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War Crimes Prosecution
Watch

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AFRICA

NORTH AFRICA

Libya

Russia and Turkey Make Joint Call for Cease-Fire in Libya (New York Times) By Carlotta Gall
Jan. 8, 2020

Russia and Turkey have called for a cease-fire in Libya to begin this weekend, stepping in on Wednesday to try to resolve a conflict that Western powers and the United Nations have struggled to end.

Analysts say the Russians and Turks are seeking to exploit a diplomatic void left by Europe's failure to end the fighting in Libya. A German-led effort to hold an international conference on Libya has come to nothing, and the United Nations Security Council has not called for a cease-fire.

The Russian and Turkish foreign ministers issued a joint statement calling for the cease-fire on Wednesday after President Vladimir V. Putin and President Recep Tayyip Erdogan met and presided over the inauguration of the TurkStream gas pipeline in Istanbul.

It is not clear how much Russia and Turkey can influence events on the ground, but Mr. Putin and Mr. Erdogan have met regularly to discuss military deployments in Syria, and have declared Libya a priority.

Russia and Turkey support different sides in the conflict. Russian contract soldiers have been deployed for months in support of the commander in eastern Libya, Gen. Khalifa Hifter, who is trying to take control of the capital, Tripoli. General Hifter's forces seized the coastal city of Surt on Monday.

Turkey has been supporting forces loyal to the United Nations-backed government of Prime Minister Fayez al-Sarraj in Tripoli. Turkey announced last week that it would deploy troops to coordinate and train Libyan forces.

The deployment remains small, with 35 Turkish troops in Libya so far, led by a lieutenant general who will command an operations center, Turkish news outlets have reported.

The two presidents appear to have made the decision between themselves and presented it almost as a snub to European and other powers that have supported different sides in the conflict.

The Russian-Turkish statement said the cease-fire would begin at “00:00 hours on Jan. 12” and would be “supported by the necessary measures” to stabilize conditions on the ground. The cease-fire, it said, is aimed at supporting a resumption of United Nations-backed negotiations between the warring parties.

But as Mr. Putin and Mr. Erdogan met in Istanbul, European officials mounted their own effort to forge a cease-fire. General Hifter traveled to Rome where he held talks with Prime Minister Giuseppe Conte of Italy. At the same time, Mr. al-Sarraj flew to Brussels to meet with the European Union’s foreign policy chief, Josep Borrell.

Turkey has supported rebel factions that rose up against the former Libyan leader Col. Muammar el-Qaddafi in 2011 and has provided assistance to the Tripoli government alongside Italy.

Russia became involved in Libya only last year, in the absence of the United States in the country. It has joined Egypt, the United Arab Emirates and Saudi Arabia in backing General Hifter.

The cease-fire announced by the Russian and Turkish leaders may not be the dramatic breakthrough that Libya so desperately needs, analysts say, but more an attempt by Mr. Putin and Mr. Erdogan to set the terms of any future peace talks by elbowing aside their European rivals.

“What we’re seeing is competition over who defines the international framework for any negotiations to end the conflict,” said Wolfram Lacher, a Libya scholar at the German Institute for International and Security. “Putin and Erdogan are mounting a challenge to the European claim to leadership on Libya.”

The European peace effort is hampered by internal division. While most countries support the Government of National Accord — the official title for the government — France is viewed as being sympathetic to Mr. Hifter. The discovery of a cache of French-owned missiles at a military base in Libya last summer stoked suspicions that Paris had provided Mr. Hifter with military support, despite a United Nations arms embargo.

And although ministers from many European countries, as well as the United States, complain about the interference of foreign countries in the Libyan conflict, they have been reluctant to openly criticize Mr. Hifter’s Arab military backers, most notably the United Arab Emirates.

“The Europeans and Americans let this conflict drag on from April until it reached a stalemate,” Mr. Lacher said. “That allowed the Russians to step in, with a few hundred mercenaries on the ground, and make a difference. The question now is whether they are willing to raise their investment to the level that would make them king makers in Libya, along with the Turks. That is not clear yet.”

Turkey says will stop Syrian government violations of Idlib ceasefire (Reuters)

January 14, 2020

Turkey is determined to stop Syrian government violations of a ceasefire in northwest Syria’s Idlib to prevent 400,000 people fleeing toward the Turkish border, President Tayyip Erdogan said on Tuesday.

Erdogan was speaking to his AK Party in parliament. Russia and its allies halted air strikes in Idlib on Sunday as a ceasefire agreed with Turkey came into force.

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Central African Republic

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WEST AFRICA

Côte d'Ivoire (Ivory Coast)

**Official Website of the International Criminal Court
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**Ivorian Government Opposes Former President Gbagbo's Unconditional Release by ICC
(International Justice Monitor) By Wairagala Wakabi
January 8, 2020**

Next month, lawyers for former Ivory Coast president Laurent Gbagbo will argue before International Criminal Court (ICC) judges the case for the release of the 74-year-old former head of state. Gbagbo was acquitted last February but remains on conditional release in Belgium pending determination of the prosecution's appeal of his acquittal.

Last October, defense lawyers requested appeals judges order the definitive release of Gbagbo. The defense wants judges to reconsider their February 1, 2019 ruling that imposed conditions on Gbagbo's release following his acquittal and order his immediate unconditional release. Before his release last year, Gbagbo had previously been in ICC detention since November 2011.

The Ivorian government, however, has informed judges that it opposes Gbagbo's unconditional release. In an October 25, 2019 filing by its lawyers Jean-Pierre Mignard and Jean-Paul Benoit, the Ivorian government asked for permission to submit written submissions explaining why it opposes Gbagbo's unconditional release. It stated that imposition of the conditions was fair and justified, which is why Gbagbo committed to respect the conditions at the time the Appeals Chamber issued them last February. The government sought to present its submissions under Rule 103 of the Rules of Procedure and Evidence – a request appeals judges have granted.

Rule 103 provides that, at any stage of the proceedings, if judges consider it desirable for the proper determination of the case, they may invite or grant leave to a state, organization, or person to submit, in writing or orally, any observation on any issue that the judges deem appropriate.

The defense argues that the Ivorian government is not qualified to make submissions under this rule. The prosecution and victims' lawyers have also opposed Gbagbo's unconditional release and made arguments similar to those cited by the West African country.

The Appeals Chamber has scheduled a hearing on February 6 to hear arguments on Gbagbo's release request and on the Ivorian government's submissions. The government has up to January 22 to file its detailed observations, and its representatives will also attend the hearing.

Gbagbo was charged over the violence that followed a 2010 presidential election, which he lost. Prosecutors charged that he, along with Charles Blé Goudé, his former minister for sports and youth, committed crimes against humanity, namely murder, rape, attempted murder, and persecution, between December 2010 and April 2011.

However, last January Trial Chamber I acquitted Gbagbo and Blé Goudé after determining that there was no need for the defense to present its evidence because the prosecution had failed to satisfy the burden of proof in relation to several core elements of the case.

According to the defense, since the Ivorian government is not a party or participant in the case, it has no legal capacity to intervene at any stage of the proceedings. The defense argues that Rule 108 requires those seeking to make amicus curiae submissions to cite their particular expertise that would assist judges in a neutral manner, but the Ivorian government did not specify any legal point it aimed to discuss and on which its representatives have particular expertise.

The conditions imposed on the duo include release to a country in Europe near The Hague to facilitate their continued attendance at trial, requiring them to provide their addresses and contact information, not moving from these addresses or to other countries without the court's authorization, and surrender of their passports. Furthermore, they were ordered not to make any contact with any prosecution witnesses or anybody interviewed in ongoing investigations in Ivory Coast, and not to make any public statements concerning the case.

Defense lawyers say imposing conditions on Gbagbo's release was erroneous as it lacked a legal basis. They fault judges for terming Gbagbo a flight risk without providing information to support that position. In the finding on Gbagbo's flight risk, the Appeals Chamber said it relied on "the numerous decisions in the present case in which it was determined that the seriousness of the charges with the resulting potential high sentence, the existence of a network of supporters and the means available to Mr. Gbagbo constitute incentives to abscond."

According to the defense, the imposed conditions have denied Gbagbo his right to free movement and to live in a country of his choice, the right to express himself and to participate in political processes, including "participating in one way or another" in an upcoming presidential election in his home country.

The defense also argues that because the prosecution is appealing the acquittal, Gbagbo will continue to be deprived of his rights pending a ruling on that appeal. However, the prosecution says this is not a changed circumstance that warrants a review of the release conditions.

Meanwhile, the prosecution says the defense failed to substantiate any circumstance justifying review of the conditional release. It adds that, rather than depriving Gbagbo of his fundamental human rights to a significant degree amounting to an attack on his dignity, the release conditions were carefully balanced with his rights and proportionately tailored to mitigate the risks the chamber identified.

Victims' lawyers concur with the prosecution and also note that other international criminal tribunals, such as the International Criminal Tribunal for Rwanda (ICTR), previously imposed conditional release on acquitted persons, pending an appeal.

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

International Criminal Court Slams Nigerian Government Over Failure To Punish Security Forces, Boko Haram For War Crimes (Sahara Reporters)

January 5, 2020

The International Criminal Court, through the Office of the Prosecutor, has slammed the Nigerian Government for failing to prosecute security forces and Boko Haram terrorists for crimes against humanity.

The ICC expressed its disappointment in its latest report showing findings of preliminary examination activities in countries experiencing terrorism activities.

According to the ICC, there have been a wide range of crimes against humanity committed in Nigeria but only little effort from the government to punish perpetrators.

While the international court acknowledges that the Nigerian authorities appear to have taken a number of steps towards ascertaining the criminal responsibility of alleged perpetrators, it reckons that the investigative and prosecutorial activities undertaken to date in relation to both members of Boko Haram and security forces have been limited both in their scope and depth.

It said, “The Office has examined information regarding a wide range of alleged crimes committed on the territory of Nigeria. The Office has been able to arrive at subject-matter determinations on the majority of allegations concerning crimes against humanity and war crimes allegedly committed by Boko Haram members and members of the NSF from 2009 until early 2019.

“There was a reasonable basis to believe that between 1 January 2013 and 31 March 2015, both Boko Haram and the NSF committed crimes under the ICC’s jurisdiction, including war crimes and crimes against humanity.

“With respect to sexual and gender-based crimes and crimes committed against children, the Office previously found a reasonable basis to believe that Boko Haram’s specific targeting of both females and males constitute acts of persecution on gender grounds.

“The Office has also found during the reporting period a reasonable basis for believing that members of the NSF persecuted on gender grounds military aged males suspected of being Boko Haram members or supporters.

“Other allegations that the Office has been reviewing include allegations with respect to the conduct of the NSF against members of the Indigenous People of Biafra and communal violence in Nigeria’s North Central and North East geographical zones.

“The information available suggests while some investigation and/or prosecutorial steps have been or are being taken by the authorities to ascertain the criminal responsibility of suspected Boko Haram members, these appear limited in scope and depth.

“With respect to allegations against members of the NSF, the information available similarly indicates only a limited number of proceedings have been conducted against members of the NSF.

“These include the absence of legislative provisions addressing certain categories of conduct; the persistence of the armed conflict; inadequate investigation files; an over-reliance on confession-based evidence; a lack of forensic evidence; limited cooperation between investigators and prosecutor at pre-investigation stages; logistical difficulties, inadequate security for counsels, and the challenges of converting military intelligence to admissible evidence.

“In particular, according to the information available, it does not appear that the authorities are investigating and/or prosecuting cases concerning substantially the same conduct or cases that are otherwise similar to those identified by the Office. To date, the repeated commitment of the Nigerian authorities to provide the Office with relevant information in this respect has not materialised.

“During 2020, the Office will continue to urge the Nigerian authorities to tangibly demonstrate that they are indeed fulfilling

their primary responsibility to investigate and prosecute ICC crimes, in the absence of which the Office will need to come to its own determination with respect to the admissibility of the potential cases it has identified.”

ICC extends war crime probes to Army, Shi'ites, IPOB clashes – Report (Punch) By Ade Adesomoju
January 6, 2020

The International Criminal Court has said it has extended its preliminary examinations on possible war crimes and crimes against humanity in Nigeria to cover the clashes between Nigerian soldiers and members of the Islamic Movement in Nigeria, a body of Shi'ite Muslims in the country.

The ICC is also extending the examinations to the clashes between the Nigerian soldiers and a separatist group, the Indigenous People of Biafra. The ICCI disclosed this in its 2019 edition of the annual Report of Preliminary Examination Activities issued by the office of its Prosecutor headed by Mrs Fatou Bensouda.

The report dated December 5, 2019 indicated that preliminary examination of the situation in Nigeria was announced on November 18, 2010.

It noted that the Office of the ICC Prosecutor on November 12, 2015 “identified eight potential cases involving the commission of crimes against humanity and war crimes under articles 7 and 8” of the Rome Statutes.

The report, which stated that Nigeria was among the countries under Phase 3 examinations by the Office of the Prosecutor, added that its latest updated “subject-matter assessment” had increased the number of potential cases involving Nigeria from eight to 10.

Of the 10 cases now under the ICC preliminary examination, seven of them were said to be for Boko Haram and three for the Nigerian security forces.

The issues of the security forces’ clashes with Shi’ites’ and IPOB members as well as communal clashes in Benue, Plateau and other North-Central states and in some parts of the North-East were said to have been thrown up in the latest updated assessment by the ICC Prosecutor.

Both the IMN and the IPOB have been proscribed and designated as terrorist organisations by the Federal Government on the account of the groups’ alleged violent activities.

A judicial inquiry set up by the Kaduna State Government to investigate the December 2015 clash between the IMN members and soldiers in the convoy of the Chief of Army Staff, Tukur Buratai, concluded that the military killed 347 IMN members in Zaria, Kaduna State, the base of their leader, Sheikh Ibraheem El-Zakzaky.

A few IPOB members were also said to have been killed during the September 2017 Operation Python Dance II carried out by the Army to quell the agitation for secession by the South-East group. A soldier was said to have been killed during the IMN members’ clash with the Army in 2015 and IPOB members were also alleged to have killed some members of the security forces on different occasions.

The ICC report stated in its 2019 report that it had received 15 communications concerning the clashes and communal violence in the North-Central and North-East.

While it said it had been reviewing the allegations, it expressed concern about allegations of “ongoing evidence tampering and of alleged destruction of evidence” in respect of the IMN members clash with the Army.

The report stated, “During the reporting period, the office worked on finalising its assessment on subject-matter jurisdiction with respect to the events which took place in December 2015 in Zaria, Kaduna State, when members of the Islamic Movement of Nigeria reportedly clashed with the NSF (Nigerian security forces).

“Other allegations that the office has been reviewing include allegations with respect to the conduct of the NSF against members of the Indigenous People of Biafra and communal violence in Nigeria’s North-Central and North-East.”

Nigeria hit by deadly bomb attack near Cameroon (All Africa)
January 7, 2020

As many as 30 people have been killed after a bomb ripped through a crowded market on a bridge connecting the Nigerian town of Gamboru and Cameroon's Fotokol.

Authorities said more than 35 other people, including both Nigerians and Cameroonians, were injured and taken to the local hospital in the wake of the attack on Monday.

"A young man picked up an explosive device thinking that it was a piece of iron and it exploded, killing him and eight others," said Midjiyawa Bakari, the governor of the Cameroon's Far North Region.

Militant attacks

Militant groups operating in the area have targeted Gaboru on multiple occasions since 2014. That year, Boko Haram seized Gaboru and the nearby town of Ngala.

After a monthslong siege, Nigerian troops managed to wrestle back control of Gaboru with assistance from Chadian forces. But the militant group still launches attacks on military and civilian targets in the area.

Boko Haram's decadelong insurgency aimed at establishing a so-called caliphate has killed more than 35,000 people and displaced more than 2 million in the region.

An "Islamic State" regional ally that broke off from Boko Haram also stages attacks in the region.

No group has yet to claim responsibility for the attack.

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Liberia

Ex-Rebel Commander Accused of War Crimes Rearrested in France (Front Page Africa) By James Harding Giahvue
January 15, 2019

Monrovia — A former commander of the defunct United Liberation Movement for Democracy in Liberia (ULIMO) has been arrested again, after being released in September last year from pre-trial detention in France, where he was being held for committing war crimes during the Liberian Civil War.

Kunti K. was rearrested by French authorities in Paris on Friday, January 10, after he violated several conditions placed on his release, sources close to the investigation told FrontPage Africa. He had been released after a Paris court ruled prosecutors committed a procedural error following his arrest in September 2018. He is accused of conscription of child soldiers, slavery, murder, cannibalism, and other war crimes and crimes against humanity.

Cititas Maxima, a Switzerland-based human rights group, represents several Liberian witnesses who are civil parties in what will be France's first war crimes trial.

