out from homes for jobs. She, however, said that women were harassed, followed, stared, abused and tortured who were working for their livelihood. Brutal force was being used against the unarmed civilians in the valley, she added.

Commentary and Perspectives

US: Commit to Joining Cluster Munitions Ban (Human Rights Watch) September 15, 2021

directive adopted by the previous administration in 2017, Human Rights Watch said today in releasing the Cluster Munition Monitor 2021 report. The administration of President Joe Biden should commit to joining the treaty banning these unacceptable weapons.

“The US has a terrible history of using cluster munitions around that world and should bring that era to a close,” said Mary Wareham, arms advocacy director at Human Rights Watch and editor of the Cluster Munition Monitor 2021. “The Biden administration has an opportunity to put the US on that path by firmly rejecting cluster munitions.”

Cluster munitions can be fired from the ground by artillery systems, rockets, and projectiles or dropped from aircrafts. They typically disperse in the air, spreading multiple bomblets or submunitions indiscriminately over a wide area. Many fail to explode on initial impact, leaving dangerous duds that can kill and maim, like landmines, for years to come until they are cleared and destroyed.

The current US policy, issued under President Donald Trump in November 2017, replaced a Defense Department policy directive on cluster munitions issued by the George W. Bush administration in July 2008. The 2017 policy abandoned a requirement that by the end of 2018 the US could no longer use notoriously unreliable cluster munitions that result in more than a 1 percent rate of unexploded ordnance.

Instead, it permits the US to use all of the millions of cluster munitions in existing stocks “until sufficient quantities” of “enhanced and more reliable” versions are developed and fielded. It also facilitates US acquisition of cluster munitions from foreign sources to replenish stocks.

The Biden administration has not reviewed or amended the 2017 policy. A recent Congressional Research Service report recommended that the US Congress consider how the 2017 “policy reversal on the military use of cluster munitions will be perceived by the international community.”

The US did not participate, even as an observer, in the 2007-2008 Oslo Process that resulted in the Convention on Cluster Munitions, which comprehensively bans cluster munitions, requires clearance of cluster munitions remnants within 10 years, and directs assistance to victims.

The 110 states parties to the treaty and 13 countries that have signed include 24 NATO member states and allies such as Australia and Japan. Countries that have suffered from US use of cluster munitions in the past such as Afghanistan, Bosnia and Herzegovina, Iraq, Laos, and Lebanon, are treaty members.

The Cluster Munition Monitor report tracks adherence to the Convention on Cluster Munitions by all countries. It finds that the United States no longer produces cluster munitions, but has not committed to never producing them in the future. China and Russia are actively researching and developing new types of cluster munitions.

The last US use of cluster munitions was during Operation Iraqi Freedom in 2003, with the exception of a single attack in Yemen in December 2009. The Obama administration suspended US cluster munition deliveries to Saudi Arabia in 2016 after evidence emerged of civilian harm from cluster munitions used by a Saudi-led coalition operation in Yemen.

US Senators Patrick Leahy, Dianne Feinstein, and others have introduced legislation over the past decade encouraging the US to ratify the Convention on Cluster Munitions. The US wing of the Cluster Munition Coalition, coordinated by the disability rights group Humanity and Inclusion (formerly Handicap International), has urged the US to change course on cluster munitions and join the growing global opposition to these weapons.

Cluster Munition Monitor 2021 is the twelfth annual report by the Cluster Munition Coalition, the global coalition of nongovernmental organizations co-founded and chaired by Human Rights Watch. The report will be presented to states attending the second part of the convention’s Second Review Conference in Geneva on September 20-21.

“The US should show other countries around the world that it recognizes the importance of protecting civilians in conflict zones from the lasting harm and danger of cluster munitions,” Wareham said. “The Biden administration should recognize that cluster munitions have no role in a modern military and reverse the 2017 policy.”

Burundi: Allegations of Killings, Disappearances, Torture (Human Rights Watch) September 17, 2021

Grave human rights violations have persisted in a context of insecurity in the 15 months since Évariste Ndayishimiye became president of Burundi, Human Rights Watch said. Until Burundian authorities address the root causes of the 2015 crisis and continuing impunity, the United Nations Human Rights Council, meeting in Geneva, should ensure that investigations into the human rights situation in Burundi continue.

