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CENTRAL AFRICA

Central African Republic

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Central African Republic: Ex-officer arrested for war crimes (BBC)

September 20, 2020

Police in France have arrested a former presidential guard from the Central African Republic (CAR) for alleged war crimes and crimes against humanity.

Eric Danboy Bagale was taken to Paris after his arrest in eastern France on Tuesday, the AFP news agency reports.

He is accused of leading a group of largely Christian militias which carried out revenge killings after the CAR's president was ousted in 2013.

Thousands of people died in the violence that followed.

The CAR has faced instability since gaining independence from France in 1960.

But in 2013, Muslim rebels from the Seleka umbrella group seized power in the majority-Christian country.

Mr Bagale has been indicted for both his actions as head of former President François Bozizé's guard and later as head of the mostly Christian anti-Balaka militias, according to the AFP news agency.

The former president is himself the subject of UN sanctions over the actions of anti-Balaka militias.

A peace deal was signed between the government and 14 armed groups last year, but the violence has continued.

More than a million people have been displaced or forced to leave the country, according to the UN refugee agency

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Sudan & South Sudan

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Democratic Republic of the Congo

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Dozens killed in rebel attack in eastern Democratic Republic of Congo (TRT World)

September 10, 2020

Fifty-eight people have been killed in attacks in a restive province of eastern DR Congo, local officials have said, blaming a notorious militia.

Large numbers of the population have fled following the attacks in Irumu, a territory in the province of Ituri, provincial interior minister Adjio Gidi told AFP on Thursday.

He blamed the Allied Democratic Forces (ADF), which originated in the 1990s as a Ugandan Muslim rebel group and has been accused of killing hundreds of civilians since DR Congo's armed forces launched a crackdown against them last November.

The attacks took place in a heavily forested area called Tshabi, a local resident said, adding that a number of people were feared kidnapped.

"People were killed with every sort of weapon, knives, guns," a member of the Nyali community in Tshabi, Richard Balengilyao, told AFP.

The search effort was being complicated by thick forest, he said.

"Right now, the Congolese army, supported by local people, is still looking for victims in the forest," he said.

"Seventeen people are listed as disappeared, but they have almost definitely been kidnapped."

Minister Gidi said that 23 people were killed on Tuesday, and another 35 on Thursday.

"It was ADF, fleeing military pressure in (neighbouring) North Kivu province, namely in (the) Beni (region)," Gidi said.

"Our forces are already in the area and are in contact with the enemy," he said without elaborating.

The ADF is one of more than 100 armed groups that trouble the eastern provinces of the vast Democratic Republic of Congo, many of which are the legacy of fully-fledged wars of the 1990s. The group has been blamed for more than 1,000 civilian deaths in the Beni region of North Kivu province since 2014.

It has carried out hundreds of civilian killings since the army launched an offensive against it late last year, apparently as reprisals for the operation or to warn locals against collaborating with the army.

Meanwhile, the northern part of Ituri this year has seen brutal killings in the territory of Djugu, blamed on an armed group called the Cooperative for the Development of Congo, or CODECO, blamed on ethnic attacks.

A senior delegation from the central government was scheduled to arrive in Ituri on Friday to discuss the province's security problems.

The delegation will include the interior and defence ministers, the army chief of staff and the head of internal intelligence, a government source told AFP.

President Felix Tshisekedi sent a group of former warlords to Ituri last month to convince CODECO to stop its attacks.

The armed political-religious sect is drawn from the Lendu ethnic group.

Conflict erupted between the Lendu, mainly farmers, and the Hema, herders and traders, in the gold-mining and oil-rich Ituri province between 1999 and 2003, killing tens of thousands.

The militia has for several months been divided, and some fighters have signed a commitment with the government to surrender arms.

A peace agreement was also signed earlier this year with another armed group in the province, the Ituri Patriotic Resistance Force (FRPI), formerly active in the south in Irumu territory.

Suspected Islamists kill at least 53 in eastern Congo (Reuters)

September 10, 2020

Suspected Islamist militants killed at least 53 villagers in eastern Democratic Republic of Congo's Ituri province this week, a local official said on Thursday.

The authorities blamed the attacks on Tuesday and Wednesday on the Allied Democratic Forces (ADF), a Ugandan armed group active in eastern Congo since the 1990s.

The militia has killed more than 1,000 civilians since the start of 2019, according to U.N. figures, despite repeated military campaigns aimed at destroying it.

On Tuesday night into Wednesday, ADF fighters attacked the villages of Tsabi and Tondoli, around 120 km (75 miles) south of the city of Bunia, officials said.

Etienne Babawela, a local village chief, said 53 bodies had been discovered so far.

"We don't know how many deaths there will be tomorrow," he said. "It's as if they had lots of time on Tuesday and Wednesday while they were killing people."

The United Nations says violence attributed to the ADF has soared since the start of the year, following the launch of a large-scale army campaign. In response, the ADF abandoned its bases, split into smaller, more mobile groups, and took revenge on civilians.

Several attacks attributed to the ADF have also been claimed by Islamic State, although researchers and analysts say there is a lack of hard evidence linking the two groups.