"This is a victory for the victims," said Hassan Bility, whose Liberia-based Global Justice and Research Project (GJRP) works with Civitas Maxima. "It is an indication of the fairness of the international justice system."

Bility called on the Liberian government to set up a long-overdue war crimes court to address the country's wartime atrocities and bring justice to its citizens.

In June last year, Liberian security personnel and French authorities collaborated in an investigation in Foya, Lofa County in the case against Kunti K. This was the first such collaboration between the government of Liberia and any foreign country over war crimes and crimes against humanity.

Kunti K. is the third ex-ULIMO general to be indicted or arrested for atrocities committed during one of Africa's deadliest civil conflicts. Alieu Kosiah was arrested in 2014 in Switzerland, and his trial is expected to commence in April this year. Mohammed Jabbateh, known as "Jungle Jabbah," is serving a 30-year sentence in the United States for lying to American immigration authorities about his role in the war when he applied for asylum in 1998.

Four other high-ranking Liberians have been accused of or indicted for war crimes in relation to the country's civil war. Thomas Woewiyu, former spokesman of the National Patriotic Front of Liberia (NPFL), is awaiting sentencing in the U.S. after being found guilty by a Philadelphia court for immigration fraud and perjury. Martina Johnson, former head of the NPFL's artillery unit, is under house arrest while awaiting trial in Belgium, where she was arrested in September 2014 for war crimes. Moses Thomas, former head of the Special Anti-Terrorist Unit (SATU) of the Armed Forces of Liberia (AFL), is facing a civil suit in Philadelphia over the Lutheran Church Massacre in July 1990. A London court, in December last year, dismissed a war crimes case against Agnes Reeves Taylor, the ex-wife of former President Charles Taylor.

Both former President Taylor and his son, Charles "Chuckie" Taylor, Jr. are serving prison terms for atrocities they committed. The father is serving a 50-year sentence in Britain for war crimes committed in Sierra Leone. He has never been held accountable for his crimes in Liberia. Meanwhile, his son—an American citizen—is serving a 97-year prison term for torture in Liberia under the Extraterritorial Torture Act of the United States. He led the notoriously violent Anti-Terrorist Unit (ATU), known as the "Demon Forces," from 1997 to 2003 during the presidency of his father.

Kunti K. is now back in pre-trial detention in Paris. The trial date is yet to be announced.

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EAST AFRICA

Uganda

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Kenya

**Official Website of the International Criminal Court
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Rwanda (International Criminal Tribunal for Rwanda)

Somalia

EUROPE

The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [English translation]

Bosnian Croat War Criminal's Plea for Early Release Rejected (Balkan Insight) By Dzana Brkanic
January 6, 2020

Miroslav Bralo, a wartime Croatian Defence Council fighter sentenced to 20 years in prison for the 1993 killings of Bosniak civilians, including children, has been denied early release by the Hague court.

The Mechanism for International Criminal Tribunals said that it has rejected an appeal for early release from Miroslav Bralo, a former member of the 'Jokers' anti-terrorist unit of the Croatian Defence Council, the wartime Bosnian Croat force.

Bralo was convicted of killing Bosniak civilians, including children, during a Croatian Defence Council attack on the village of Ahmici in April 1993.

He was also convicted of raping, torturing and imprisoning a Bosniak woman, and of involvement in the destruction of a mosque.

Bralo applied for early release after serving two-thirds of his 20-year sentence in March 2018, but judge Carmel Agius said that there was not enough justification to free him at this point.

"The main reasons for this decision are the absence of any sign of rehabilitation and Bralo's 'significantly elevated' risk of returning to violent offending," Agius said in his decision, which was made on December 31.

He said that Bralo had displayed a bad attitude in the Swedish prison where he is serving his sentence, and urged him to "return to good behaviour in prison and engage in rehabilitation programmes that are available to him, such as for instance anti-violence training or psychotherapy".

Bralo initially pleaded not guilty before the UN court in The Hague but changed his mind during his trial and admitted that he was guilty of persecution as a crime against humanity, murder, torture, rape and unlawful confinement.

He wrote a statement of remorse for the crimes he committed, one of the rare such incidents in the Hague Tribunal's history. "I do believe that the only way forward is for the truth to be told and for the denial to stop," he said in the statement.

His admission of guilt was taken into account at his sentencing in 2005.

But Agius noted that since his trial, Bralo has said that “he has no remorse”.

“He even denies some of the crimes for which he entered a guilty plea. Furthermore, he has made no efforts to critically reflect upon his actions. Of particular concern to me is his denial of the brutal rape and torture of a Bosnian Muslim woman for which he was a direct perpetrator,” the judge said in his decision.

Hague War Crime Prosecutors to Quiz Kosovo Ex-Guerrilla (Balkan Insight) By Perparim Isufi
January 7, 2020

The Hague-based Specialist Prosecution, which is investigating alleged wartime and post-war crimes by Kosovo Liberation Army fighters, will question ex-guerrilla Agron Limani, whose father and brothers were killed in a massacre in 1999.

Agron Limani has been invited to give an interview to the Kosovo Specialist Prosecution in The Hague, which is investigating alleged violations by Kosovo Liberation Army, KLA fighters during and just after the 1998-99 war, he confirmed on Tuesday.

Limani told BIRN that he has been invited for interview as a witness, without giving more details.

Announcing the invitation on Facebook however, Limani criticised Kosovo MPs who voted in August 2015 for the establishment of the Kosovo Specialist Chambers, which will try those indicted by the Specialist Prosecution.

Although based in The Hague, the Specialist Chambers are part of Kosovo’s justice system and were established under pressure from the country’s US and EU allies.

“Coming from a village where Serb forces aimed to exterminate all the Albanian civilian population, the establishment of this court created the impression that it would deal mainly with the Serb genocide committed in many parts of Kosovo. But you immediately get disappointed when you understand that this court will mainly organise trials against Albanians,” Limani said.

Limani is a former KLA member and comes from the village of Krusha e Vogel/Mala Krusa near Prizren, where Serbian forces killed 109 Albanian civilians in March 19, 1999.

His father and two brothers were among those killed in the massacre.

In November 2018, Limani appeared as a witness in a war crime trial at Prizren court, where a member of the Yugoslav reservist police forces, Darko Tasic, was on trial for burning the dead bodies of Kosovo Albanians and throwing them into river.

“The longtime indifference of our [Kosovo] institutions towards Serbia’s crimes has served as a motive for establishing this discriminatory anti-Albanian court,” Limani wrote on Facebook.

“Over 20 years, Serbia has constantly fabricated lies, while our institutions have not succeeded in documenting war crimes,” he added.

Over 120 former Kosovo Liberation Army fighters have reportedly been summoned since the start of last year for questioning in The Hague, where the Specialist Prosecution has yet to issue the first indictments for wartime and post-war crimes in Kosovo between 1998 and 2000.

Kosovo’s Prime Minister Ramush Haradinaj resigned last July after being asked to give an interview to the prosecutors as a suspect.

Kosovo Charges Two Serbian Policemen with War Crimes (Balkan Insight) By Xhorxhina Bami
January 8, 2020

Prosecutors charged two Serbian policemen with involvement in crimes related to a deadly attack on Kosovo Albanian civilians in the village of Nerodime e Eperme/Donje Nerodimlje during the war in March 1999.

Kosovo’s Special Prosecution filed an indictment on Wednesday charging two Serbian police officers, identified only by the initials Z.K. and D.Sh., with war crimes against the civilian population.

The Special Prosecution said in a statement that the accused “grossly violated the rules of international humanitarian law against civilians and property, in particular the rules of war set forth in the Geneva Convention of 12 August 1949 and the additional protocols [to the Geneva Conventions]”.

The prosecution alleges that Z.K. was directly involved in an attack on ethnic Albanian civilians in the village of Nerodime e Eperme/Donje Nerodimlje in the Ferizaj/Urosevac municipality on March 26, 1999.

The attack was followed by torture, destruction of property, expulsions and abductions of 19 members of a local ethnic Albanian family, according to the charges. Four members of the family were killed.

The prosecution also alleges that on April 1, 1999, while on duty as a police inspector and armed with automatic weapons, D.Sh. ordered the bodies of the four victims, plus a fifth person, to be buried in violation of international humanitarian law.

It alleged that D.Sh. gave the order with “the intent of desecrating, humiliating and subjecting the lifeless bodies to demeaning treatment”.

Serbia Tries Bosnian Serb Ex-Fighter for Wartime Rape (Balkan Transitional Justice) By Milica Stojanovic
January 13, 2020

The trial of Dalibor Krstovic, a Bosnian Serb fighter during the Bosnian war who is charged with raping a Bosniak woman in the town of Kalinovik in August 1992, started on Monday at the Higher Court in Belgrade.

According to the indictment, which was read out in court by prosecutor Ljubica Veselinovic, in August 1992 Krstovic came to the Miladin Radojevic elementary school in Kalinovik in south-eastern Bosnia and Herzegovina, where captured Bosniak civilians from the town and other nearby towns were being held.

He raped one woman and allowed a soldier who was with him to rape her too, it is alleged.

Krstovic, who said he was a policeman but that in the summer of 1992 was incorporated into the Bosnian Serb Army, denied the charge.

“I do not consider myself guilty,” he told the court.

He said that he went to the school in Kalinovik because his relatives were in captivity on Bosniak-controlled territory and that he heard “from soldiers, from people” that there was going to be an exchange of captured civilians for Serbs captured by Bosnian forces.

As no one at the school could give him more information about the exchange or his family members, he left. He denied raping anyone there.

Protected witnesses were also scheduled to testify on Monday but judge Zorana Trajkovic said they refused to come to Belgrade because of health problems and the long distance they would have had to travel.

Krstovic was originally indicted in Bosnia and Herzegovina in 2017 and the case was then handed over to the Serbian authorities.

The next trial hearing will be held in March.

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

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Domestic Prosecutions In The Former Yugoslavia

Bosnian Train Massacre Trial: Witnesses Find Convenient Scapegoat (Balkan Transitional Justice)

By Milica Stojanovic

January 6, 2020

The first year of the trial in Belgrade for the abduction and killing of 20 passengers from a train at Strpci station in Bosnia and Herzegovina during the war in 1993 has heard testimony from relatives of the victims, other passengers, policemen, Bosnian Serb Army soldiers and the defendants themselves, as a fuller picture of the crime more than 26 years ago began to emerge.

However, some of the key witnesses changed their testimonies during the trial and accused the prosecutor of pressurising them. They altered their accounts of what they saw in attempts to show that none of the defendants were present at the scene of the crime or participated in it, but also to say that others accused of the same crime in other trials were also not present.

Marina Kljaic from the Humanitarian Law Centre in Belgrade, who is the legal representative of victims in the case, told BIRN that the former fighters who have testified are “witnesses who are seeking to minimise their involvement in critical events, and at the same time help the accused”.

However, Kljaic added: “The court has extensive experience with the testimony of such witnesses during its work so far.”

Five people are on trial in Belgrade – Gojko Lukic, brothers Dusko and Gojko Vasiljevic, Jovan Lipovac and Dragana Djekic. Apart from Lipovac, who was a Bosnian Serb Army soldier, they were members of the Avengers paramilitary unit.

The leader of the Avengers was Milan Lukic, who was sentenced to life imprisonment in December 2014 by the Hague Tribunal for wartime crimes, but not for the Strpci massacre.

According to the indictment in the Belgrade case, on February 27, 1993, a group of fighters, mostly from the Avengers group, came to the small train station at Strpci, near the Bosnia-Serbia border, and forced the train dispatcher to stop a train from Belgrade that was passing by on its way to Montenegro. Some of them entered the carriages, started identifying passengers by their identity documents, and took 20 people off the train.

All of them were non-Serbs – 18 Bosniaks, one Croat and one person whose identity remains unknown to this day.

They loaded them into a military truck and drove them to an elementary school in the nearby village of Prelovo. There the victims were beaten, ordered to take off their clothes and robbed of money and valuables.

Wearing nothing but underwear, with their hands tied behind their backs, the victims were driven to a burned-out house in the village of Musici, where they were executed in groups of two or three. Two of the victims were killed while trying to escape.

The remains of only four of victims have been found, while the others are still listed as missing.

So far only two people have been convicted of the Strpci crime: Mico Jovicic, who pleaded guilty in 2016 in Bosnia and got five years in prison, and Nebojsa Ranisavljevic, who was convicted in Montenegro in 2003.

Meanwhile, ten more former Bosnian Serb soldiers are currently on trial for the crime at the Bosnian state court in Sarajevo.

Zeljko Radojicic was driving train number 671 on February 27, 1993. The train did not usually stop at Strpci station but this time, it was halted there, he told the Belgrade court.

“When we stopped like that, outside normal procedure, I went to the train dispatcher for him to inform me why we stopped. A crowd had gathered, there were soldiers everywhere... The train dispatcher came up without his cap, which is outside every normal procedure, and said to me: ‘When these [people] are done, I will give you papers to go on,’” Radojicic testified.

The train was full of passengers, but there were also a police patrol escorting it.

No one reacted when the fighters started to take passengers off the train because, the majority of witnesses said, they thought they were searching for deserters from the Bosnian Serb Army.

One of the witnesses, policeman Miroslav Vranic, who was among those escorting the train, said officers were ordered to help Bosnian Serb forces if they got on the train to look for deserters.

“On the patrol sheet, our task was that if the military police of Republika Srpska came [onto the train] in order to catch military fugitives, to give assistance,” Vranic told the court.

Two uniformed people entered train driver Radojicic’s cab and checked him. He said that the soldiers were wearing different uniforms but he did not see their insignias.

“They were taking passengers out, I saw that,” Radojicic added.

When everything was done, Radojicic was given papers allowing him to continue and the train left the station, without the passengers who were taken out.

The seized passengers were then taken to the former elementary school in Prelovo. At that point the Bosnian Serb Army was using the school and had a military kitchen and a communications office there.

According to the indictment, the captives were beaten and tortured in the school gym, although according to Bosnian Serb Army ex-soldiers who testified in Belgrade, only one of them was assaulted.

After they were taken to the village of Musici, two of them were killed while trying to escape and the others were shot at close range. One trial witness blamed Milan Lukic for killing all of them.

The next day, a tractor was used to take the bodies to the nearby Drina riverbank, where they were dumped in the water.

“There were a lot of dead people, I do not know how many, and I was ordered to transfer them to the Drina,” Dragoljub Carkic, who a member of the First Company of the Bosnian Serb Army Light Visegrad Brigade’s First Battalion, told the court.

Most of the trial witnesses so far have claimed that they do not remember a lot about what happened because so many years have passed since the crime.

No witness said they could recognise any of the fighters who entered the train, and the former fighters who were acquainted with some of defendants denied that any of them were present at Strpci station, at the school in Prelovo, or in Musici.

However, witnesses told different stories during the investigation.

Krsta Papic, commander of the First Company of the Bosnian Serb Army’s Visegrad Brigade, told the Serbian War Crimes Prosecutor in 2014 that on the night of the abductions, he saw defendant Gojko Lukic at the school in Prelovo and heard the voice of defendant Dragana Djekic there too.

But in the courtroom in December 2019, Papic denied that he saw Gojko Lukic or recognised Djekic’s voice at the school.

Papic’s driver and communications officer Dusan Bozic said during the investigation in Bosnia that on the same evening, he saw around 15 civilians at the school, some of whom were half-naked, while all of them had visible bruises.

Among others, he mentioned seeing Milan Lukic, defendant Gojko Lukic and a women of whom he said: “I assumed it was Dragana.”

In the Belgrade courtroom, Bozic retracted this, alleging that he had been under pressure from the authorities and that he did not even go into the school that night.

Papic meanwhile only mentioned seeing Milan Lukic at the school.

Nebojsa Ranisavljevic, who has already been convicted of participation in the Strpci crime, also said that his previous statement in the 1990s was given under pressure and that he was beaten up.

His 1990s statement said that Milan Lukic and Boban Indjic killed the passengers. In Belgrade, he claimed that Lukic killed them alone and that Indjic was not there. He added that co-fighter Mico Jovicic was bragging about it the next day, holding a bloody knife.

Both Indjic and Jovicic were arrested in Bosnia and Herzegovina. In November 2016, Jovicic pleaded guilty and was jailed for five years. Indjic is still on trial.

Marina Kljaic from the HLC said that witnesses sometimes try to justify changing their statements by claiming “alleged

pressures from prosecutor's offices or police".

But she argued that this will not necessarily have an impact on the court's final decision.

All of those present at some point during the Strpci crime said that Milan Lukic was there.

Both the Serbian and Bosnian indictments in the case say that two people actually killed the passengers who were seized from the train. The Bosnian indictment identifies the direct perpetrators as Milan Lukic and Boban Indjic.