New Human Rights Watch research in Cibitoke found that Burundian intelligence services, security forces, and members of the ruling party's youth league, the Imbonerakure, have allegedly killed, disappeared, and tortured real or perceived political opponents and people suspected of having ties with Burundian rebels in neighboring Democratic Republic of Congo. People crossing the Rusizi river to travel between Congo and Burundi's Cibitoke province for personal business have been reported missing, and their fate remains unknown.

"Residents of Cibitoke described the banks of the Rusizi river as a graveyard where they saw new bodies appear every week or month," said Lewis Mudge, Central Africa director at Human Rights Watch. "The combination of rampant corruption, impunity for past abuses, and a crippled judiciary has created the perfect storm for police, national intelligence, and Imbonerakure members to apparently kill, torture, disappear, and steal without consequences."

The UN Commission of Inquiry on Burundi, established in September 2016 to document grave human rights violations in the country, concluded on September 16, 2021, that "no structural reform has been undertaken to durably improve the situation. Serious human rights violations have continued to be committed by State officials and members of the Imbonerakure with the acquiescence of authorities or even at their instigation. The rule of law continues to be progressively eroded..."

Between June 2020 and September 2021, Human Rights Watch interviewed 33 Burundian victims, witnesses, former and current security or administrative officials, journalists, and civil society activists about killings, disappearances, torture, and arbitrary detention. Most of the interviews were conducted by phone with sources in Cibitoke province or Bujumbura, the country's largest city. All spoke on condition of anonymity.

Human Rights Watch also reviewed the reports of local and international human rights organizations, media reports, public speeches of government officials, recordings of private meetings between administrative, judicial, and government officials, and social media posts. On September 7, Human Rights Watch wrote to Burundi's foreign affairs minister, justice minister, with the national human rights commission in copy, to share information and ask questions about the cases Human Rights Watch documented, but the officials have not responded.

Despite some initial, positive steps taken to address the crackdown on human rights defenders and journalists, those who are perceived to be critical of the government have faced continued repression. A former member of parliament and a lawyer and former human rights defender, both convicted of abusive charges, remain in detention. Although Ndayishimiye has pledged to end impunity and corruption, and made some attempts to rein in the Imbonerakure, reports of killings, enforced disappearances, and torture, often of real or perceived political opponents, continue across the country.

In one case Human Rights Watch documented and reported in the media, Elie Ngomirakiza, a representative of the National Congress for Freedom (Congrès national pour la liberté, CNL), an opposition party, was detained in Ntakangwa commune, in Bujumbura Mairie province, on July 9. Ngomirakiza's whereabouts have not been revealed, although family members have made multiple requests for information and attempts to locate him. In another case, armed men dressed in military clothes took Amauri Kwizera – a driver also known as Babu – from outside his house in Bujumbura on July 16, 2021, and drove him away in a white pickup truck with tinted windows and no number plate, according to two sources present at the time. He has not been located since.

Cibitoke province has continued to see high rates of human rights violations, according to local monitoring groups. The security situation worsened after attacks by armed groups were reported in Cibitoke and other provinces bordering Congo.

Since December 2020, Human Rights Watch has documented four cases of apparent torture at an unofficial national intelligence service (Service national de renseignement, SNR) detention facility in Cibitoke town. Former detainees – mainly local farmers – said they were held in small, filthy rooms, were regularly and violently beaten, and questioned about their ties to Congo-based rebels. Some said they heard other detainees being driven off in the middle of the night. One source said he witnessed another detainee's death.

While the Rusizi river, which forms the border between Burundi and Congo, has historically been a dumping ground for bodies, this past year saw an increase in bodies being found along its banks, local residents said. Several residents of villages along the Rusizi described hearing pickup trucks driving to the river in the middle of the night and seeing blood on its banks the next morning. A former local administrative official said bodies were brought to the river by intelligence agents and thrown in the river.

In one case Human Rights Watch documented, four sources said that four men in military attire had stopped Emmanuel Baransegeta, 53, from Ruhagarika village, Cibitoke province, as he returned from fishing on the river in the evening on July 8, 2021. A witness saw the men beating him. Two days later, the sources said, a body bearing the same scars as Baransegeta was found nearby along the shores of the Rusizi. They said it was buried without further investigation.