Violence committed by a constellation of more than 100 armed groups has forced over half a million people in the east of the country to flee their homes since the start of the year.

Millions of people died in eastern Congo, most from hunger and disease, during wars from 1996 to 2003 that sucked in more than half a dozen neighbouring countries.

Congo's military and security forces have also committed grave violations, including killings and sexual violence, the United Nations has said.

More than 50 prisoners starve to death in East Congo prison (Reuters) By Erikas Mwisi Kambale

September 15, 2020

Fifty-two inmates at a prison in the northeastern Congo city of Bunia have starved to death this year because of insufficient government funding, the United Nations and local authorities said.

The Democratic Republic of Congo's jails are among the world's most overcrowded, according to the U.N., with inmates living in squalid conditions on meager rations. The Bunia prison operates at nearly 500% of capacity, U.N. figures show.

"This situation is really worrying," said Bunia mayor Ferdinand Fimbo, blaming sporadic government support for malnutrition in the prison.

President Felix Tshisekedi told his cabinet this month he would personally ensure prisons across the country did not run out of food or medicine.

But the head of the Bunia prison, Camille Zonzi, was quoted in a report by the U.N. peacekeeping force in Congo as saying that

the government had still only promised at a meeting last week to cover three months of the prison's expenses.

Malnutrition is common in Congolese jails because food portions are allotted based on facilities' nominal capacity, rather than their real populations, according to New York-based Human Rights Watch (HRW).

Since January, prison administrations across the country have had to buy food and essential supplies on credit, said Thomas Fessy, HRW's Congo researcher.

"This tragedy could have been prevented," Fessy said. "More detainees will die if the government does not act and prisons do not receive vital assistance."

On Sept. 4 around 100 heavily-armed rebel fighters from an ethnic militia entered Bunia and temporarily surrounded the prison, demanding the release of their comrades, but Fimbo said their demands had nothing to do with the food situation.

Convoy ambush in eastern Congo kills one aid worker (Reuters)

September 17, 2020

Armed attackers in eastern Democratic Republic of Congo killed one aid worker and took two others temporarily hostage after ambushing their convoy on Wednesday, Christian charity World Vision said.

The convoy was returning from a mission to deliver food to vulnerable communities in North Kivu province, which has been plagued by instability and militia violence for over two decades.

"Two of our staff were missing for over 18 hours but are now safely with the larger team awaiting evac (evacuation). We're thankful for community intervention to secure their release," World Vision's director in Congo Anne-Marie Connor told Reuters on Thursday.

Earlier, World Vision reported the killing of one of its workers in the ambush by unidentified assailants. Its statement did not give details on the identity of the victim.

Violence committed by a constellation of more than 100 armed groups has forced over half a million people in the eastern Congo to flee their homes since the start of the year.

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Côte d'Ivoire (Ivory Coast)

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

Boko Haram is Recruiting Young Children in New Drive (Persecution.org)
September 15, 2020

Boko Haram continues to plague Northern Nigeria and the Lake Chad region with

attacks, extremism and devastating violence. This hateful group has been operating out of Borno, Nigeria, since 2002 when its founder, Mohammad Yusuf, started preaching about the evils of the West. In 2009, the group turned fully against the Nigerian government and started carrying out these violent acts. This includes hundreds of murders, abductions, bombings and destruction of villages.

In order to continue this insurgency, the group had to constantly recruit new members to their evil cause. They have used both bribery and abductions as a way to gain these new members. Many of those who are abducted are forced into slavery. Women are sold as wives and sex slaves to high up commanders in the group or supporters outside the group. Children and women are often forced to be suicide bombers by the group as well.

Recent research has shown that the group is increasing their efforts to recruit children. They recruit younger children to act as suicide bombers, and older children, many of whom are already victims of the groups violence, as soldiers or suicide bombers. They promise these children protection, purpose, food and security in return for their services. For many of these devastatingly poor children, this is the best offer they will ever receive. The use of Children in war is a major war crime. The Nigerian government and the whole world needs to pay attention to this abuse and must stop these terrorists from killing so many young people. Please pray for an end to this terrible war that has destroyed so many lives over the past decade.

Ten Chad soldiers killed in Boko Haram ambush (The Guardian)

September 19, 2020

Ten Chadian soldiers were killed while attacking a base of the Boko Haram Islamist group in the Lake Chad region, the province's secretary-general told AFP on Saturday.

Seven soldiers were also injured in Thursday's ambush, Sadick Khatir said, confirming information given by an anonymous military source.

Contacted by AFP, however, army spokesman Azem Mbermandoa, did not confirm the death toll but added that the Chadian army had "destroyed a Boko Haram base, recovered weapons and ammunition".

The jihadist group, which originated in Nigeria in 2009, has established bases on islets dotting Lake Chad, a vast swampy expanse on the border between Nigeria, Chad, Niger and Cameroon. The Chadian army launched an offensive against Boko Haram in April after the death of some 100 soldiers in an attack by the group on one of its bases.