The Bosnian prosecution belatedly indicted Milan Lukic for Strpci in December 2019. According to the indictment, he participated in abducting the passengers from the train, in taking them to the Prelovo school where they were "beaten, tortured, abused, robbed" and also "personally participated in the murder of the abducted people, whose bodies were dumped in the Drina River".

His alleged co-perpetrator Indjic is one of the ten ex-soldiers currently on trial at the Bosnian state court.

The Bosnian indictment offers more details than the one issued in Serbia – and also names the person at the top of the chain of command.

It says that 18 of the passengers were Bosniaks who were "citizens of Serbia and Montenegro from the Sandzak area [of Serbia]".

The purpose of the abductions from the train, the Bosnian indictment continues, was "to provide evidence of the participation of Muslims from Sandzak [in Serbia] in combat on the territory of Bosnia and Herzegovina, with orders to organise and carry out an action to capture them".

It says that the Strpci massacre happened "upon receipt of an order from the Tactical Group Visegrad Command from February 21, 1993, forwarded on the request of the Commander-in-Chief of the Army of Republika Srpska".

The commander-in-chief at the time was Bosnian Serb President Radovan Karadzic, who was jailed for life by the UN court in The Hague in March 2019 for genocide, war crimes and crimes against humanity.

The Serbian indictment only states that the abductions happened "after a special armed group of about 25-30 VRS [Bosnian Serb Army] members was formed in Visegrad on February 27, 1993 with the specific task of abducting non-Serb passengers from high-speed train 671".

It does not specify who gave them the order to do this, and the commander-in-chief, Karadzic, is not mentioned.

Both trials in Belgrade and Sarajevo continue.

Court of Bosnia-Herzegovina upheld Trial Judgment in Case of Mico Jurisic for Crimes Against Humanity (Sarajevo Times)

January 10, 2020

On 11 November 2019, the Appellate Panel of the Court of Bosnia and Herzegovina delivered an appeals judgment in the case of Mićo Jurišić, dismissing as ill-founded the appeals filed respectively by the Prosecutor and defense counsel, and upholding the trial judgment of the Court of BiH of 8 April 2019.

The trial judgment found the accused Mićo Jurišić guilty of the criminal offense of Crimes against Humanity under Article 172(1) of the Criminal Code of BiH (CC BiH), as read with Subparagraph h), and Subparagraphs a) and k), all in conjunction with Article 180(1) CC BiH. The Court sentenced the accused Mićo Jurišić to 11 years of imprisonment.

Pursuant to Article 284, Subparagraph c), of the BiH Criminal Procedure Code, the accused Mićo Jurišić was acquitted of the charges concerning individual acts of commission whereby he would have committed the criminal offense of Crimes against Humanity under Article 172(1) CC BiH, as read with Subparagraph h), and Subparagraphs a) and e), all in conjunction with Article 180(1) CC BiH.

On 29 January 2017 the Court of Bosnia and Herzegovina confirmed the indictment charging the accused Dragomir Tintor with the criminal offense of Crimes against Humanity under Article 172(1)h), as read with Subparagraphs a), g), e), f), i) of the Criminal Code of BiH (CC BiH), all in conjunction with Article 180(1) and Article 29 of the CC BiH, the accused Mićo Jurišić with the criminal offense of Crimes against Humanity under Article 172(1)h), as read with Subparagraphs a), e), f) of the CC BiH, and Article 180(1) and Article 26(1) of the CC BiH. The indictment charges the accused Dragomir Tintor and Mićo Jurišić with the criminal offense of Crimes against Humanity under Article 172(1)h), as read with Subparagraph f), in conjunction

with Article 180(1) and Article 29. of the CC BiH.

On 7 March 2018, at a plea hearing held in the case of Mićo Jurišić the accused Mićo Jurišić pleaded not guilty to the criminal offense of Crimes against Humanity under Article 172 paragraph 1 subparagraph (h) as read with subparagraphs (a), (e) and (f), Article 180(1) and Article 26(1) of the Criminal Code of Bosnia and Herzegovina. The main trial was initiated on 17 May 2018.

Panel of Judges composed of: Kreho Minka, Marenić Željka, Lagumdžija Halil.

In the criminal case against the accused Mićo Jurišić, having completed a trial, on 8 April 2019 the Court of Bosnia and Herzegovina delivered the trial judgment finding the accused Mićo Jurišić guilty of the criminal offense of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina, as read with Subparagraph a), h) and k) of the same Article, all in conjunction with Articles 29 and 180(1) of the Criminal Code of BiH.

The Court sentenced the accused Mićo Jurišić to 11 (eleven) years of imprisonment.

On 11 November 2019, the Appellate Panel of the Court of Bosnia and Herzegovina delivered an appeals judgment in the case of Mićo Jurišić, dismissing as ill-founded the appeals filed respectively by the Prosecutor and defense counsel, and upholding the trial judgment of the Court of BiH of 8 April 2019.

Bosnia Tries Serb Police Chief for Crimes Against Humanity (Balkan Transitional Justice) By Emina Dizdarevic
January 13, 2020

The crimes against humanity trial of Malko Koroman, the wartime chief of the police's Public Security Station in Pale who is now a deputy mayor, opened on Monday at the Bosnian state court.

The prosecution accuses Koroman of having organised and enabled the unlawful arrests and detention of people at the police's Public Security Station in Pale and in a gym near the police building as part of a widespread and systematic attack targeting the Bosniak civilian population in the area between March and December 1992.

According to the charges, the civilians were subjected to torture and murder.

The first count alleges that between April and September 1992, Koroman ordered and organised the detention of Bosniak civilians from Pale in the gym, while police officers guarded the building from outside and controlled access to it.

"After examining them at the Public Security Station, his subordinates would bring the civilians into the gym and detain them in it, on no legal grounds, not telling them the reasons for their detention. The civilians did not have enough food, which was irregularly brought to them by Public Security Station staff," said prosecutor Dika Omerovic.

The defendant is also charged with having enabled Bosnian Serb Army soldiers to bring and detain civilians from Sarajevo and Bratunac in the gym, where they were physically mistreated.

Under the second count, Koroman is charged with enabling Public Security Station officers to abuse the civilians on a daily basis and failing to take the necessary measures to protect them.

Prosecutor Omerovic said that five civilians died at the gym due to severe injuries, but police officers concealed the murders.

The third count alleges that Koroman, in collaboration with the Bosnian Serb Army, organised an attack on the village of Hrenovica and nearby villages. The prosecutor said he led the attack by gathering 100 policemen and assigning tasks and instructions.

During the attack, a group of men was taken to the gym in Pale. As they were entering the gym, they were made to walk between two lines of policemen who hit and kicked them. The policemen continued mistreating them until Koroman ordered them to stop.

Prosecutor Omerovic said she would prove that Koroman, as chief of the Public Security Station, actively participated in the persecution of the civilians.

But defence lawyer Muhidin Kapo said he would show that Koroman was not guilty.

"It is true that he was the chief of the Public Security Station, but the gym was not under his responsibility. A totally different body was responsible for it. When he appeared, all the mistreatment stopped," Kapo insisted.

“Malko is a completely positive person and we shall prove his innocence,” he added.

Koroman is currently deputy mayor of the Old Town East municipality in Serb-majority East Sarajevo.

The first prosecution witnesses will be heard on January 27.

Bosnian Croats Retried for Wartime Abuse of Bosniak Prisoners (Balkan Transitional Justice) By Haris Rovcanin
January 13, 2020

The retrial of wartime prison officers Ivan Kraljevic, Mato Jelcic, Stojan Odak, Vice Bebek, Vinko Radisic, Slavko Skender and Dragan Milos, who are accused of abusing detainees at the Military-Investigative Prison in Ljubuski, opened at the Bosnian state court on Monday.

Under the first-instance verdict handed down in August 2018, Kraljevic was sentenced to two years in jail, Jelcic to a year and a half, Odak to seven years, and Vice Bebek and Vinko Radisic to one year each. Skender and Milos were acquitted.

According to the charges, at various periods between September 1993 and March 1994, Kraljevic, Jelcic and Skender were managers of the prison, where more than 100 Bosniaks were held, while the other defendants were guards.

All were members of the Croatian Defence Council, the Bosnian Croat military force.

They are charged with having held the detained civilians and prisoners of war in bad conditions in the Ljubuski prison, where they allowed them to be mistreated, gave them very little food and took them to places where they were made to do forced labour.

The trial is due to continue on January 17.

Bosnian Court Upholds Policemen’s War Crimes Acquittal (Balkan Transitional Justice) By Haris Rovcanin
January 8, 2020

The appeals chamber of the Bosnian state court has upheld the first-instance verdict acquitting ex-policemen Jadranko Saran, Samir Sabic and Zijad Kadic of wartime crimes against civilians and prisoners of war, one of the men’s lawyers told BIRN on Wednesday.

The court also upheld their acquittal of unjustifiably delaying prisoners’ release, said lawyer Zlatan Nanic, who represents defendant Kadic.

Saran, Sabic and Kadic were initially acquitted in May 2019 of the unlawful detention of civilians, murder and inhumane treatment at several buildings in Bosanska Krupa in north-western Bosnia between September 1995 and July 1996.

According to the charges, Saran was the chief of the police’s Public Security Station in Bosanska Krupa, Sabic was commander of the police department in Jasenica and Kadic was a policeman.

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Syria

Germany jails jihadi for Syrian massacre (Deutsche Welle)

January 1, 2020

An ex-member of al-Qaida affiliate Nusra Front has been sentenced to life in prison for involvement in a 2013 massacre of regime forces. Prosecutors have sought to jail war criminals who arrived in Germany as refugees.

A German court on Monday sentenced a 31-year-old Syrian man to life in prison for double homicide and accessory to 17 counts of murder committed during his time as an Islamist militant.

The former Nusra Front jihadi was found guilty of killing two people and overseeing the murder of at least 17 others in northern Syria.

The victims were members of Syrian security forces and army personnel captured during the first years of the conflict. They were then executed at a dumping ground near the city of Tabka as part of a larger massacre in the area in 2013.

Three other defendants were also handed down prison sentences ranging from three to eight years. All four came to Germany as refugees.

German prosecutors have sought to jail militants and members of Syria's security forces who have committed war crimes and crimes against humanity.

In October, German federal prosecutors announced charges against two suspected former Syrian secret service officers. The charges included participating in mass rape, torture and crimes against humanity

Prosecutors also charged an Iraqi man and his German wife for genocide for chaining up a Yazidi girl and leaving the 5-year-old to die of thirst. Both are believed to be members of the "Islamic State."

In 2011, Syrian security forces launched a brutal crackdown against anti-government protesters calling for Syria's Bashar Assad to step down, effectively triggering what would become a protracted, multi-front conflict drawing in superpowers, regional actors and militant groups.

Activists claim to have documented a myriad of war crimes and crimes against humanity committed by Islamist militants and regime forces.

Security Council beats midnight deadline, renews Syria cross-border aid in contentious vote (UN News)

January 10, 2020

Failing last month to extend the cross-border authorization after permanent members China and Russia vetoed one draft resolution and failed to gain enough support for its own rival measure, the Council faced a midnight deadline Friday for the expiration of its six-year-long mandate along with the possibility of yet another "no" vote from Russia.

With 11 votes in favor, 0 against, and with four of its permanent members abstaining – China, Russia, United States, and United Kingdom – the Council re-authorized only two of the four existing border crossings (Bab al-Salam and Bab al-Hawa in Turkey) for a period of six months (instead of 12), while dropping re-authorization for use of crossings in al-Ramtha (Jordan) and Al Yarubiyah (Iraq).

An upsurge in hostilities in north-west Syria, has displaced some 300,000 people since 12 December.

Meanwhile, against the backdrop of new Council members joining the peace and security body in the New Year, negotiations had been ongoing with permanent members the United States, Russia, China, United Kingdom and France meeting four times since last week, without reaching a compromise.

The main point of contention, according to news reports, revolved around the Al Yarubiyah crossing.

Resolution sponsors Germany, Belgium and Kuwait pushed for the continued delivery of aid through two crossing points in Turkey and one in Iraq.

But the competing resolution from Russia, Syria's closest ally on the Council, advocated the closure of the Al Yarubiyah crossing in Iraq.

The UN cross-border aid delivery mechanism was first established in 2014 through resolution 2165. Its mandate was most recently renewed in resolution 2449 of 2018.

During the heated exchanges this evening, several Council members said they were disappointed that a scaled-down text had been adopted and that a better compromise was not reached.

Germany's Ambassador Christoph Heusgen lamented that the decision had come "at a heavy price" for 1.4 million people in north-eastern Syria who would "wake in the morning up not knowing if they would be able to get the medical aid they needed."

US Ambassador Kelly Craft described the resolution as "watered down" and said that it ignored the needs of millions of Syrians. While the text was a "body blow" to the Council's credibility, the crisis it would create was "solely of Russia's making."

But Russian Ambassador Vassily Nebenzia said the situation on the ground had changed dramatically and that any resolution adopted by the Council should specify that providing humanitarian assistance must be provided with the consent of the recipient and host governments.

UK Ambassador Karen Pierce accused Russia of "playing dice" with the lives of Syrian people in the north-east. The Council had been left with no choice but to approve a resolution that did not meet the needs of all Syrian people. "Aid is not a political tool to be bargained with," she declared.

Last Friday, Mark Lowcock, Under-Secretary-General for Humanitarian Affairs, and Rosemary DiCarlo, Under-Secretary-General for Political Affairs, briefed the Council in closed consultations on developments in Idlib.

During the meeting, several members cited the province's deteriorating humanitarian situation to illustrate the urgent need to renew the cross-border aid mechanism before it expires.

And in November, Mr. Lowcock had told the Chamber that four million people across northern Syria were supported by UN cross-border humanitarian assistance.

"Without the cross-border operation, we would see an immediate end of aid supporting millions of civilians", he had said.

Prior to the meeting, Russian Ambassador Vassily Nebenzia expressed his hope that a solution could be found, saying "we are close, but not there yet".

"I must tell you that all these cries about the imminent catastrophe, disaster which North-East faces if we close one cross-border point are totally irrelevant because humanitarian assistance to that region is coming from within Syria – for a long time, by the way. And it will continue to come", he stated.

He maintained that as the situation on the ground has changed dramatically, "the status quo is unacceptable".

"We have to close those cross-border points that are not relevant anymore", upheld Mr. Nebenzia.

Syria: Russia's veto denies millions of Syrian civilians essential aid amid humanitarian disaster in Idlib (Amnesty International) By Diana Semaan

January 10, 2020

The already catastrophic humanitarian conditions for millions of civilians in Idlib are set to further deteriorate as Russia and China blocked the renewal of the mechanism established through UN Security Council resolution 2165 in 2014 that allowed the UN and its implementing partners to deliver aid from Syria's neighboring countries into areas under the control of the opposition.

Once again, the UN Security Council is utterly failing the people in Syria. Russia and China's successive vetoes have effectively blocked over the years any attempts to move towards a path of accountability and justice for the war crimes and crimes against humanity committed in Syria. But this time, the consequences will have an immediate and direct impact on the lives of millions of civilians already struggling for survival, and in particular in Idlib, where the civilian population is reeling under the Syrian government's fiercest yet round of military escalation.

With the expiry, the UN will no longer be authorized to cross from Turkey to Idlib to deliver life-saving humanitarian assistance to 2.7 million people, including internally displaced people who have fled hostilities in Aleppo, Homs, Daraa, and elsewhere in the country since the start of the crisis in 2011.

It is only because of the adoption of resolution 2165 in 2014 and its subsequent renewals that UN agencies and their implementing partners were able to send 30,338 trucks of humanitarian assistance across Jordan, Iraq and Turkey to assist millions of people living in opposition-controlled areas in Syria.

Russia, supported by China, blocked the renewal of the resolution on 20 December – coinciding with one of the most violent months for people in Idlib as the Syrian government intensified its attacks forcing around 300,000 people to flee their homes in search for safety.

The military offensive on Idlib which began at the end of April 2019, compounded by the suspension of aid by many local and international organizations due to ongoing attacks, exponentially increased the need for humanitarian aid and access to essential services such as health care.

Between May and November 2019, the UN recorded the displacement of at least 630,000 people, who were forced to flee the Syrian and Russian government attacks and live in formal and informal camps where access to adequate shelter, food, winter clothes, blankets and heating is extremely limited.

Medical facilities in Idlib for example, rely on the cross-border delivery of medical and surgical supplies and on the support of the UN in the implementation of health programmes. In November 2019, 1.3 million people benefited from health services across northern Syria.