Since August 2020, many sources, including farmers working along the banks of the Rusizi in Buganda commune also described seeing or receiving photos from local residents of dozens of dead bodies found by the river, sometimes with bullet or knife wounds, bruises, or with their hands tied behind their backs with ropes. In many cases, sources who were there when bodies were discovered said local administrative officials, Imbonerakure members, or police officers buried the bodies without investigating. Alleged abusers have been arrested and prosecuted in only a few cases, in trials that often lacked transparency.

Since the land border with Congo was closed in March 2020 due to the Covid-19 pandemic, many cross-border traders or farmers have resorted to crossing the river illegally. Several sources, including a former administrative official, said Imbonerakure members managed these border crossings. Eight sources described cases of people who disappeared after trying to cross the river with money or goods, indicating they believed the Imbonerakure members had killed them. Several cases have also been reported by local media and monitoring groups.

In one case Human Rights watch documented, a 30-year-old farmer who worked in Congo called a friend to say he would be returning to Burundi via the river crossing manned by Imbonerakure members to see his family and that he would pay them to let him cross, because his identity papers had expired. He was never seen again.

The UN Human Rights Council should ensure that there is continued documentation, monitoring, and public reporting about the situation in Burundi, and hold public debates on the country's human rights situation, with a focus on justice and accountability. It should urge the Burundian authorities to make concrete commitments to carrying out human rights reforms within a clear timeframe, measured against specific benchmarks.

"The human rights situation in Burundi remains grave, and the absence of an international investigation would only allow the authorities to hide abuse from sight," Mudge said. "If the Burundian government is serious about reform, it should give external investigators access to the country and work with them to ensure that abusers are held accountable."

For more details about killings, disappearances, and torture in Cibitoke province, please see below.

Documenting human rights violations in Burundi remains difficult due to restricted access to the country for international human rights organizations, security risks for Burundian activists, and victims' and witnesses' fear of retaliation by the authorities. The cases Human Rights Watch documented are only a fraction of those reported by local media and exiled monitoring groups, which continue to regularly publish accounts of abuses across the country.

The 'Graveyard Province'

Since August 2020, Human Rights Watch has received reports about dozens of bodies washing up on the shores of the Rusizi river in Buganda commune of Cibitoke province. Sources in the area, including farmers living and working next to the river, local journalists and human rights defenders, and current and former local administrative officials, said the dead bodies were most likely either people killed while crossing the river to or from Congo, or people taken at night to the river's edge in pickup trucks believed by the sources to belong to the intelligence service and executed or thrown into the river.

Alleged Torture at a National Intelligence Service Cell in Cibitoke

Human Rights Watch interviewed four former detainees who were held in an unofficial national intelligence service detention facility located in Cibitoke town, where they said they witnessed abuse and were tortured between September 2020 and August 2021.

Three of the men were farmers, including two who often traveled to Congo to look for work. They all said they had no political affiliations and had no contact with rebel groups in neighboring Congo. The fourth said he was targeted for his political activities. All said they heard detainees being driven away in the middle of the night. One man who was detained at the national intelligence facility in December 2020 said police officers drunkenly gloated about killing detainees and throwing their bodies into the Rusizi river.

One man who was detained there in August 2021 said he was tortured and told to confess to working with RED-Tabara (Résistance pour un état de droit au Burundi; Resistance for the Rule of Law in Burundi), a Burundian rebel group operating in Congo. He said he was taken to the house by members of the intelligence service and Imbonerakure in a pickup truck. During his week-long detention, he said men in civilian clothing brutally beat him and interrogated him about rebel group operations in the area:

They hit me everywhere with sticks, as if I were a snake. They beat me in the morning and in the evening, and around me I could hear others screaming. A man in a cell next to me was beaten to death. A man in a police uniform stood outside his cell while men in civilian clothing beat him and told him, "You're a combatant, even if you deny it, you won't get away." I saw him die and they took him out to bury him around 3 a.m.

Former detainees said they were interrogated and beaten by a senior intelligence chief. One former detainee, who was held in December 2020, said:

I was badly beaten. They undressed me and hit me with police clubs. They said that no one would protect me. I was held for four days in a tiny, dirty room. At first, they put me in a room so small I could only stand. A man came on two occasions to beat me. I could hear others being beaten too; they [intelligence and police officials] took people away at night.... They were people from Kirundo, Muyinga, Cibitoke.... We were afraid when we heard a car come at 1 a.m. and drive off at 2 a.m. We suspected they were going to kill people, we heard they put them in bags and drowned them in the Rusizi.