Syria and Russia already restricted access to health care by destroying and damaging medical facilities. Amnesty International documented indiscriminate attacks and direct attacks on civilian homes, schools, bakeries, rescue operations, hospitals and medical facilities, including by artillery shelling and air strikes, killing and injuring hundreds of civilians, including rescue and medical workers. It is crucial that medical facilities have access to the needed medical supplies and are protected from attacks.

It is the Syrian government's policies and practices that created the need for this cross-border aid. In 2014, it became clear to the UN that civilians in opposition-controlled areas would be unable to access aid from government-controlled areas. The Syrian government had been repeatedly blocking UN agencies and their implementing partners from delivering aid to people in need in opposition-controlled areas. Humanitarian aid convoys were returned at checkpoints, medical equipment and supplies were confiscated by security forces, and months of delays in obtaining prior approvals are only some of the obstacles that humanitarian aid agencies faced in Syria. In areas formerly besieged by the government, humanitarian aid was used as a bargaining chip to achieve strategic interests with armed opposition groups. In many instances during the crisis, humanitarian aid was blocked as a way to punish civilians for the actions of armed opposition groups. These "surrender or starve" tactics, which Amnesty International documented, were in flagrant violation of international human rights and humanitarian law.

If to this day, the UN and its implementing partners do not have unfettered access to people in need in government-controlled areas, how does Russia expect that aid will be allowed to Idlib or other opposition-held areas?

Since July 2019, the UN has repeatedly warned about the unfolding of the "worst humanitarian disaster" in Idlib if the violence does not stop. The humanitarian disaster is now unfolding. Ending unlawful attacks and ensuring unfettered access to humanitarian aid are two measures that would reverse that disaster and protect civilians. The UN Security Council must establish a mechanism or renew the existing one if it is to fulfil its own mandate and ensure unfettered access to humanitarian aid for the millions of people who are more in need than ever before.

An Accountability Update for Crimes Committed in Syria (Law Fare) By Emma Broches

January 13, 2020

On Dec. 28, 2019, the Washington Post reported that “Idlib could become the worst humanitarian crisis in Syria’s civil war.” Idlib and its environs have been under intense assault since April, when the Syrian government began a major offensive to retake the last opposition-held enclave in Syria, displacing more than 500,000 civilians and damaging dozens of hospitals and schools. By August, the attacks had become so frequent that U.N. Secretary-General Antonio Guterres established an inquiry to document the incidents.

Despite this persisting violence, European countries, often working in coordination with human rights groups, have made progress in their efforts to hold Syrian regime and nonstate actors accountable for war crimes. Though some cases against Islamic State fighters are taking place elsewhere (including the United States and Iraq), most of the current accountability efforts are being pursued in Europe, including Germany, France, the Netherlands and Hungary. As reported previously on Lawfare, Europeans have been able to prosecute primarily low-ranking members of armed rebel groups or the Islamic State, but they have also had some success holding high-level Syrian government officials accountable. This post provides an overview of the most recent attempts to hold individuals and corporations accountable for their crimes in the Syrian conflict and the strategies that prosecutors have employed to do so.

Accountability efforts for regime actors have been slow and fragmented over the past few years, but progress may soon accelerate with the upcoming trial of two former Syrian government officials in Koblenz, Germany, which will be the first trial to address the government’s use of torture. As discussed previously on Lawfare, France and Germany issued the first international arrest warrants for senior Syrian officials in 2018, and in February 2019 three high-ranking members of the Syrian General Intelligence Directorate were arrested. In mid-October, the German federal public prosecutor filed charges against the two former officials—Anwar Raslan and Eyad al-Gharib—who were arrested in Germany. Raslan was indicted for more than 4,000 counts of torture as a crime against humanity, as well as rape and aggravated sexual assault. Gharib, who allegedly reported directly to Raslan, was charged with at least 30 counts of torture. In addition to being the first international case about state torture in Syria to go to trial, it will also be unique in the field of international criminal justice for holding a high-level officer accountable while the conflict is ongoing.

Syrians and civil society organizations have also continued to push European prosecutors to open new investigations against high-level government officials. In November 2019, five torture survivors from Syria working closely with several human rights organizations filed a criminal complaint in Norway against 17 high-ranking officials of the Assad regime. The complaint requests that the Norwegian prosecutors investigate allegations of torture and crimes against humanity committed during the officials’ involvement with 14 different detention facilities across Syria. This criminal complaint is part of a series of similar complaints that have been filed by Syrians in Sweden, Germany and Austria. If the Norwegian prosecutors move forward with the case, it would be the first war crimes investigation in Norway to focus on perpetrators who are not currently present in the country. However, like Germany and Sweden, under Norway’s rules of universal jurisdiction, prosecutors can investigate suspects even if they are not present in Norwegian territory.

Other recent legal action has targeted Syrians who committed war crimes while fighting for the Islamic State or other armed opposition groups. Since April 2019, five cases against Syrians moved forward in Germany, the Netherlands and Hungary. In most of the cases, prosecutors have been able to bring international criminal law charges through the innovative use of photographic and video evidence from social media and YouTube and tips from refugees. These European war crimes units have also benefited from evidence collected by civil society organizations and joint investigations with other countries.

In April, the High Regional Court in Stuttgart, Germany, found Mohamad K., a 29-year-old Syrian citizen and former member of the Free Syrian Army (FSA), guilty of war crimes and sentenced him to four and a half years in prison. Mohamad had been living in Germany since fleeing Syria in 2015. He was arrested in June 2018 and accused of capturing, detaining and torturing two members of an armed group fighting in support of the Syrian government. The torture was filmed by another FSA member and published on YouTube.

On Aug. 23, in Koblenz, Germany, a 33-year-old Syrian citizen who fought with the Islamic State for two years was charged with war crimes. Investigators believe that the accused posed for a picture with a severed head of an opposing fighter some time between 2012 and 2014 in Syria. Other Syrian refugees who knew this individual reported the alleged actions to German authorities, and after receiving a warrant to search his electronic devices, German police found the image on the suspect’s phone. The suspect is already in prison for lesser offenses, but if convicted, he will face 1–10 years in prison. This case follows a trend in European countries of using social media material as evidence to convict individuals for the war crime of committing outrages upon personal dignity for posing with a corpse.

On Sept. 3, Hungarian prosecutors charged a Syrian man, identified as F. Hassan, of terrorism and crimes against humanity for his role in the beheading of an imam and three other murders in Syria in May 2015. Authorities believe Hassan

commanded a small unit of the Islamic State in a town in Homs province that was ordered to terrorize and execute civilians and religious leaders who refused to side with the Islamic State. The charges are the result of a joint investigation with authorities in Malta, Greece and Belgium coordinated by Eurojust, the European judicial cooperation agency. When the trial against Hassan started on Nov. 13, the defendant immediately denied all the charges against him.

The Netherlands also made progress toward holding two different Syrians accountable this past fall. Like the cases in Germany and Hungary, these cases have benefited from close cooperation between different national war crimes units and evidence from online sources. First, on Sept. 5, the Dutch federal prosecutor filed charges against Ahmad al Khedr, also known as Abu Khudar, a 47-year-old Syrian who is believed to have been the commander of a battalion aligned with Jabhat al-Nusra known as Ghuraba'a Mohassan (Strangers of Mohassan). He was charged with both the war crime of murder and the crime of membership in a terrorist organization for allegedly participating in the summary execution of a captured Syrian soldier in 2012. The crime was recorded in a video that circulated online. Abu Khudar was granted temporary asylum in the Netherlands in 2014 but was arrested in May 2019 after German police provided Dutch authorities with witness testimony against the suspect. Abu Khudar will face a maximum sentence of life in prison if found guilty.

Second, on Oct. 22, Dutch police arrested a 29-year-old Syrian and alleged former commander of Ahrar al-Sham, a Syrian Islamist group, in a center for asylum seekers in the north of the country. The individual, whose name has not been released, is accused of the war crime of violating the personal dignity of victims for posing with the body of an enemy fighter and kicking a corpse during fighting in Hama in 2015. He also appears in YouTube videos in which he is singing to celebrate the deaths of other fighters. German authorities initially flagged the suspect after he registered as an asylum seeker there in 2015. Both of these cases are particularly significant because, according to JusticeInfo, even though the Dutch war crimes unit has been trying to get Syria war crimes cases into court, the Dutch have lagged behind some other European nations because they have fewer refugees to gather testimony from and have more restrictive universal jurisdiction laws. (Under the Dutch universal jurisdiction law, if neither the suspect nor the victims are Dutch nationals, then the suspect must be present on Dutch territory before the case can move forward.)

In addition to prosecuting Syrian nationals, Europeans have also had to build cases against their own citizens who traveled to Syria to fight with the Islamic State. Since the U.S. withdrawal from northeastern Syria in October 2019, the future of suspected Islamic State fighters and their families held in detention facilities now controlled by Turkish-backed forces has become increasingly untenable. However, on the whole, little progress has been made in figuring out how best to detain the members and hold them accountable for joining the Islamic State and any crimes they may have committed as members of the group. Although President Trump has continued to put pressure on European governments to repatriate their fighters, most European leaders still oppose this approach even though experts emphasize that it is the safest option.

In the meantime, Turkey has forced European nations to face the consequences of their indecision by deporting alleged fighters who were captured in Syria or being held in Turkey. Throughout mid-November, Turkey sent more than a dozen former Islamic State members and their relatives to Britain, Denmark, Germany, the Netherlands and the United States. Most of these fighters were arrested upon arrival, but some have been released and will be tracked moving forward. Like most of those individuals deported by Turkey, a German citizen identified as Nasim A., who left Germany for Syria in 2014 and married an Islamic State fighter there, was detained upon arrival at the Frankfurt airport and accused of being a member of a terrorist organization in a foreign country. However, German authorities allowed a family of seven German citizens who arrived from Turkey the same week to return to their homes under police supervision because the authorities did not believe the family ever actually arrived in Syria or joined the Islamic State. The Turkish leadership has threatened to deport the remaining detainees alleged to be members of the Islamic State—estimated to include more than 1,000 individuals from 30 countries—but it is unclear whether they intend to follow through on that threat.

As discussed previously, European prosecutors and civil society organizations have also looked to economic actors that facilitate crimes committed by the regime, the Islamic State or other armed groups. In November 2019, the Paris Court of Appeal issued its decision on the case against Lafarge. The multinational cement firm was accused of complicity in serious crimes for paying the Islamic State and other nonstate armed groups millions of dollars to keep a factory open in northern Syria during the conflict. Although the court overturned the decision to prosecute the company for crimes against humanity, it upheld the three remaining criminal charges: financing a terrorist enterprise, deliberately endangering the lives of its subsidiary Syrian workers and violating a trade embargo. Despite the crimes against humanity charge being dropped, the case remains significant as the first case in France to prompt a criminal investigation of a company's liability for its foreign operations. This ruling may set the stage for a future trial over the remaining three charges.

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Yemen

Yemen: Wartime Abuses Face Global Spotlight (Human Rights Watch)

January 14, 2020

Yemen's armed conflict and humanitarian crisis is resulting in unspeakable suffering for millions of civilians despite increasing global attention to abuses occurring in the country, Human Rights Watch said today in its World Report 2020. The Saudi government's murder of the Saudi journalist Jamal Khashoggi in late 2018 galvanized the international community to scrutinize Saudi Arabia's human rights violations in Yemen and their own potential complicity in these abuses through arms sales.

The Saudi-led coalition and the Houthi armed group fighting since March 2015 are responsible for laws-of-war violations and human rights abuses. The conflict has killed and injured thousands of civilians. A United Nations report in September 2019 found that: "parties to the conflict in Yemen are responsible for an array of human rights violations and violations of international humanitarian law. Some of these violations are likely to amount to war crimes."

"It's well-established that the Saudi-led coalition and Houthi forces are indiscriminately attacking, forcibly disappearing, and obstructing food and medicine to Yemeni civilians, among other abuses," said Michael Page, deputy Middle East director at Human Rights Watch. "The international community, including states allied with parties to the conflict, should use the leverage they have to press the warring parties to end their violations and ensure accountability."

In the 652-page World Report 2020, its 30th edition, Human Rights Watch reviews human rights practices in nearly 100 countries. In his introductory essay, Executive Director Kenneth Roth says that the Chinese government, which depends on repression to stay in power, is carrying out the most intense attack on the global human rights system in decades. He finds that Beijing's actions both encourage and gain support from autocratic populists around the globe, while Chinese authorities use their economic clout to deter criticism from other governments. It is urgent to resist this assault, which threatens decades of progress on human rights and our future. Since March 2015, the coalition has conducted scores of indiscriminate and disproportionate airstrikes killing thousands of civilians and hitting civilian objects in violation of the laws of war, using munitions sold by the United States, United Kingdom, and others. The airstrike on a detention center in August 2019 that killed and wounded at least 200 people was the single deadliest attack since the war began.

Houthi forces have used banned antipersonnel landmines and fired artillery indiscriminately into cities such as Taizz and Hodeida, killing and wounding civilians, and indiscriminately launched ballistic missiles into Saudi Arabia. The conflict has had a devastating impact on the lives of ordinary Yemenis, placing millions of people at risk of famine. Yemen's economy, already fragile prior to the conflict, has been gravely affected. Hundreds of thousands of families no longer have a steady source of income, and many public servants have not received a regular salary in several years. Houthi forces, the Yemeni government, the United Arab Emirates (UAE), Saudi Arabia, and various UAE and Saudi-backed Yemeni armed groups have arbitrarily detained people, including children, and committed forced disappearances. Houthi forces have held people hostage. Yemeni officials in Aden have beaten, raped, and tortured detained migrants and asylum seekers from the Horn of Africa, including women and children.

The warring parties have not acknowledged any responsibility for violations, which has resulted in a pervasive lack of accountability and justice. Yemen's civil society has faced security and political abuses. Warring parties have attacked, harassed, arrested, and forcibly disappeared Yemeni activists, journalists, lawyers, academics, and rights defenders, including members of the Baha'i faith. Women political activists, who have played a prominent role in human rights campaigning and peacebuilding, have been threatened and subjected to smear campaigns, and were excluded from peace talks in Sweden in December 2018. "Instead of standing still amid the human suffering in Yemen, governments close to Saudi Arabia, the UAE, and the Houthis should pressure their allies to end their grave human rights abuses and establish accountability measures," Page said.

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Special Tribunal for Lebanon

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Israel and Palestine

Palestinians wary of ICC call for probe into Israel war crimes (Al-Monitor) By Tareq Subhi Hajjaj
January 14, 2020

Activist groups around the world are heralding the Dec. 20 announcement by chief prosecutor for the International Criminal Court (ICC) Fatou Bensouda, who said, “I am satisfied that war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip.” Pending confirmation from the court that it has jurisdiction over the Palestinian territories, Bensouda recommended the ICC pursue a full investigation.

However, Palestinians literally confined to those territories by the Israeli blockade are more skeptical — if not outright dismissive.

“[An investigation] is all about reliving the pain, the harsh memories, over and over again,” said Majdi Wahdan, who lost 12 members of his family — including his parents and two sisters — in the 2014 Israeli war on Gaza. “But nothing will happen; it will produce another report and the world will move on. International law never ends up changing anything on the ground.”

Wahdan, 36, used to support his extended family, including his own three children, by farming. But his land is close to the Israel border and he’s concluded it’s simply too unsafe. Now, he is dependent on aid. After the 2014 war, he sought help from many human rights organizations, to no avail. Even surviving relatives who needed medical care outside Gaza were not able to obtain permission.

The ICC’s office of the prosecutor launched its preliminary review on Jan. 16, 2015, shortly after Palestinian authorities recognized the jurisdiction of the court and only months after the conclusion of the 50-day assault that killed 2,251 Gazans and wounded more than 10,500.

The day Wahdan’s life changed forever, he had already fled with his wife and children to a UN school for safety. However, the rest of his relatives had not yet left and were still gathering belongings in their home in northern Beit Hanoun when several Israeli missiles struck, bringing the building down around them.

“Even if we are able to sue Israel for its crimes against us, which I doubt, whatever paltry sum we win will not give me back my family. They are all gone,” Wahdan told Al-Monitor.

Ramy Abdu, assistant professor of law and finance and founder and chairman of the Euro-Mediterranean Human Rights Monitor, agrees that what happens next after Bensouda’s announcement will be a severe test of international law. What should happen, he says — if the example of Global South politicians brought to justice is followed — is the perpetrators of war crimes are brought to court.

“If Israelis are found guilty of war crimes and crimes against humanity against Palestinians, the Israeli government must be forced to bring them to court to be tried, regardless of their positions,” Abdu warned. “[Ideally,] material compensation should be awarded to the victims. Concrete actions like these would deter the Israeli government from committing further crimes and would give hope to Palestinians that international law can actually be used to achieve justice for them,” he told Al-Monitor.