Two other sources said they heard screams from the detention facility when they walked past at night.

One man was arrested in September 2020 and detained there for six weeks. He said police and other men arrested him at his house. He was accused of collaborating with rebels, and said he was taken to a house next to a bank in Cibitoke town:

My first night, I was interrogated by the provincial chief of police (commissaire provincial). Then they called three policemen to come hit me. They said I had gone to join the rebels in Congo. The commissaire beat me with a metal rod. The policemen hit me 38 times, they punched me and kicked me all over my body. I can't see from one eye now.

The commissaire would come ask me questions. At first, they asked about my background in Congo, then they asked why I wouldn't join their group [the ruling party]. They said if I didn't join them, they would kill me. I was interrogated, sometimes up to three times a day. It was often at night, sometimes until 2 a.m., so that I would be tired and accept what they wanted me to confess. Each time they beat me.

He said his family had to pay to have him released, and that his wife had to sell one of his plots of land to pay the bribe.

Dead Bodies in the Rusizi River

In many cases, it is impossible to verify the identities of the dead and cause of death, but several local inhabitants sent photos to Human Rights Watch or described bodies showing signs of torture, knife wounds, or bullet wounds, with their arms tied behind their backs, suggesting they had been executed. In many cases, they said the bodies were buried by Imbonerakure members, police officers, or local administrative officials without further investigations.

In its latest report, the UN Commission of Inquiry on Burundi said: "Corpses have regularly been found in public areas, including near roads and waterways. The local authorities have continued to bury them without seeking to identify the deceased or to investigate the cause of death and possible perpetrators even though most of the bodies present signs of violent death." It concluded that, although it was impossible to differentiate between violations of the right to life perpetrated by state agents and the Imbonerakure and criminal offenses, the authorities were failing in their obligation to protect the rights to life and to an effective remedy "by refusing to launch credible and impartial investigations into these cases."

In a report published in August, Ndondeza, a Burundian exile group documenting enforced disappearances, shared details of seven apparent cases of enforced disappearances of people attempting to cross the Rusizi, five additional cases reported by family members of people who went missing, and two killings that reportedly took place near the river. When authorities deprive someone of their liberty and refuse to acknowledge the detention, or conceal the person's whereabouts, they are committing an enforced disappearance, a crime under international law and prohibited under all circumstances. A local journalist told Human Rights Watch: "In Ndava zone of Buganda commune, it's a slaughterhouse. The Imbonerakure are active in the killings, they bring people to the fields at night. The neighbors hear them."

A member of the ruling party, the National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie, CNDD-FDD), and former local official said: "I saw people brought from other provinces. In Burundi, people are killed for not speaking the same language as the government.... Sometimes police brought people from Muyinga province. They brought them in the night and threw them in the river."

Sources who live close to the river reported hearing pickup trucks driving to the river at night. Two sources said that they sometimes saw blood on the riverbanks the next day. In one case Human Rights Watch documented, four sources said that four men in military attire had stopped Emmanuel Baransegeta, 53, from Ruhagarika, Cibitoke province, as he returned from working on the river in the evening on July 8, 2021.

“The four military men were asking him: ‘Where did you come from? What do you have?’” one witness said. “He answered that he didn’t have anything, that he’d been fishing. They beat him on the head with the metal butt of their weapons. His voice eventually died down, and when we came out, we saw blood. His body was found nearby in the river.” Two days later, the sources said, a body bearing the same scars as Baransegeta was found nearby along the shores of the Rusizi. They said it was buried without further investigation.

A woman who lives near the Rusizi river in Buganda commune said in November 2020: “In August, I saw two bodies floating down the river. They had been pierced by branches, they were tied up and naked. One branch connected two bodies. We collected them and buried them. Also in August I saw another body floating down, it had a rope tied around its neck.... My father says that he often sees bodies floating down on the Burundian side of the river.”

A man from Ruhagarika, in Buganda commune, said in November 2020 that he saw many bodies floating down the river: “On November 1 or 2, there was a man whose genitals had been cut off. The local authorities just gave the order to bury him immediately... we could see from the marks on his body that he had been beaten.” Other sources from Ruhagarika also reported seeing bodies float down the river regularly.

Statements by Authorities

On July 12, a meeting was held in Rugombo commune with the Cibitoke governor, prosecutor general, army chief, president of the high court, and local commune-level administrative officials to discuss the security situation in the province between April and June 2021. During the meeting, several government officials expressed concern over the dead bodies appearing on the shores of the river. A recording of the meeting shared with Human Rights Watch included the prosecutor of Cibitoke province telling the police to allow investigations on bodies that are found to avoid having “people blame the police or other authorities.”

In the recording, the governor of Cibitoke also said that local administrators should report the bodies to the judiciary to avoid having detractors criticize Burundi. He said the bodies could be people killed in Congo, but that because photos were shared on WhatsApp groups, people assumed they had been killed in Cibitoke province. He said that officials should stop sharing rumors and inform the authorities when bodies were found. Provincial officials reported that bodies had been found along the river, and also said that some of the people had drowned while attempting to swim across the river.

On August 24, 2021, Ndayishimiye gave a speech to magistrates calling for an end to corruption in the judiciary in order to promote development and investment and to end violent score-settling: “No development is possible in a country without justice. There cannot be peace or development.” Yet, as a judge pointed out to Ndayishimiye during the meeting, another fundamental challenge the judiciary faces remains the influence of the executive and the implication of state actors in serious human rights violations.

Alleged Killings by Imbonerakure Members

Land border crossings between Burundi and Congo were closed in March 2020 due to the Covid-19 pandemic, and several inhabitants interviewed said that Imbonerakure members often manage illegal border crossings on the river at night. One land border crossing at Gatumba, next to Bujumbura, reopened in June 2021, but many people continue to illegally cross the river between the two countries to avoid paying fees for mandatory Covid-19 tests, to avoid traveling to Gatumba, or because their identity papers are out of date. Sources in the area said that, before the pandemic, people could cross the river by boat at official border posts.

One source said that his brother, a 30-year-old farmer who worked in Congo, had died while crossing the river in July 2021. The source said his brother had called him to say he would be returning via the river crossing manned by Imbonerakure members, who would charge him 200,000 Burundian Francs (approximately US\$100), because his identity papers had expired. He said he would bring back all of his savings, but he was never seen again. The source said: “He had gone to [Congo] for work; he was a farmer and he sent money back home. He wanted to see his family, and since coronavirus he could no longer cross the border.”

Three other sources said Imbonerakure members robbed people attempting to cross the river and drowned them. The member of the CNDD-FDD party and former local official said: “I saw the evildoing of the Imbonerakure who went to Congo. They would help people cross the river, but they drown them and steal their things.” He said he was often informed by family members who had lost a loved one trying to cross the river.

In one case in which Imbonerakure members reportedly killed a young boy after they stole his goats, two of the attackers were tried and given life sentences. However, the authorities have not made sufficient efforts to transparently investigate the killings and ensure justice in the majority of cases, Human Rights Watch said.

My grandmother’s Nazi killer evaded justice. Modern war criminals must not (The Guardian) By Robin Lustig

September 19, 2021

The man who ordered the murder of my grandmother never stood trial for the crime. Nor did he stand trial for any of the other 137,000 murders he ordered during five short months in 1941.

I know who he was. His name was Karl Jäger, and he was the commander of a Nazi execution squad in Lithuania, where my 44-year-old grandmother had been deported from her home town in Germany. He is just one of several hundred thousand men and women who were never brought to justice for the part they played in the Nazi holocaust. It's estimated that up to a million people were directly or indirectly involved in holocaust atrocities, yet only a tiny fraction – perhaps no more than 1% – were ever prosecuted.

Next month marks the 75th anniversary of the end of the Nuremberg International Military Tribunal at which 24 of the most senior Nazi leaders stood trial for war crimes and crimes against humanity. It was the first such trial in history, described at the time as “a shining light for justice”.

A dozen other trials followed – of bankers, lawyers, doctors and others – but according to Mary Fulbrook, professor of German history at University College London, once the Nuremberg process was over, the West Germans prosecuted only 6,000 people for their part in Nazi crimes, of whom some 4,000 were convicted.

Most holocaust perpetrators, such as Jäger, a music-loving SS colonel who ordered the murder of my grandmother and so many others, simply melted back into their community. Jäger, for example, led a quiet, inconspicuous life as a farmer in the German town of Waldkirch, not far from the borders with France and Switzerland, until he was finally arrested in 1959. He hanged himself in his prison cell with a length of electric cable before he could be brought to trial.