For example, the ICC has ordered reparations for victims in the cases of three war criminals: Ahmad Al Faqi Al Mahdi, a member of the Ansar Dine militia in Mali; Germain Kitanga, a leader of the Patriotic Resistance Force in Ituri, an armed group in the Democratic Republic of the Congo (DRC); and Thomas Lubanga Dyilo, founder and leader of the Union of Congolese Patriots and the first person to be convicted by the ICC.

Mukhaimer Abu Saada, a professor of political studies at Gaza's Al-Azhar University, agrees with Abdu that there is a discrepancy between the international community's actions toward countries in regions such as Africa versus those against superpower allies such as Israel. Since the court was formally established in 2002, the ICC has initiated full investigations in Burundi, the Central African Republic, Cote d'Ivoire, Sudan, the DRC, Georgia, Kenya, Libya, Mali, Uganda and Bangladesh/Myanmar.

According to the ICC website, the ICC is currently conducting nine investigations; five have been closed without further action. Meanwhile, 12 cases have progressed to the pre-trial stage, four trials are in progress, two judgments are being appealed and five cases went to litigation but were later closed. There have been three convictions resulting in orders for reparations or compensation.

Preliminary investigations, such as the review just completed for Palestine, are currently ongoing in Afghanistan, Colombia, Guinea, Iraq, Nigeria, the Philippines, Ukraine and Venezuela.

There is a history of government officials being indicted, such as Mohammed Hussein Ali, commissioner of the Kenya police; Omar al-Bashir, president of Sudan; and Moammar Gadhafi, former leader of Libya. But only in the case of Iraq have officials from a "power" country (in this case, the UK) been investigated as well for the killing of civilians. While a panel of court judges rejected Bensouda's recommendation to investigate war crimes in Afghanistan (which could include those perpetrated by US forces), an appeal chamber is reconsidering. The US government retaliated by revoking Bensouda's visa.

"There are a lot of reasons for Palestinians to lack trust in the international community's willingness to enforce international law. However, whether or not Palestinians have faith in international law, [an ICC ruling] is a way to strike another blow against Israel and one of the lower-cost ways to do it. But regardless, the action of Fatou Bensouda will have some effect. It has already," Abu Saada told Al-Monitor, referring to Israeli Foreign Minister Yisrael Katz's reference Dec. 22, 2019, to the ICC review when he halted evacuation of the Palestinian village of Khan al-Ahmar.

That may very well be true. But those who have paid the highest price are the most skeptical. Atia Darwish, a photojournalist shot in his left eye by an Israeli tear gas bomb Dec. 14, 2018 — robbing him of sight and causing partial hearing loss — is one of them.

"I tried to prosecute Israel over my wound; I'm a journalist and the law should protect me. There was no reason to target me while I was doing my job," he told Al-Monitor. "But human rights organizations and other [nongovernmental organizations] in Gaza were not able to bring Israel to court. But if there was really a chance to sue Israel I would go forward in a minute."

ICC arrests 101: Which Israelis will be arrested and when? - Analysis (The Jerusalem Post) By Yonah Jeremy Bob

January 14, 2020

The sky is falling! International Criminal Court prosecutors in The Hague will be arresting gazillions of IDF officers and West Bank settlers anywhere they travel outside Israel as of March 21!

Watch out. Or calm down.

Yes, the threat of the ICC arresting Israelis exists, and even that theoretical possibility is serious business requiring a full diplomatic and legal campaign. But in moving on that campaign, facts matter, and quantifying the challenge correctly is important.

In reality, the probability is high that zero Israelis will be arrested on March 21 (the day after the ICC Pretrial Chamber is expected to approve a full war crimes investigation against Israelis) or even for some months beyond.

It's important not to blow the threat out of proportion: No IDF officers are likely to be arrested for at least 6-12 months after the March 20 hearing. Even the hearing date is not in stone, and could be postponed by months.

These delays are because ICC Prosecutor Fatou Bensouda exclusively told The Jerusalem Post on January 2 that the March 20 hearing has nothing to do with the IDF.

It is unclear whether she can investigate the IDF yet as she has not decided whether the IDF's internal investigations of alleged war crimes by its soldiers comply with international law.

If she later decides to investigate the IDF for war crimes, she told the Post that this would only occur after she has issued a later public report on the issue.

While Bensouda did not give the Post a timeline, the impression was that it could take her office another 6-12 months to issue a large report on such a complex issue.

A spokesman for the ICC reaffirmed on Tuesday, "The notion that ICC will be issuing arrest warrants in connection with the situation in Palestine in March of this year is thus false."

Even in the fall of 2020 or March 2021, there may only be a small number of IDF officials, such as Brig.-Gen. Ofer Winter (whose name has been widely reported), who were involved in three major incidents during Operation Protective Edge in 2014, and therefore may have a problem.

Apart from a few IDF top brass involved in the battles at Rafah on Black Friday, Shejaia and Khuza'a, few arrests are expected stemming from misconduct during Operation Protective Edge.

This means that Benny Gantz is in no danger anytime in the next six to 12 months, and may never face arrest.

Theoretically however, the ICC Prosecutor could go after him as the IDF overall commander, but the Israeli comptroller report on the Operation Protective Edge has made it clear that the Palestinians killed during Black Friday came by order of frontline commanders.

More specifically, the comptroller report said that local commander Brig.-Gen. Ofer Winter had an outdated Hannibal Protocol order, permitting more aggressive use of force, than what Gantz had. Thus an administrative error led to failing to update the order at the front.

The IDF also issued an extensive report debunking a variety of myths about the Black Friday incident. This report framed the incident as an unexpected multi-front chaotic battle with Hamas during which some Palestinian civilians were caught in the crossfire.

There is one other piece to the ICC and the IDF.

In March 2018, the IDF-Hamas-Gaza border crisis started. It is unclear what the ICC will do in relation to this. But IDF probes are ongoing and likely will be until the end of Bensouda's term in June 2021, or close to that point.

This means Bensouda will not likely issue arrests in relation to these issues, or not until a much later date. Rather, most of the handling of the 2018-2019 conflict will likely be passed on to her successor.

It is also possible that the issue may be dropped entirely since Hamas has announced it is significantly cutting back the weekly Great March of Return protest, and the conflict does not fit easily into a standard law of war analysis.

Israel's bigger short-term ICC problem is not the IDF, but the settlements.

Theoretically, arrests relating to the settlement enterprise could begin much sooner because Bensouda has already found that Israel is not prosecuting the settlements as a crime.

However, Bensouda told the Post on January 2 that she will not immediately issue arrests as she will need to conduct a fact-finding process after March 20 to determine which individuals to investigate.

This will likely take a minimum of three months, and could take half a year or longer.

As an ICC spokesman told the Post on Tuesday, "should an investigation be opened, investigations take time before a suspect is identified on the basis of the evidence gathered and an application for a warrant of arrest made."

Also, Bensouda may not rush to issue such arrests as she may need to issue arrests against Hamas and other Gaza militant groups before or at the same time.

Finally, there are allegations of torture and "pay for slay" against the Palestinian Authority.

She may wait to issue arrests until deciding these allegations to avoid criticism that she is being biased in favor of the PA.

So pushing the March 2020 date back to the summer or end of 2020, who might the ICC try to arrest in connection with the settlement enterprise?

While theoretically possible, it is unlikely an arrest will be issued for Prime Minister Benjamin Netanyahu. While he is responsible for overall policy and makes many pronouncements about the settlements, it is only one of many responsibilities he has. Other officials are far more central to the enterprise.

Also, when Bensouda went after a head of state in the Kenya case, the entire prosecution collapsed due to a lack of state cooperation.

Bensouda has said that her office has learned from this experience.

Experts say that arrests might be issued for the housing ministers from June 2014 onward, and for local regional council chiefs in charge of West Bank settlement expansion from June 2014 onward. Anyone before June 2014 – which means most officials who have been involved with the settlements – is beyond Bensouda's jurisdiction based on time limitations set in the PA's own referral.

A minority of experts think some defense ministers from June 2014 onward could be on the hook for actions taken to advance settlements, especially for house demolitions. But a majority say that since defense ministers are a side point to the settlement enterprise, they will not be investigated. Individual settlers will generally not be investigated as the ICC prioritizes higher profile persons.

The tricky part is that the ICC will not announce when it issues these arrest warrants. So, just to play it safe, some of these officials may choose to cease traveling in certain areas already after March 20 absent pre-guarantees from those states that they will not be arrested. Around 125 countries are members of the ICC, including most European states.

However, the US cut bilateral deals with countries during the post 9/11 era to forestall the arrest of American troops.

The truth is no one can really know who the ICC will seek to arrest and no human being has ever been prosecuted in history for the "war crime" of building structures. However, the arrest list will be much shorter and is likely much farther off than many outlets are currently reporting.

ICC prosecutor says Israel committing war crimes, opens investigation (The Jerusalem Post) By Tovah Lazaroff
January 12, 2020

International Criminal Court prosecutor Fatou Bensouda believes that Israel and the Palestinians have committed war crimes, and plans to open an investigation into the matter.

Prior to such an investigation, including into Gaza and West Bank settlements, Bensouda has sought a ruling from the ICC's pre-trial chamber as to the extent of the territory that can fall under the scope of her probe.

"There is a reasonable basis to proceed with an investigation into the situation in Palestine, pursuant to article 53(1) of the [Rome] Statute," Bensouda said on Friday, in a statement she published on the ICC website.

"I am satisfied that (i) war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip ('Gaza')" and that "potential cases arising from the situation would be admissible," Bensouda wrote.

"There are no substantial reasons to believe that an investigation would not serve the interests of justice," wrote Bensouda from the court's offices at The Hague in the Netherlands.

Bensouda's statement ended four years of speculation as to whether or not the ICC would dismiss the Palestinian Authority's pursuit of a war crimes suit against Israelis.

In a larger brief to the pre-trial chamber, Bensouda said she has reason to believe that the IDF committed war crimes in Gaza, particularly during the 2014 war.

Similarly, she said, "There is a reasonable basis to believe that members of Hamas and Palestinian armed groups ('PAGs') committed... war crimes."

She also plans to examine IDF activity along the Gaza border since the start of the "Great March of Return" in March 2018.

Separately, Bensouda wrote that she has reason to believe that the actions of the Israeli authorities in the West Bank and east Jerusalem can be considered to fall under the war crime of a transfer of civilian population into occupied territory.

She clarified that she is only examining war crime claims dating back no further than June 13, 2014.

In Jerusalem, Prime Minister Benjamin Netanyahu issued a scathing response, stating that this was a "black day for truth and justice" and a "baseless and scandalous decision."

“The court has no jurisdiction in this case. The ICC only has jurisdiction over petitions submitted by sovereign states, but there has never been a Palestinian state,” Netanyahu said.

“The ICC prosecutor’s decision has turned the International Criminal Court into a political tool to delegitimize the State of Israel,” the prime minister said, adding that Bensouda had dismissed the legal arguments on that score, which Israel had presented to her.

“She has also completely ignored history and truth when she says that the very act of Jews living in their ancestral homeland, the land of the Bible... is a war crime,” Netanyahu said.

“We will not be silent. We will not bow our heads before this outrage,” he said. “We will continue to speak out before this travesty of justice.”

The prime minister has written a letter to world leaders warning them that the ICC wants to turn the fact that Jews live in their ancestral homeland into a war crime.

In her brief to the pre-trial chamber, Bensouda said she believes the ICC has jurisdiction on the matter and that Palestine can be considered a state, based on the UN General Assembly resolution of 2012. That resolution granted the Palestinians a non-member observer status at the UN, a move that is considered to be a de-facto recognition of Palestinian statehood.

Bensouda added that the PA’s 2015 signing onto the Rome Statute, which governs the ICC, also gave the court jurisdiction.

In spite of her conclusions, she decided that it was best to ensure the legality of the case by assigning the ICC’s pre-trial chamber to rule on the question of whether all or only parts of what is considered Palestinian territory fall under ICC jurisdiction. The Palestinian Authority has asked the court to consider Israeli war crimes cases in east Jerusalem, the West Bank and Gaza, all territory which it holds to be “occupied” by Israel and which would become the final borders of its state.

“I have sought confirmation that the ‘territory’ over which the court may exercise its jurisdiction, and which I may subject to investigation, comprises the West Bank, including east Jerusalem, and Gaza,” Bensouda said.

“Such determination is made strictly for the purposes of determining the court’s ability to exercise its jurisdiction, and the scope of such jurisdiction under the statute,” she said.

Neither Israel nor the United States are parties to the statute.

She added that the question of jurisdiction must be answered before she can proceed with her investigation.

“This foundational question should be decided now – and as swiftly as possible – in the interests of victims and affected communities,” she said. US Secretary of State Mike Pompeo said that the ICC had unfairly targeted Israel. Just last month he declared that the US position on the matter was that Israeli settlements in the West Bank were legal under international law.

The US does not “believe the Palestinians qualify as a sovereign state, and they therefore are not qualified to obtain full membership, or participate as a state in international organizations, entities or conferences, including the ICC,” he said.

Pompeo clarified the American position that the ICC does not have jurisdiction over his country or Israel, precisely because they are not party to the Rome Statute. In this case, that means the ICC cannot hear a case regarding Israel without “a referral from the UN Security Council or the consent of such a State,” the secretary explained.

“We expect that the decision on the part of the United States and Israel not to join and not to place our personnel under the court’s jurisdiction will also be respected,” Pompeo said.

The US is committed to achieving a lasting peace between Israelis and Palestinians, but the only way forward is through direct negotiations, he said.

Just a few hours prior to Bensouda’s decision, Israel’s Attorney-General Avichai Mandelblit published a decision rejecting ICC jurisdiction.

“The principled legal position of the State of Israel, which is not a party to the ICC, is that the Court lacks jurisdiction in relation to Israel, and that any Palestinian actions with respect to the Court are legally invalid,” Mandelblit wrote.

“Only sovereign states can delegate criminal jurisdiction to the Court. The Palestinian Authority clearly does not meet the criteria for statehood under international law and the Court’s founding statute,” he said.

“The claim that the Palestinians have purported to join the Rome Statute does not meet, nor can it replace, the substantive test

requiring criminal jurisdiction to have been delegated to the Court by a sovereign state with a defined territory,” he continued.

“Israel has valid legal claims over the same territory in relation to which the Palestinians are seeking to submit to the Court’s jurisdiction,” Mandelblit said.

In addition, he explained, if the court were to make a jurisdictional decision, it would be weighing in on a matter that is the subject of future negotiation between Israel and the PA.

Israel and the Palestinians agreed to resolve the status of the territory in question through the framework of negotiations, he stated.

“The Palestinians are seeking to breach the framework agreed to by the parties and to push the Court to determine political issues that should be resolved by negotiations, and not by criminal proceedings,” Mandelblit wrote.

“The Court was not established for such purposes, nor does it have the authority or capacity to determine such matters, especially in the absence of the consent of the parties,” he explained.

In addition, Mandelblit explained that “existing Israeli-Palestinian agreements make it clear that the Palestinians have no criminal jurisdiction either in law – or in fact over Area C, Jerusalem and Israeli nationals – and thus cannot validly delegate such jurisdiction to the Court.”

Any conclusion that the ICC has jurisdiction would not “withstand any serious legal and factual scrutiny, and would inevitably run up against the terms of the Rome Statute itself, as well as the rules of general international law more broadly.”

In a briefing to the media, Foreign Affairs legal adviser Tal Becker explained that the ICC and the Palestinians had to decide if the territory in question was occupied or if it was a sovereign Palestinian state, but for the purposes of law, it could not be both.

Alan Baker, former Foreign Ministry legal adviser and director of the International Law Program at the Jerusalem Center for Public Affairs, told *The Jerusalem Post*, “If the court accepts the Palestinian requests and opens a formal investigation, it will damage its own juridical credibility and become politicized like other UN bodies.

“This is what the Palestinian leadership is trying to do – to the great detriment, and possibly ruination of the ICC,” Baker said.

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Gulf Region

'Blanket secrecy' surrounds Australian weapons sales to countries accused of war crimes (The Guardian) By Ben Doherty and Christopher Knaus

January 13, 2020

Australian companies are selling weapons and military technology to countries around the world accused of war crimes, but the Australian government has refused to say what weapons are being sent overseas and to whom.

Nearly 100 permits were issued to export weapons and military technology to the United Arab Emirates, Saudi Arabia, Sri Lanka and the Democratic Republic of Congo over the 2018-2019 financial year. But the Australian defence department has refused to reveal how many weapons have been sold, for how much, or for what purpose.

The extent of and extreme secrecy surrounding Australia’s foreign weapons sales are revealed by documents obtained by the Guardian under freedom of information laws.