So why was Nuremberg, and the handful of other war crimes trials that followed, the exception rather than the rule?

First, because by 1945, large parts of Germany were a smouldering ruin. Millions of people were homeless, so the emphasis was primarily on reconstruction. And who was available to take charge in the “new Germany” if not the very same officials (supposedly de-Nazified) who had served under the Nazis?

Second, because with the start of the cold war and fears of Soviet domination in Europe, both the US and Britain believed that confronting the Soviet threat was more important than hunting down thousands of Nazis. Justice would have to take a back seat.

None of which excuses why, even today, so few perpetrators of the most egregious crimes against humanity are pursued and convicted. It's true that Radovan Karadžić and Ratko Mladić are both serving long prison sentences for their role in the atrocities of the war in Bosnia. The former Liberian president Charles Taylor is incarcerated after being convicted of what the judge at his trial in The Hague called ‘some of the most heinous and brutal crimes in recorded human history’, and the former president of Chad, Hissène Habré, died of Covid-19 last month while serving a life sentence for human rights abuses.

But, like Nuremberg, they are the exceptions. Who has stood trial, or will stand trial, for the appalling abuses committed against the Uyghurs in China, the Rohingya in Myanmar, the Yazidi in Iraq, or the people of Tigray in Ethiopia? How many mass murderers are walking free in Rwanda, or Syria?

The anniversary of the Nuremberg verdicts offers an opportunity to revisit the debate over war crimes prosecutions, both past and future. It also marks the October release of a major new documentary film called *Getting Away With Murder(s)* which shines a spotlight on some of the thousands of unpunished Nazi war criminals who escaped after 1945 and lived the rest of their lives undisturbed, some of them in Britain.

(Full disclosure: after the film's director, David Wilkinson, read an article I wrote in the Observer three years ago, he invited me to appear in the film, visiting the site of my grandmother's death.)

Seventy-five years after Nuremberg, at a time when war crimes are still being committed with shameful alacrity, it is more important than ever to re-emphasise the need to collect evidence when such crimes are committed, and to reaffirm the principle that they should never go unpunished.

History matters. We can learn from past mistakes, which is why in Germany, under the doctrine of “universal jurisdiction”, a Syrian doctor is now on trial charged with crimes against humanity for torturing people in military hospitals. In the Netherlands, another Syrian was sentenced last July to 20 years in prison, accused of being a member of the al-Nusra Front, an al-Qaida affiliate. In Sweden, a former Iranian deputy public prosecutor is currently on trial over the mass execution and torture of prisoners in the 1980s.

It is sometimes argued that the need for justice must take second place to the need for peace and reconciliation. In South Africa and Northern Ireland countless crimes have gone unpunished in the name of peace-making. It is not always an argument without merit.

But now fast forward a few years. Imagine that another international war crimes tribunal is under way in The Hague. In the dock, accused of a long list of human rights abuses, are the leaders of the Taliban in Afghanistan.

Is it unlikely? Perhaps. But it is not impossible – if evidence is collected and political will exerted. In 1995, after the Srebrenica massacre, when Bosnian Serb forces slaughtered an estimated 8,000 Muslim men and boys, who would have imagined that one day those responsible for the atrocity would be prosecuted and convicted for their actions? Yet today, both Karadžić and Mladić are behind bars. (The former Serbian president Slobodan Milošević was also prosecuted in The Hague but died before the end of his trial.)

It can be done. There should be no excuse for allowing more war criminals to get away with murder.

Rwanda: Paul Rusesabagina Convicted in Flawed Trial (Human Rights Watch) September 20, 2021

The conviction of the Rwandan critic and political opponent Paul Rusesabagina comes after a flawed trial that is emblematic of the government's overreach and manipulation of the justice system, Human Rights Watch said today.

On September 20, 2021, the High Court's Special Chamber for International Crimes and Cross-border Crimes sentenced Rusesabagina to 25 years in prison, including for being a member of a terrorist group and for committing terrorist acts. Twenty others were also convicted of terrorism-related offenses alongside Rusesabagina.

"The Rwandan authorities have the right to prosecute genuine security offenses, but they have undermined their case every step of the way, starting with the manner in which they unlawfully detained Paul Rusesabagina, through multiple violations of the right to a fair trial," said Lewis Mudge, Central Africa director at Human Rights Watch. "Unsurprisingly, we saw once again that the Rwanda courts are overpowered by political influence."

While delivering the verdict, judges reviewed evidence of Rusesabagina and Callixte Nsabimana's – alias Sankara – leadership role in an opposition group and its armed wing, which has claimed responsibility for several deadly attacks in Rwanda in 2018 and 2019. Judge Beatrice Mukamurenzi said: "They committed terror acts which they later bragged about in different announcements and videos." The court rejected allegations of kidnapping or coercion with regards to the enforced disappearance, between August 27 and 31, 2020, and illegal transfer of Rusesabagina to Rwanda. Judges did not address the allegations of ill-treatment and fair trial rights violations raised by Rusesabagina and his lawyers throughout the trial.

Rusesabagina is best known as the manager of the Hotel Mille Collines, in central Kigali, where hundreds of people sought protection during the 1994 genocide in Rwanda. After the genocide he fled Rwanda, fearing for his safety. He later became a fierce critic of the government of Rwanda and co-founded the opposition Rwandan Movement for Democratic Change (Mouvement rwandais pour le changement démocratique, MRCD), a coalition of opposition groups, which has an armed wing known as the National Liberation Forces (Forces de libération nationale, FLN).

The FLN has claimed responsibility for several deadly attacks in Rwanda's Southern Province since 2018. Rusesabagina, Nsabimana, the FLN's former spokesperson, and the other co-accused were convicted on charges related to these attacks. Prosecutors requested a life sentence against Rusesabagina, and sought to link him to the deaths of at least nine people. Since it began on February 17, Human Rights Watch has monitored the trial independently, interviewed Rusesabagina's lawyers and family members, and reviewed court documents and motions submitted by his lawyers.

In a recorded video call between then-Justice Minister Johnston Busingye and two consultants from the British Public Relations firm Chelgate, broadcast by Al Jazeera on February 26, Busingye admitted that Rwandan prison authorities had intercepted privileged communications between Rusesabagina and his lawyers, in violation of his due process rights. On March 1, the court conducted a visit to Nyarugenge prison and concluded that Rusesabagina did not have the necessary equipment to prepare for his trial, including a computer to allow him to go through the trial documents, and that his confidential trial documents should not be seized. However, Rusesabagina's lawyers and family members told Human Rights Watch the interference with his legal papers continued.

Rwandan and international legal standards protect all communications and consultations between lawyers and their clients within their professional relationship as confidential. The Rwandan authorities' actions only undermine further any integrity in the outcome of the trial and compromise the prospect of credible justice for victims of the attacks Rusesabagina is accused of supporting, Human Rights Watch said.

After a March 5 request to adjourn the trial to give Rusesabagina time to prepare was rejected, Rusesabagina informed the

court that he would no longer participate in his trial because of fair trial rights violations. Since then, Rusesabagina and his lawyers have not attended the trial sessions and have not cross-examined some of the key prosecution witnesses.

In an affidavit, one of Rusesabagina's lawyers, Jean-Félix Rudakemwa, said that on April 23, 2021, prison authorities informed him that all documents and devices entering the prison would be searched, including privileged court documents. Rusesabagina's daughter, Anaïse Kanimba, told the media that she and her family believed their communications were being monitored after the lawyer's documents were confiscated during his next visit on April 29. She said they had communicated privately about an affidavit they wanted Rusesabagina to sign. The search appeared to be focused on finding the affidavit recounting Rusesabagina's allegations of ill-treatment in detention, including during the time he was forcibly disappeared.

In July, Amnesty International and Forbidden Stories reported that Rwandan authorities used NSO Group's Pegasus spyware to potentially target more than 3,500 activists, journalists, and politicians. According to forensic analysis of her phone, they found that the spyware was also used to infect the phone of Carine Kanimba, Rusesabagina's daughter.

From the moment of his arrest to the delivery of the verdict, this trial has been riddled with irregularities and evidence of political interference, Human Rights Watch said.

Rusesabagina's arrest and detention started as an enforced disappearance in August 2020. A year later, the authorities have failed to provide a consistent or full account of how he was apprehended and came to be in their custody. On March 10, 2021, the court ruled that Rusesabagina's transfer was legal, and that he was not kidnapped, although authorities say he was "tricked" into boarding a plane to Rwanda. Rwandan authorities have not disclosed whose custody Rusesabagina was in when he disappeared in Dubai on August 27, 2020, until his reappearance in Kigali on August 31. However, in the Al Jazeera clip, Busingye admitted the government's role in the illegal transfer.