Save for their existence and confirmation of country of destination, the documents are almost entirely redacted by the government, which has argued the information is commercial-in-confidence. That decision is being challenged by the Guardian.

Between June of 2018 and July 2019, Australia issued 45 weapons export permits to the United Arab Emirates, 23 to Saudi Arabia, 14 to Sri Lanka and four to the Democratic Republic of Congo.

Some of the weapons permits are extraordinarily detailed. One single permit, for a weapons technology export, runs to 403 pages, and contains hundreds of items. All of these details are redacted by the defence department.

Nearly \$5bn worth of declared value defence permits were issued by Australia in 2018-19, a dramatic increase on the \$1.6bn approved the previous year.

The UAE's military, whose Presidential Guard is commanded by retired Australian army major general Mike Hindmarsh, has been accused of war crimes in the brutal conflict in Yemen, where a coalition of UAE, Saudi and Yemeni government military forces are engaged in a bitter battle with Houthi rebels believed to be backed by Iran.

Saudi Arabia's military has led the coalition fighting in the five-year conflict, which has been plagued by human rights abuses including hospitals being bombed, civilians being targeted by shelling and sniper fire, civilian populations being deliberately starved, medical supplies being blocked, rape, murder, enforced disappearances, torture, and forcing children to fight.

Australian weapons systems manufacturer Electro Optics Systems (EOS) – which supplies the Saudi military with remote weapon stations – has told the Guardian their equipment does not cross the border into Yemen.

But a report by a United Nations panel of experts, including former Australian MP and international lawyer Melissa Parke, said countries who supplied weapons to the militaries of the UAE or Saudi Arabia could be complicit in war crimes being committed in the Yemen conflict.

The Sri Lankan military has been accused of war crimes over several years and complicity in the continued disappearance, abuse and torture of Tamil citizens, democracy activists, journalists and opponents of the government.

Recently re-elected prime minister, former president Mahinda Rajapaksa, led the military at the conclusion of the country's civil war: the 2009 operation to end the war left up to 40,000 civilians dead, according to a UN experts' report.

The current head of the military, Shavendra Silva, led the Sri Lankan army's 58 Division unit in 2009, which was accused of intentional and indiscriminate attacks on civilians, no-fire zones and hospitals.

The Democratic Republic of Congo has had a number of arms embargoes imposed upon it since 2003 because of a supply of weapons fuelling mass killings, human rights abuses and torture. The government's military was previously included in sanctions banning the supply of all arms and related material, but was removed from the sanctions list in 2008. Arms embargoes still apply to non-government forces.

All exports of arms require licences from the defence department's export controls branch. The department has previously told Senate estimates that export licences are not issued if the weapons are likely to be used in human rights abuses.

"If we assess that they would be used [to commit human rights abuses], we would not approve the permit," Tom Hamilton, then acting deputy secretary of the defence department's strategic policy and intelligence group, said in February.

Defence says it runs rigorous risk assessments on weapons prior to export. That process involves examining human rights, Australia's international obligations, foreign policy, national security and regional security.

"This assessment includes consideration of whether there is an overriding risk that the exported items could be used to commit or facilitate a serious violation of international humanitarian law," a spokeswoman said last year.

Dr Margaret Beavis, vice president of the Medical Association for Prevention of War, said it was well past time for the defence department's "notorious secrecy" around Australian arms sales to end.

"If Australia is complying with all its legal obligations, as defence claims, what have they got to hide? This claim that they are protecting the commercial interests of weapons sellers is woefully insufficient justification for the blanket secrecy surrounding Australian weapons sales to nations accused of war crimes."

Freedom of information expert Peter Timmins said failing to tell the Australian public which countries the government was exporting arms to was "quite remarkable", given former defence minister Christopher Pyne was open about his intention to sell arms to Saudi Arabia.

"Having put on the public record that we intend to increase our arms sales to a country like Saudi Arabia, to then not disclose that we might have issued an export permit to enable the export of arms to Saudi Arabia seems quite remarkable," he told the

Guardian.

Timmins is concerned the spirit and intent of the FoI Act are increasingly being disregarded in favour of secrecy.

“The proper test of the act is to make information available promptly that goes to accountability, transparency, good government, or poor government as the case may be,” he said.

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ASIA

Afghanistan

Trump Is Close to Committing a Massive War Crime in Afghanistan (The Nation) By Nick Turse
January 10, 2020

On February 4, 2002, a Predator drone circled over Afghanistan’s Paktia province, near the city of Khost. Below was Al Qaeda’s founder Osama bin Laden—or at least someone in the CIA thought so—and he was marked for death. As Secretary of Defense Donald Rumsfeld put it later, both awkwardly and passively: “A decision was made to fire the Hellfire missile. It was fired.” That air-to-ground, laser-guided missile—designed to obliterate tanks, bunkers, helicopters, and people—did exactly what it was meant to do.

As it happened, though (and not for the first time in its history either), the CIA got it wrong. It wasn’t Osama bin Laden on the receiving end of that strike, or a member of Al Qaeda, or even of the Taliban. The dead, local witnesses reported, were civilians out collecting scrap metal, ordinary people going about their daily work just as thousands of Americans had been doing at the World Trade Center only months earlier when terror struck from the skies.

In the years since, those Afghan scrap collectors have been joined by more than 157,000 war dead in that embattled land. That’s a heavy toll, but represents just a fraction of the body count from America’s post-9/11 wars. According to a study by the Costs of War Project of Brown University’s Watson Institute, as many as 801,000 people, combatants and noncombatants alike, have been killed in those conflicts. That’s a staggering number, the equivalent of the Rwandan genocide of 1994. But if President Donald Trump is to be believed, the United States has “plans” that could bury that grim count in staggering numbers of dead. The “method of war” he suggested employing could produce more than 20 times that number in a single country—an estimated 20 million or more Afghans, almost all of them civilians.

It’s a strange fact of our moment that President Trump has claimed to have “plans” (or “a method”) for annihilating millions of innocent people, possibly most of the population of Afghanistan. Yet those comments of his barely made the news, disappearing within days. Even for a president who threatened to unleash “fire and fury” on North Korea and usher in “the end” of Iran, hinting at the possibility of wiping out most of the civilian population of an ally represented something new.

After all, America’s commander in chief does have the authority, at his sole discretion, to order the launch of weapons from the vast US nuclear arsenal. So it was no small thing last year when President Trump suggested that he might unleash a “method of war” that would kill at least 54 percent of the roughly 37 million inhabitants of Afghanistan.

And yet almost no one—in Washington or Kabul—wanted to touch such presidential comments. The White House, the Pentagon, and the State Department all demurred. So did the chief spokesman for Afghan President Ashraf Ghani. One high-ranking Afghan official apologized to me for being unable to respond honestly to President Trump’s comments. A current American official expressed worry that reacting to the president’s Afghan threats might provoke a presidential tweet storm against him and refused to comment on the record.

Experts, however, weren't shy about weighing in on what such "plans," if real and utilized, would actually mean. Employing such a method (to use the president's term), they say, would constitute a war crime, a crime against humanity, and possibly a genocide.

"Massive Soviet military forces have invaded the small, nonaligned sovereign nation of Afghanistan," President Jimmy Carter announced on January 4, 1980. "Fifty thousand heavily armed Soviet troops have crossed the border and are now dispersed throughout Afghanistan, attempting to conquer the fiercely independent Muslim people of that country." Nine years later, the Red Army would finally limp out of that land in the wake of a war that killed an estimated 90,000 Mujahideen fighters, 18,000 Afghan troops, and 14,500 Soviet soldiers. As has been the norm in conflicts since World War I, however, civilians suffered the heaviest toll. Around one million were estimated to have been killed.

In the 18-plus years since US forces invaded that same country in October 2001, the death toll has been far lower. Around 7,300 US military personnel, contractors, and allied foreign forces have died there, as have 64,000 American-allied Afghans, 42,000 opposition fighters, and 43,000 civilians, according to the Costs of War Project. If President Trump is to be believed, however, this body count is low only because of American restraint.

"I have plans on Afghanistan that, if I wanted to win that war, Afghanistan would be wiped off the face of the Earth. It would be gone," the president remarked prior to a July 2019 meeting with Pakistani Prime Minister Imran Khan. "If we wanted to fight a war in Afghanistan and win it, I could win that war in a week. I just don't want to kill 10 million people." In September, he ramped up the rhetoric—and the death toll—further. "We've been very effective in Afghanistan," he said. "And if we wanted to do a certain method of war, we would win that very quickly, but many, many, really, tens of millions of people would be killed."

If America's commander in chief is to be believed, plans and methods are already in place for a mass killing whose death toll could, at a minimum, exceed those of the Holocaust, the Cambodian genocide, the Rwandan genocide, the Vietnam War, the Korean War, the Hundred Years' War, and the American Revolution combined—and all in a country where the Pentagon believes there are only 40,000 to 80,000 Taliban fighters and fewer than 2,000 Islamic State militants. President Trump claims he'd prefer not to use such methods, but if he did, say experts, his Senate impeachment trial could theoretically be followed by a more consequential one in front of an international tribunal. "Of course, any 'method of war' that would kill '10 million people' or 'tens of millions' of people in a country where the fighting force consists of 40,000 to 80,000 would be a blatant violation of the laws of war and would render President Trump a war criminal," Daphne Eviatar, director of the Security with Human Rights program at Amnesty International USA, told TomDispatch.

Max Pensky, the codirector of the Institute for Genocide and Mass Atrocity Prevention at the State University of New York at Binghamton, agreed. "Carrying out such a plan would certainly be a war crime because of the context of the armed conflict in Afghanistan," he said. "And it would absolutely be a crime against humanity." He noted that it might also constitute a genocide depending on the intent behind it.

The United States has, of course, been a pioneer when it comes to both the conduct and the constraint of warfare. For example, "General Orders No. 100: Instructions for the Government of the Armies of the United States in the Field," issued by President Abraham Lincoln on April 24, 1863, represents the first modern codification of the laws of war. "The principle has been more and more acknowledged that the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of war will admit," reads the 157-year-old code. "All wanton violence committed against persons in the invaded country, all destruction of property not commanded by the authorized officer, all robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under the penalty of death, or such other severe punishment as may seem adequate for the gravity of the offense."

More recently, however, the United States has set the rules of the road when it comes to borderless assassination. In asserting the right of the military and the CIA to use armed drones to kill people from Pakistan to Yemen, Somalia to Libya, through quasi-secret and opaque processes, while ignoring previous American norms against "targeted killing," questions about national sovereignty, and existing international law, the United States has created a ready framework for other nations to mimic. In October 2019, for example, Turkey's President Recep Tayyip Erdogan hinted that he would assassinate Mazloum Kobani, the head of the Syrian Democratic Forces and a key US ally in the fight against the Islamic State in Syria. "Some countries eliminate terrorists whom they consider as a threat to their national security, wherever they are," Erdogan said. "Therefore, this means those countries accept that Turkey has the same right."

Historically, the United States has also pioneered the use of weapons of mass destruction. While a White House spokesperson would not address the question of whether President Trump was alluding to the use of nuclear weapons when he claimed that "Afghanistan would be wiped off the face of the Earth," it's notable that the United States is the only country to have used such weaponry in an actual war.

The first nuclear attack, the US strike on Hiroshima, Japan, on August 6, 1945, left that city "uniformly and extensively

devastated,” according to a study carried out in the wake of the attacks by the US Strategic Bombing Survey. “The surprise, the collapse of many buildings, and the conflagration contributed to an unprecedented casualty rate.” Between 60,000 and 80,000 people were killed instantly. The final death toll, including those who later perished from the long-term effects of radiation sickness, was estimated at 135,000 to 150,000. An atomic attack on Nagasaki, carried out three days later, was calculated to have killed another 50,000 to 75,000 people.

Just days before mentioning the possibility of annihilating tens of millions of Afghans, President Trump took the Taliban to task for killing 12 people, including 10 Afghan civilians and one American soldier, in a car bombing while peace talks with the militant group were underway. At the time, he tweeted: “What kind of people would kill so many in order to seemingly strengthen their bargaining position?” Weeks later, he would clear three military service members of war crimes, one of them convicted of murdering two Afghan civilians, another charged with the murder of an Afghan man.

Amnesty’s Daphne Eviatar believes that the president’s “disregard toward the lives of civilians” may have led to less precise American attacks in recent years. “We’ve seen a dramatic rise in civilian casualties from US military operations since Trump took office, including in Afghanistan,” she told TomDispatch.

An October report by the United Nations Assistance Mission in Afghanistan (UNAMA), analyzing the war from July to the end of September 2019, documented the highest number of civilian casualties it had recorded in a single quarter since it began systematically doing so in 2009. During the first nine months of last year, in fact, UNAMA tallied the deaths of 2,563 civilians and the wounding of 5,676 more—the majority by “anti-government” forces, including the Taliban and ISIS. UNAMA found, however, that “pro-government forces,” including the US military, killed 1,149 people and injured 1,199 others in that period, a 26 percent increase from the corresponding timeframe in 2018.

Of course, such numbers would be dwarfed were Donald Trump to decide to “win” the Afghan War in the fashion he hinted at twice last year, even as peace talks with the Taliban were underway. Johnny Walsh, a senior expert on Afghanistan at the United States Institute of Peace and a former lead adviser for the State Department on the Afghan peace process, chalked Trump’s purported plans up to a “rhetorical flourish” and doubts they actually exist. “I am not at all aware of any plan to escalate the conflict or use nuclear weapons,” he told TomDispatch.

Whether or not such plans are real, civilian casualties in Afghanistan continue to rise, prompting experts to call for additional scrutiny of US military operations. “It’s tempting to dismiss some of the President’s more provocative statements,” said Amnesty’s Daphne Eviatar, “but we do need to take very seriously the exponential increase in civilian casualties from US military operations since 2017 and ensure every one is thoroughly and independently investigated, and the results made public, so we can know if they’re the result of an unlawful Trump administration policy or practice.”

As 2020 begins, with America’s Afghan war in its 19th year and “progress” as nonexistent as ever, a beleaguered president continues to mull over just how to end America’s “endless wars” (while seemingly expanding them further). Under the circumstances, who knows what might happen in Afghanistan? Will 2020 be the year of peace or of Armageddon there—or will it simply bring more of the same? With a president for whom “plans” may be more figurative than literal, all of this and the fate of perhaps 20 million or more Afghans remain among the great “unknown unknowns” of our time.

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Extraordinary Chambers in the Courts of Cambodia (ECCC)

Official Website of the Extraordinary Chambers [English]

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

Cambodia Tribunal Monitor

Cambodia: treason trial of opposition figure Kem Sokha begins (The Guardian)

January 15, 2020

The trial of a top Cambodian opposition leader charged with treason has begun, more than two years after he was arrested in what is widely seen as a politically motivated prosecution.

Kem Sokha was head of the Cambodia National Rescue Party when he was arrested in September 2017 on the basis of an old video showing him at a seminar where he spoke about receiving advice from US pro-democracy groups.

He could be imprisoned for up to 30 years if found guilty in the trial that started on Wednesday. His party was dissolved by Cambodia's Supreme Court in November 2017 on the same basis.

The actions were seen as intended to ensure victory for long-serving prime minister Hun Sen's Cambodia People's Party in the 2018 general election by eliminating the only credible opposition. Cambodia's courts are considered to be heavily politicised and under government influence.

"I know strongly that I am totally innocent, so I have to go to the court and challenge the charge and demand that they drop the case," Kem Sokha told Associated Press on Wednesday. "I have never done anything wrong so the court has to drop the charges."

It was unclear whether the public would get a fair account of Kem Sokha's words, as the court had earlier announced there would be no room for journalists in the courtroom.

A few dozen supporters gathered outside the court, which was guarded by police.

"We know that not only Kem Sokha has become a hostage of this trial, the entire opposition has too," said Prince Sisowath Thomico, a former senior member of Kem Sokha's dissolved party.

The human rights group Amnesty International has called for the charges against Kem Sokha to be dropped.

"After two years held in arbitrary detention, the authorities have not presented a shred of credible evidence to support a charge of treason," said Nicholas Bequelin, the group's regional director.

"The non-existent crime was politically manufactured to further the suppression of the opposition party. The Phnom Penh court must acquit Kem Sokha to bring an end to this mockery of justice," he said.

The trial begins at a politically delicate time for Hun Sen, as Cambodia faces likely trade sanctions from the European Union that could seriously damage its economy.

Hun Sen has been in power for 35 years and has vowed to serve two more five-year terms in office.

His party swept all the seats in the National Assembly in the 2018 polls, but drew condemnation from human rights groups and Western nations, which charged that the election was neither free nor fair.

Hun Sen late last year made some gestures at political liberalisation, and the courts allowed Kem Sokha to be freed on bail after a period of tightly restricted house arrest. He is still banned from political activity.