Busingye also admitted that the Rwandan government paid for the flight that brought Rusesabagina from Dubai to Kigali on August 27, 2020, claiming it was legal. Rusesabagina has said that he was not aware of where he was and was kept blindfolded with his hands and feet bound, and his lawyer alleges that during this time, he was subjected to ill-treatment and told to confess to crimes he has been charged with.

When authorities deprive someone of their liberty and refuse to acknowledge the detention, or conceal the person's whereabouts, they are committing an enforced disappearance, a crime under international law and prohibited under all circumstances. Those involved in and responsible for such acts should be held criminally responsible, Human Rights Watch said.

During the trial, the prosecutors referred to interrogations conducted by Rwanda Investigation Bureau agents without a lawyer present, on August 31, 2020. In the first days after his arrest, and during the key phase of investigations, Rusesabagina was not given access to Gatera Gashabana, a lawyer chosen by his family. Almost one week after Rusesabagina was presented to the media in Kigali, on 5 September 2020, David Rugaza announced at a press conference that Rusesabagina had chosen him as his legal counsel. Rwandan authorities said they allowed Rusesabagina to choose from a list of lawyers of the Rwanda Bar Association. Gashabana was only able to join the defense team in November 2020, after Rusesabagina's two state-appointed lawyers were recalled by the Rwanda Bar Association. Rusesabagina's international team of lawyers have not been allowed to represent him in court.

The lawful extradition of a suspect to face trial in another country requires following due process in extradition proceedings overseen by an independent tribunal, which among other issues can assess whether a suspect's rights in custody and at trial will be guaranteed. This process was not followed in the transfer of Rusesabagina to Rwanda. Despite this, on February 26, Rwanda's High Court Chamber for International and Cross-border Crimes ruled that it has jurisdiction to try him.

Rusesabagina, a US green card holder and Belgian citizen, was awarded the Presidential Medal of Freedom by George W. Bush in 2005 and the Tom Lantos Human Rights Prize in 2011. Over the years, Rusesabagina has become a prominent critic of the Rwandan Patriotic Front, and accused Kagame of arming secret militias. In December 2018, Rusesabagina denounced Kagame's government in a video on YouTube and called for the "use [of] any means possible to bring about change in Rwanda as all political means have been tried and failed." In the video, he pledges "unreserved support" to the FLN, the armed wing of the MRCD. Since 2018, the FLN has claimed responsibility for several attacks around Nyungwe forest, Southern Province, near the border with Burundi.

"To ensure a fair trial, it's important for judges and judicial officials to fully respect and follow all human rights standards," Mudge said. "However, the serious violations of these standards during Paul Rusesabagina's trial have further compromised the Rwandan judiciary's credibility in handling cases deemed political."

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WORTH READING

Compatibility between Modern IHL and Principles of Islamic Law of Conduct of War: A Comparative Analysis (Islamabad Law Review)

By Humna Sohail

September 20, 2021

The present study undertakes the comparative analysis of the general principles regulating the behavior of combatants in international humanitarian law and Islamic law. The article explores the fact that the regulation of the behavior of combatants during an armed conflict has a very old Islamic history as compared to the modern-day IHL practices. Its acknowledgment of the notion of military necessity is emphatically conjoined with the observance of elementary considerations of humanity that are the sine qua non for mitigating the unnecessary harm to combatants on one hand and any harm at all to civilians on the other. This balancing effort between the military necessity and humanity finds basis in the objectives of Shariah as well. Thus, the wholeness of Islamic law best serves as a model for refining and complementing the modern-day humanitarian regime. Conflicts are indispensable yet they must be conducted humanely. Thus, the present study concludes with the recommendations whereby both the humanitarian regimes can simultaneously be employed and reinforced for maximising the protection they offer.

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War Crimes Prosecution Watch is prepared by the
International Justice Practice of the **Public International Law & Policy Group**
and the **Frederick K. Cox International Law Center** of
Case Western Reserve University School of Law
and is made possible by grants from the **Carnegie Corporation of New York**
and the **Open Society Institute**.

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