The trial is expected to take up to three months, meeting twice a week, according to a report by the US-government-funded Voice of America, quoting Phnom Penh municipal court president Taing Sunlay.

That would be long by the standards of many Cambodian trials, and means the verdict would be delivered after the EU announces its decision.

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Bangladesh International Crimes Tribunal

Bangladesh asks UNSC to end crimes against humanity (News Age BD)

January 12, 2020

The permanent representative of Bangladesh to the United Nations ambassador Rabab Fatima had urged the UN Security Council to bring an end to crimes against

humanity, genocide and war crimes.

She was addressing the Security Council open debate on Friday on 'upholding the United Nations Charter to maintain international peace and security.'

Reiterating Bangladesh's abiding commitment to the UN, ambassador Rabab Fatima recalled Sheikh Mujibur Rahman's maiden speech at the UN in 1974 where he said, 'The noble ideals enshrined in the charter of the United Nations are the very ideals for which millions of our people have made the supreme sacrifice.'

It was from this same commitment that Bangladesh continued to be a leading contributor to the United Nations Peacekeeping, said a press release on Saturday.

The humanity and courageous leadership shown by prime minister Sheikh Hasina in hosting more than a million persecuted Rohingyas which saved the region from potential destabilisation, also stemmed from that abiding commitment, Rabab added.

Highlighting on the new and emerging challenges such as the asymmetric security threats coming from non-state actors and a new generation of threats in cyber space as well as challenges in the fronts of climate change, poverty and inequality, terrorism and violent extremism, and human displacements, she underscored the growing relevance of multilateralism and the United Nations in addressing the challenges and fulfilling aspirations of the current and future generations.

This was the first open debate of the council this year chaired by the deputy prime minister and foreign minister of Vietnam Pham Binh Minh, marking the advent of the 75th anniversary of the UN Charter.

The meeting was addressed by over 100 member states.

The UN secretary general Antonio Guterres and chair of the elders Mary Robinson briefed the council at the beginning of the debate.

Bangladesh Top Court Upholds Death Sentence on Opposition Politician for 1971 War Crimes (Sputnik News)

January 14, 2020

The International Crimes Tribunal was set up by the Bangladesh government in 2009 to investigate and prosecute suspects for the genocide committed by the Pakistan Army and its local collaborators during the war of 1971.

The Supreme Court of Bangladesh on Tuesday upheld the death sentence of an opposition politician for war crimes committed by him during the Liberation War of 1971 which eventually resulted in the creation of Bangladesh out of what was then called eastern Pakistan.

Jatiya Party (JP) leader Syed Mohammad Qaisar challenged two verdicts of the International Crimes Tribunal, a domestic war crimes tribunal set up in Bangladesh in 2009. But a four-member Bench of the apex court headed by Chief Justice Syed Mahmud Hossain rejected his plea.

The only options now left before Qaisar are to approach the Supreme Court with a fresh petition seeking a review after receiving a certified copy of the court's judgment and thereafter to appeal for presidential mercy, Bangladesh news outlet The Daily Star reported.

If President Mohammad Abdul Hamid refuses to grant Qaisar mercy, he will be sent to the gallows.

Qaisar, a former Bangladesh government minister, was accused of committing 16 genocidal crimes against humanity in the Habiganj and Brahmanbaria areas in 1971. He was awarded the death penalty by the International Crimes Tribunal in December 2014.

So far, six Bangladesh opposition leaders - Abdul Quader Molla, Motiur Rahman Nizami, Mir Quasem Ali, Ali Ahsan Mohammad Mujahid, Salahuddin Quader Chowdhury and Muhammad Kamaruzzaman have been executed.

Ghulam Azam, a Jamaat-e-Islami leader, died in prison while awaiting the final verdict of the apex court in 2016, while Delwar Hossain Sayeedi is serving a life sentence.

The genocide in Bangladesh began on 26 March, 1971 when the Pakistan Army kicked off "Operation Searchlight", a military crackdown in the eastern part of the nation to suppress Bengali and Bengali Hindu calls for self-determination with the support of Islamist militias and others.

Tens of thousands of people were killed or raped in the run up to the December 1971 war between Pakistan and India. As a result of the conflict, nearly ten million people, mostly Hindus, had to flee from the region and seek refuge in India.

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War Crimes Investigation in Myanmar

ICJ to rule on urgent measures in Myanmar's genocide case on Jan 23 (FMT News)

January 15, 2020

The UN's top court will deliver its decision next week on whether emergency measures should be imposed on Myanmar over alleged genocide against its Rohingya Muslims, the Gambian government tweeted Wednesday.

In a shock move, Myanmar's civilian leader and Nobel peace laureate Aung San Suu Kyi travelled to The Hague last month to defend the bloody 2017 crackdown by her nation's army against the Rohingya.

Some 740,000 fled over the border into Bangladesh, carrying accounts of widespread rape, arson and mass killings, in violence UN investigators said amounted to genocide.

The Gambian Ministry of Justice announced on Twitter early Wednesday the ICJ would deliver its decision on emergency measures on Jan 23.

The West African nation had brought a case against Buddhist-majority Myanmar to the International Court of Justice (ICJ) with the backing of the Organisation for Islamic Cooperation, Canada and the Netherlands.

At the December hearing, the Gambia alleged Myanmar had breached the 1948 UN Genocide Convention.

It also said there was a "serious and imminent risk of genocide recurring" and called for emergency measures to prevent Myanmar from committing any further atrocities or erasing any evidence.

It is not clear how specific the emergency measures would be, but enforcing them would likely prove difficult.

If the court rules in the Gambia's favour, this would be just the first step in a case likely to take years.

An estimated 600,000 Rohingya still live in Myanmar's western Rakhine state in what Amnesty International has branded "apartheid" conditions.

Suu Kyi admitted the army may have used excessive force against the Rohingya, but said the case was based on "misleading and incomplete" claims, calling for it to be dropped.

The 74-year-old, once regarded as a rights icon in the West, also said the case risked reigniting the crisis.

ICJ judges have only once before ruled that genocide was committed, in the 1995 Srebrenica massacre in Bosnia.

Suu Kyi's defence of the generals was widely condemned in the West but proved popular at home with a public largely unsympathetic to the plight of the Rohingya.

Myanmar insists its own investigations will ensure accountability for any human rights violations but critics deride the domestic panels as toothless and partial.

Myanmar also faces other legal challenges over the Rohingya, including a probe by the International Criminal Court – a separate war crimes tribunal – and a lawsuit in Argentina which notably alleges Suu Kyi's complicity.

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North & Central America

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South America

15 community leaders assassinated in Colombia in 2020 (Colombia Reports) By Adriaan Alsema
January 13, 2020

At least 15 community leaders reportedly have been assassinated in the first 12 days of Colombia in an exceptional wave of violence.

The vast majority of the killings took place under confusing circumstances in former territory of demobilized guerrilla group FARC in the south of the country where the state is virtually absent.

In Puerto Guzman, a rural municipality in the southern Putumayo province, where two rival FARC dissident groups and a group calling itself the “Sinaloa Mafia” have been intimidating the population, as many as five community leaders have been murdered.

More exceptional violence was registered in the southwestern Neiva and Cauca provinces along a two-way drug trafficking route between coca fields in central Colombia and the Pacific, and marijuana fields in the west and the capital Bogota.

The Patriotic March, a national collective of regional social organizations, requested an urgent meeting with President Ivan Duque on Sunday.

During the latest killing spree, government officials have been repeating a disputed claim that the killing of human rights defenders and community leaders dropped 25% in 2019 compared to the year before.

Distorting the truth has become a trademark custom of President Ivan Duque, whose ministers have struggled to coordinate their denial of a reality that increasingly begins to look like a genocide.

According to conflict expert Camilo Gonzalez of think tank Indepaz, 368 community leaders and human rights defenders have been assassinated since Duque took office in August 2018.

Gonzalez confirmed social organizations’ claims that “there is an omission or even complicity by elements of the public force, by agents of the state” with illegal armed groups accused of many of the killings.

While Duque has blamed drug trafficking for the killings, think tanks and the United Nations have said that also land disputes and mining are among the main motives for the killings.

The government has come under increasing pressure to execute the 2016 peace deal with the FARC that sought to tackle these issues, but is opposed by the Duque’s far-right party.

Brazil’s Evangelical Gangs Waging War on Afro-Brazilian Religions (Insight Crime) By Chris Dalby

January 13, 2020

The Cabocla Jurema Umbanda Temple outside Brasilia was preparing to celebrate its 50th anniversary in January. But, on Christmas Day, it was burned to the ground and all its sacred items stolen. This was the latest of hundreds of attacks by Brazil's rising criminal actor: Evangelical Christian gangs.

No one was injured or killed in the attack on Cabocla Jurema. But this is not always the case. In October 2018, Romualdo Rosário da Costa, a well-known Candomblé practitioner and international advocate for Afro-Brazilians better known as Moa de Katendê, was stabbed 12 times in Salvador, capital of the northeastern state of Bahia.

Rosário da Costa was out celebrating the results of the first round of Brazil's presidential elections, which had set up a second-round clash between his favored candidate, Fernando Haddad, of the left-wing Workers' Party (PT) and Jair Bolsonaro, of the far-right Social Liberal Party (PSL).

His killer, Paulo Sérgio Ferreira de Santana, was a PSL supporter who confessed to police that he attacked Rosário da Costa after the latter said he did not like Bolsonaro, Bahia's secretary of public security was quoted as saying by Globo.

Less than two months later, Bolsonaro was sworn into office. And attacks by religious criminal groups have soared. In the state of Rio alone, 123 reports of religious-based violence were seen between January and October 2019, compared to 14 for all of 2016, the Washington Post reported.

Robert Muggah, founder of Brazil's Igarapé Institute, told InSight Crime that 200 Candomblé and Umbanda temples have been shut down due to threats and intimidation during 2019, double the number in 2018.

Candomblé and Umbanda are two Afro-Brazilian religious traditions with millions of followers nationwide. But their numbers have decreased as devotees of Neo-Pentecostalism have risen. From 5 percent of the population in the 1950s, 22 percent declared themselves as Neo-Pentecostals in the 2010 census, and Muggah thinks this could top 30 percent in the upcoming 2020 census. This form of Evangelical Protestantism has become a powerful political force, seeking to reshape the country's outlook on sexuality, family life, and even freedom of speech and to worship. And the Afro-Brazilian communities have felt its wrath.

"Practitioners of Afro-Brazilian religions are among the poorest and most vulnerable populations in Brazilian cities. They are strong prejudices among an increasingly orthodox Evangelical population against non-Christian religions," said Muggah.

"With little support from the surrounding communities and with limited recourse to legal institutions, they are often victimized by militia and gangs."

The latest flashpoint for this social division has been A Primeira Tentação de Cristo (The First Temptation of Christ), a satirical comedy by Brazilian troupe Porta dos Fundos broadcast on Netflix in which Jesus Christ is implied to be gay and Mary smokes marijuana.

On Christmas Eve, three men in ski masks launched Molotov cocktails at the front door of the Porta dos Fundos' office building in Rio de Janeiro. One of the suspected perpetrators of the attack, Eduardo Fauzi, who has fled to Russia, issued a statement that he was a follower of President Bolsonaro.

Despite the clamor for the government to do something about such attacks, a judge in Rio ordered Netflix to remove the movie, saying it went against the "honor of millions," but this ban was overturned by the Supreme Court on January 10.

In a statement sent to InSight Crime, Porta dos Fundos said that "we are against any act of censorship, violence, illegality, and authoritarianism that we no longer expected to have to repudiate by 2020."

To date, neither President Jair Bolsonaro nor Rio Governor Wilson Witzel have condemned the attack on Porta dos Fundos and have barely spoken out about the repeated violence against Candomblé and Umbanda practitioners and places of worship. To the religious gangs, this has become tantamount to permission.

And this fanaticism has spread to Brazil's criminal gangs as well. Álvaro Malaquias Santa Rosa, alias "Peixão," a senior figure within favela gang Pure Third Command (Terceiro Comando Puro – TCP) allegedly helped create the Soldiers of Jesus (Bonde de Jesus), a new criminal group with evangelical motivations, in Duque de Caxias, a city near Rio.

"Some of them call themselves 'Jesus drug dealers,' creating a unique identity. They carry weapons and sell drugs, but feel entitled to forbid African-influenced religions by stating that they are related to the devil," Gilbert Stivanello, commander of the Rio police department's crimes of intolerance unit, told the Washington Post.

One Candomblé priest told the newspaper that the TCP permits religious ceremonies to happen only on certain days, allowing temples to receive only a few visitors and forbidding members of the public from wearing the white clothing traditional of the Afro-Brazilian faith.

Eight members of the Bonde de Jesus group were arrested in August after ransacking a temple in Duque de Caxias and threatening the 85-year-old mother of the chief priest at gunpoint, O Dia reported.

But such arrests do little to dispel the impunity that surrounds this new form of criminal group. While casting themselves as defenders of Christ, their piety does not extend far. TCP is still engaged in violence and drug trafficking. But impunity for their religious crimes risks quickly becoming impunity for all their crimes.

“There is a deafening silence from federal, state and city officials when it comes to rising religious violence,” Muggah told InSight Crime.

The Rio representative of the Commission to Fight Religious Intolerance, Ivanir dos Santos, has blasted Witzel, saying he has not been able to even meet with the governor despite repeated requests, Globo reported.

There have been some attempts to organize a response to religious violence. In 2018, Rio de Janeiro police created the Delegacia de Crimes Raciais e Delitos de Intolerância (Racial Crime Police Station and Intolerance Offenses – Decradi). In September 2019, the Attorney General’s Office called on the government to do more to stop religious attacks, calling them a threat to “Brazil’s very democracy.” But if such attempts have had any discouraging effect on these assaults, they are yet to be seen.

“I have no doubt that if this had been a synagogue or a Christian church, the attitude of the State would be different,” said dos Santos last July during a protest against attacks against Candomblé and Umbanda temples.

While Bolsonaro’s popularity is suffering, he is unlikely to start acting on this. His silence on religious violence does not seem to be a root cause of the discontent toward his government. A petition to ban the Netflix movie received over 1 million signatures after all. But continuing silence means more tacit approval. And temples will continue to burn.

Colombia’s human rights defender Leyner Palacios threatened by armed group (The City Paper) January 13, 2020

Leyner Palacios, a social leader and human rights activist from Bojayá, Chocó, lost 28 relatives and friends on the night of May 2, 2002, when guerrillas of the Revolutionary Armed Forces of Colombia (FARC) launched an attack on the town, claiming the lives of 79 civilians while they sought refuge inside the local church.

The attack on Bojayá by FARC was directed at right-wing paramilitaries of the United Self-Defense Forces of Colombia (AUC) who had besieged this impoverished Afro-Colombian community, and the explosion of an improvised pipe bomb as it struck the front door of the church remains one of the most heinous crimes committed during Colombia’s half-century-long internal conflict.

Recipient of the 2017 Global Pluralism Award from the Ottawa-based Global Center for Pluralism for his community-led reconciliation efforts, Leyner Palacios has received death threats from an illegal armed organization operating on Colombia’s Pacific Coast, and along the Atrato River, where Bojayá is located. The threats against Palacios by a shadowy group known as Autodefensas Gaitanistas de Colombia (AGC), as well as presence in the region of the National Liberation Army (ELN) guerrilla, has forced the government of President Iván Duque to heighten security measures in the territory, including the possibility of establishing a permanent military base in Bojayá.

On Saturday, President Duque headed to this remote town to hear first hand from local representatives, including Palacios, of the threats made in recent weeks by illegal armed groups against the population, pledging more social investment for health and recreation infrastructure. President Duque then visited the mausoleum where the victims of the 2002 attack are entombed, among them, some 40 children.

With the signing of the peace accord between the Colombian Government and FARC in 2016, Leyner Palacios convinced the community to host a public commemoration to the victims of the attack with the presence of the former High Peace Commissioner Sergio Jaramillo and FARC’s “Iván Márquez.” The ceremony took place at the site of the massacre and was accompanied by the most poignant symbol of the attack: a wooden Christ statute decimated by the bomb. “On the banks of this immense river, and in front of these precious forgotten people [...] we ask that you forgive us, and grant us spiritual relief by allowing us to continue alongside you, on the road to reconciliation,” remarked Márquez, the former FARC commander who authorized the attack. Márquez abandoned the peace process in 2019 to form with another senior FARC commander, Jesús Santrich, a dissident group.

Having opened a path of forgiveness for the 1,700 inhabitants of Bojayá, the threats against Leyner Palacios highlight the precarious state of Colombia's post-conflict, and urgent measures that need to be taken by authorities to protect Leyner Palacios as well as many other human rights defenders working in rural communities. According to Marta Hurtado, spokesperson for the UN High Commissioner for Human Rights, "the Colombian Government must make a strenuous effort to investigate each and every case and to prosecute those responsible for these violations, including instigating or aiding and abetting violations. The vicious and endemic cycle of violence and impunity must stop."

According to the UN Human Rights Office in Colombia, 107 activists were killed in 2019 with 13 additional cases still being verified by the international organization. At least 10 human rights defenders have been reportedly killed during the first 13 days of January. The killings of female human rights defenders increased by almost 50% in 2019 compared to 2018 claims the UN with the great majority of the 107 killings in 2019, taking place in rural areas "where criminal groups or armed groups operate, and [...] in villages with a poverty rate above the national average," writes Hurtado from Geneva.

More than half of the killings in 2019 occurred in just four Colombian departments – Antioquia, Arauca, Cauca and Caquetá – with the single most targeted group advocating human rights on behalf of community-based and specific ethnic groups such as indigenous peoples and Afro-Colombians.

Afro-Colombian women are risking their lives to defend their communities (Amnesty International) By
Duncan Tucker
January 9, 2020

Danelly Estupiñán will never forget the first threat she received. The text message arrived at 5:35pm on 30 November 2015, saying: "Danelly, your end has come". Hours later, during a phone call with a friend, a distorted voice appeared on the line, repeating: "We know where you are".

Since then, Estupiñán has been constantly followed, photographed and had her home broken into, in apparent retaliation for her human rights work defending black communities in Buenaventura, Colombia's biggest Pacific port.

"I don't go out anymore. I just move between the office and the house. I have no social life, I have nothing. I only go out to do specific things because wherever I go, they're there," she said in June, shortly before fleeing the country upon learning of a plot to kill her.

Having lost fathers, husbands and sons to years of bloodshed, Afro-descendant women like Estupiñán are bravely assuming more active roles in defending their ancestral communities. However, standing up to corporations and criminal organizations who seek to oversee development projects, mineral extraction and drug-trafficking in their territories has put them in the crosshairs.

Colombia is the world's deadliest country for human rights defenders, with Frontline Defenders registering at least 126 killings there in 2018. It is also home to 7.8 million internally displaced people, more than any other country, according to a 2018 UN report. Indigenous and campesino leaders comprise many of the victims, but black women are increasingly at risk in the western provinces where Colombia's Afro-descendent population is concentrated.

Since taking office in August 2018, President Iván Duque has adopted a plan to protect human rights defenders, social leaders and journalists by strengthening specialist police units and improving coordination between state bodies, as well as offering rewards for information on suspects wanted over killings. Duque says killings of social leaders dropped 35 percent during his first year in office, but those at risk say state protection remains insufficient.

Estupiñán, a leader of the Afro-Colombian rights group Proceso de Comunidades Negras (PCN), is one of the most prominent activists in Buenaventura, a gritty, sweltering hub where the jungle collides with the ocean. In the last 20 years, Buenaventura's Afro population has faced a wave of killings, torture, sexual violence and enforced disappearances at the hands of paramilitaries infamous for dismembering their victims in casas de pique, or "chop houses".

Many in the black community believe the violence is a manifestation of structural racism and discrimination, aimed at driving them from the waterfront areas where they have lived for generations in wooden houses and stilted huts, so the government and private developers can press ahead with plans to expand the port and build tourist infrastructure there.

"The white and mestizo people who [bought properties] in the worst moment of the armed conflict and now have big hotels and tower blocks with supermarkets – why did the bullets never hit them?" asks Leyla Arroyo, another PCN leader. "There are no 'for sale' signs in any of those places, but there are in the homes of our people. What is it that scares my people and doesn't scare those who move in?"

Estupiñán believes “the violence is aimed at destroying the social fabric to create a weak community that can be controlled socially, culturally and politically”. Women are being targeted to prevent them from repairing that social fabric, she says, with paramilitaries using femicide and rape as systematic tools to control their territories and intimidate the population.

The government’s National Protection Unit (UNP) has assigned bodyguards to shadow her and Arroyo due to the threats against them. “I haven’t got used to it. It’s so invasive and at the same time it creates psychological dependencies,” Estupiñán says. “You completely lose the right to intimacy. They know everything, if I go to the supermarket and buy sanitary pads they know my period is coming.”

As of November 2018, the UNP was providing protective measures for 3,733 human rights defenders, yet recipients say these measures are flawed. Some cannot afford fuel for the cars they are given, while their bulletproof vests are cumbersome and draw unwelcome attention. Other measures such as mobile phones prove useless in remote rural areas with no signal, while panic buttons do not always draw quick enough responses from the police to deter killers.

Many women displaced from black communities seek refuge in Cali, southwestern Colombia’s biggest city. Erlendy Cuero, a 44-year-old grandmother of four, fled Buenaventura in 2000 when her father was murdered, she was sexually assaulted, and her house was destroyed in a land dispute. She is now vice-president of the National Association of Displaced Afro-descendants (Afrodes).

Wearing a lime polo and jeans, her afro tied back behind a pink headscarf, Cuero says she and her two children have suffered constant threats, harassment, surveillance and break-ins at their modest red brick home in a public housing development on the outskirts of Cali.

A few years ago, government analysts came to assess the level of risk Cuero faced. She says they interviewed her for an hour or two in their hotel room but never visited her home or consulted anyone else about her situation: “They simply arrived and determined that there was no risk.”

It was only when two men shot dead her brother, Bernardo Cuero, while he was watching soccer at his home in the city of Malambo in June 2017, that authorities finally assigned her bodyguards, a vehicle, bulletproof vests and a phone. The UNP had provided Bernardo – another Afrodes leader and prominent human rights defender – with protective measures but withdrew them months before he was killed and denied his requests to reinstate them, having decided he was no longer at risk. Nine months later, gunmen also killed Bernardo’s son, Javier Cuero.

Erlendy Cuero’s 21-year-old son, Alex, has been targeted too. He survived a shooting in 2016 and narrowly avoided a stabbing two years later when his pet pit-bull fought off the assailant.

Cuero believes the attacks were a message to her to “keep quiet or we’ll hit you where it hurts the most.” The logic is brutal, she explains: “What hurts me the most is for them to kill my son, because I’ve already lived, I’ve done what I had to do and I’m ready. But if they kill my children, well... you have to live with the guilt that a child’s life ended because of what you were doing.”

Francia Márquez, a Goldman prize-winning environmental activist, is also living in Cali after being displaced from her home in La Toma, a rural area two hours south of the city, when gunmen came looking for her in 2014.

Speaking at a temporary residence, Márquez says she began receiving threatening letters and phone calls in 2010, when she was defending La Toma against the devastating environmental and social impact of illegal mining. That year she won a case in Colombia’s Constitutional Court, which suspended concessions in the area belonging to the multinational AngloGold Ashanti.

“The armed groups said they were declaring us a military objective because we were blocking the entrance of multinationals and obstructing development. What development? Who’s the development for if my community doesn’t have clean water and we’re drinking water poisoned by mercury from the mining?” Márquez asks. “I can live without gold and jewels. I can’t live without water or food.”

AngloGold denied any link to the threats against Márquez in July and denounced a recent attempt on her life. Márquez was in a meeting with other black leaders at a farmhouse on 4 May when armed men opened fire and threw grenades at them. Her state-assigned bodyguards repelled the attack, but it exposed potentially fatal flaws in their security protocol.

“One of my bodyguards went in the bulletproof car to chase the supposed aggressors and left me laying there... instead of staying and putting me aboard the car to get me out of there,” she says solemnly. “If another armed group had arrived they would have killed me.”

Many human rights defenders do not survive such attacks. A month later, assassins on a motorcycle shot dead María Hurtado, another Afro social leader, in front of two of her four children in the town of Tierralta. Images of her body circulated widely on

social media, soundtracked by the piercing screams of one of her sons. Local activists said Hurtado had defended the community in a land dispute and had recently denounced threats from paramilitaries.

Although she feels safer in Cali, Márquez has struggled with the city's elevated costs of living. She sold juice, tamales and ceviche for a while but had to stop when the threats intensified. The city feels like limbo for her family, she says: "My children live in frustration because they're locked up here and we can't go home."

Márquez is also concerned about the impact of human rights defenders leaving their communities, even when it's for their own safety. This plays into the hands of their aggressors, who seek to drive them from their homes and weaken their communities, she says.

Human rights defenders need solutions that allow them to remain in their territories and are tailored to the specific needs of each community, Márquez adds. She hopes to launch a community radio network to combat the disinformation and stigmatization that encourage violence against social leaders, and advocates bolstering the capacity of community guards who keep watch for intruders and accompany leaders on their travels.

The government must also work to eradicate the corruption that fuels the marginalization and exploitation of Afro communities and the killings of those who defend their rights, Márquez says. The state must not let killings of social leaders go unpunished, she adds, and must stop justifying them by falsely accusing the victims of involvement with drug-traffickers or guerrilla movements.

While she "would rather die of old age than have a violent death", Márquez insists that Colombia's Afro women "must keep going", despite the risks they face. She believes women have a key role to play because their "caring instinct" drives them to protect not only their children, but also their territory, the environment and their communities.

"We need to feminize politics and fill humanity with maternal love," she says. "War has always been driven by machismo, by the patriarchy and by business between men. I think these men need to stop being so aggressive in life and think about feminizing themselves."

Colombia Can't Forget FARC Concentration Camps (Panam Post) By Vanessa Vallejo
January 8, 2020

He lived for 12 years with a chain around his neck. The wires of the cage blurred everything his eyes saw during that time. He even had to see the sky through the mesh that prevented him and his fellow police and military officers from escaping their torturers.

General Luis Herlindo Mendieta says it clearly. He and his fellow captives were locked up in concentration camps inspired by the ones built by the Nazis to torture Jewish people. The images of the corroded wooden bunks, where the heroes of the country tried for years -without any success, according to General Mendieta- to sleep, seem to be taken from a movie of the Second World War.

They were always sick; they always had stomach ailments. Their food was always of poor quality. They had to endure their illnesses with plastic jars and holes in the ground that served as bathrooms. A "bath" that was right next to where they slept because the chain on their neck did not let them move more than two miserable meters. That's why the General says that the smells didn't even let them sleep.

Without medicine, without even basic food, in terrifyingly unhealthy conditions, often knee-deep in water from the heavy rain of the Colombian jungle, they watched the years pass by through the mesh of the cage.

Today, those who managed to survive the Nazi experiment of the FARC and were rescued, see their torturers in Congress. General Mendieta acknowledges that he finds it difficult to see the FARC leaders legislating. "They are still criminals against humanity," he says. He then recalls that they often begged the guerrillas to loosen the chain around their necks a little so that they could breathe well or eat without so much discomfort.

In what decent country do the perpetrators of such atrocities make the laws? Timochenko, the leader of the FARC, rightly said that Colombia's "peace" agreement was unique to the country.

I have dedicated several articles to talk about the intention of the FARC to rewrite the history of Colombia and erase from the memory of the Colombians the atrocities they committed. I am convinced that a fundamental part of the battle to save the country is to remind, again and again, especially young people, what the FARC is, what they did for decades, and the danger they represent.

To that vociferous minority that claims that it is okay to have the worst killers in the history of Colombia in Congress, those young “rebels” who say that the FARC was nothing more than a reaction to a criminal state, they should sit down and listen to the words of General Mendieta and watch the videos of the concentration camps that the FARC guerrillas had.

Young people today do not remember, for example, that on January 24, 1994, FARC guerrillas killed 35 inhabitants of the La Chinita neighborhood in Apartadó, Antioquia, with M-60 machine guns (a weapon with a firing rate of 550 shots per minute).

Or that on May 2, 2002, in Bojayá, Chocó, the FARC threw a pipe into the church where mainly women and children, who believed that the miserable guerrillas would not dare to attack a church, were taking refuge. We don't know exactly how many people were killed. Estimates suggest between 74 and 119 died, and around 100 were wounded. After the explosion, some managed to escape the fire while others were left wounded and injured, waiting for help for days.

The guerrillas only allowed relief agencies to come in and help the wounded only after 72 hours. The burial of the bodies took place without the presence of the relevant authorities; there was no official death scene investigation because the FARC had taken over the area and did not allow it. That is why it is not even clear how many people died in this incident.

Many will also not remember that on July 28, 2007, after being held hostage for five years, fighting for their lives and with the hope of returning to their families, the 11 deputies who were kidnapped from the Valle del Cauca Assembly building were killed in one of the FARC camps.

Also, on the long list of FARC crimes is the attack on the El Nogal Club in Bogotá. In 2003, a car bomb with 200 kilos of C-4 explosives destroyed three floors of the club. The now-congressmen killed 36 people and injured 200.

Those who now occupy ten seats in Congress are not rebels who made a mistake and should get a second chance today. They are criminals who acted incredibly viciously systematically. They are the sign of the rottenness of the most putrid scum a human being can become.

Their war tactics, their tricks to cause terror, and the sadism of their actions – against even thousands of children – have always left me wondering what kind of dark forces, what kind of evil and demons are behind the criminal group that today, has not only weapons and territories under its command but also political and legislative power.

In Colombia, there are more than 10,000 victims of the famous anti-personnel mines laid by the guerrillas and other drug traffickers to protect their illicit crops. Some of those victims died; others were left disabled. About 61% of the victims were members of the security forces, and the remaining 39% were civilians. What does this army of wounded heroes feel today when it sees its tormentors in Congress?

What about the children who were recruited? What about the girls who were raped and then forced to have abortions? There is no clear data on this, but according to the National Center for Historical Memory, the FARC recruited over eight million minors. Conservative estimates suggest that at least a thousand abortions were forced upon women who were raped.

A woman who was recruited as a minor, and who now has a son, the product of one of the many rapes she suffered in FARC, once told me, “I don't know how I am going to tell my son, when he grows up, that those who raped me are in Congress today.”

The Attorney General's Office estimates that there are about two thousand cases of FARC actions that fit into crimes against humanity, war crimes, and infringements of international humanitarian law.

I could spend days talking about FARC crimes. They are many and terrifying. I insist, what the FARC killers committed were not mistakes and bad decisions. These gentlemen are not like Navarro Wolf; their evil has no limits, and they continue to be the same.

The day a journalist asks Santrich if he is ready to apologize to the victims, and the ringleader mocks him by singing “maybe, maybe, maybe,” I remembered a story told by General Mendieta. One day they asked a guerrilla what was going to happen to them, what their future would be, and the guerrilla answered that the commander had sent word not to worry that he had rice to give them for eight years.

They are the same, with the same malice, with the same audacity.

The Jewish people do not forget their history, not because they are spiteful or “enemies of peace,” but because they know that justice must be rendered and that what happened must be remembered every day so that it does not happen again.

Just as the Jewish people honor their dead, tell their story wherever they go, and have museums to explain their tragedy to the world, we Colombians should have a museum for the victims of the FARC. We should tell young people about the atrocities committed for more than 50 years by what is now a political group. And we should also go to international institutions so that

they know what is happening in our country and that if the guerrillas buy the Colombian justice system, it is the international justice system that will make them pay for their crimes against humanity.

The guerrillas know that what happened is not as important as what people remember. We Colombians cannot allow the criminals, mutilators, rapists, torturers to write a story in which they are “honorable senators.”

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WORTH READING

In the Mind of the Crime: Proving the Mens Rea of Genocidal Intent in the Words of Ratko Mladic and Other Members of the Joint Criminal Enterprise

Predrag Dojcinovic

Propaganda and International Criminal Law: From Cognition to Criminality (Routledge 2020)

December 31, 2019

In this chapter, Dojčinović focuses on the specific research and analytical project within the Office of the Prosecutor (OTP) of the ICTY in the trial of Ratko Mladić, the Commander of the Bosnian Serb Army (VRS). The analytical model designed and utilized throughout this trial is based on the specific speech acts and utterances identified in all categories of evidence indicating genocidal and persecutory intent of the Accused shared with other members of the joint criminal enterprise (JCE) at all levels. The chapter places strong emphasis on the semantic content of the utterances, the type of intent identified in the utterances, the effect they may have had on the principle perpetrators, as well as their relevance, probative value and modes of admissibility as a special category of evidence. Ultimately, the chapter demonstrates that international criminal proceedings have seen the emergence of a new type of key evidence: a cognitive, linguistic, contextually-determined manifestation of mens rea within a shared historical, political and cultural referential framework. Dojčinović argues that this emerging body of evidence requires a new set of rules and methods in international criminal proceedings, and a more comprehensive intellectual, scientifically-minded approach to the identification and interpretation of mental elements in mass atrocity crimes.

Mr. Dojcinovic's piece is a sequel to a previous publication, Propaganda, War Crimes Trials and International Law: From Speakers' Corner to War Crimes, Routledge 2012.

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