President Idriss Deby then claimed to have pushed the jihadists out.

But despite this military operation, the attacks have continued.

In Chad's Lake Province, more than 360,000 people have fled their homes to avoid attacks and also flooding, according to the International Organization for Migration (IOM). The president admitted in early August that "Boko Haram would still do a lot of damage" in Chad.

Nigerian Army confirms death of colonel after Boko Haram ambush (Premium Times Nigeria) By

Abdulkareem Haruna

September 21, 2020

The Nigerian Army has confirmed the death of a colonel after an ambush by Boko Haram terrorists.

The army described D.C. Bako as "one of our gallant and finest war heroes."

Premium Times reported the ambush, near Damboa, which led to the death of Mr Bako, a colonel who also commands an army brigade in Damboa.

Ado Isa, the spokesman of the Nigeria Army's Operation Lafiya Dole, in a press statement, confirmed the death.

He said Mr. Bako was until his death the commander of 25 Task Force Brigade in Damboa.

Mr. Isa said the colonel died in a military hospital where he was receiving treatment after the ambush.

The statement was silent on the fate of the soldiers who were with Mr. Bako during the ambush with an army source telling PREMIUM TIMES that six other soldiers died in the ambush. That information was, however, not corroborated by other sources.

Read the full statement by Mr Isa, an army colonel, below.

“Operation LAFIYA DOLE wishes to intimate the general public of the demise of one of our gallant and finest war heroes Col. DC Bako. It could be recalled that the professional, gallant senior officer who always led from the front and a patriotic Nigerian, led a patrol to clear Boko Haram Terrorists from Sabon Gari-Wajiroko axis near Damboa when his patrol team entered an ambush at about 10 a.m Sunday 20 September 2020. Under his able leadership, the troops cleared the ambush resulting to the killing of scores of terrorists and recovery of weapons and equipment. “Sadly however, he was wounded in action and immediately evacuated by the Air Task Force Operation LAFIYA DOLE to the 7 Division Hospital at Maimalari Cantonment. The late senior officer was recuperating well after successful operation at the hospital, in good spirit and also said his prayers in the early hours of this morning before his sad passing at the hospital. May Almighty Allah grant his soul eternal rest. Ameen.

“The Chief of Army Staff Lt Gen TY Buratai on behalf of himself, gallant troops of Operation LAFIYA DOLE and indeed well meaning Nigerians hereby express his heartfelt condolences to his esteemed family. We are most grateful for his contributions and sacrifices to the motherland. May God grant eternal rest to the gentle soul of Col DC Bako and the souls of all Nigerian Army officers and soldiers who paid the supreme prize in the defence of our father land.”

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Liberia

Menipakei Dumoe Vows to Pressure GOL to Push for Taylor’s Release (Daily Observer) By Judoemue Kollie
September 23, 2020

Bong County senatorial aspirant, Menipakei Dumoe, says he will mount pressure on the Government of Liberia (GOL) to see reason to ask the International Community for the release of Former President Charles G. Taylor.

The former Liberian president is currently serving a 50-year prison sentence in Great Britain, after being found guilty of aiding and abetting war crimes and crimes against humanity, including rape and mutilation, in Sierra Leone.

Speaking to the Daily Observer in an exclusive interview over the weekend in Monrovia, Dumoe stated that he’s going to do this by engaging the National Legislature through the committee on Foreign Affairs to derive a resolution on behalf of the Liberian people.

When asked whether the Legislature would give credence to his concern, all that he said is that he’s confident that his request will be granted considering that the circumstances that led to Taylor’s imprisonment are changing.

“A lot of people in Liberia still see Taylor’s imprisonment as unfair. The times are changing as people who actually committed crimes in Sierra Leone are being set free,” he explained.

“People like Laurent Gbagbo and two other individuals from Sierra Leone that committed crimes and were indicted and persecuted whose names I do not know now are being set free.” One of the Sierra Leonean war crimes convicts Dumoe was referring to is Moinina Fofana, former leader of a Sierra Leonean militia accused of torturing and mutilating civilians during that country’s civil war. The Associated Press reported in March 2015 that Fofana, who was convicted in 2007, had been granted provisional release from the Mpanga Prison in Rwanda and was being allowed to serve out the remainder of his 15-

year term in his community, according to the United Nations-backed special court that convicted him.

Charles Taylor's lawyers have repeatedly said that their client's incarceration is political. In September 2017, Dr. Mohammed Sheriff, then Liberia's Ambassador to the Court of St. James (London), said he believed ex-President Taylor, who is serving time in a British jail, had "learned his lesson and should be freed." Amb. Sheriff is the only government official in recent time who has weighed in on the matter.

"Then why is it that Charles Taylor who was convicted for aiding and abetting war crimes is still been kept in prison," Dumoe asks.

"The government needs to protect Taylor's rights. I am going to pressure the GOL by confronting the Legislature. If Taylor is not being treated fairly, the government should intervene. Our constitution makes it clear that it is the responsibility of the government to protect the rights of every citizen," he said.

So far, there has been no word from the administration of President George M. Weah, calling for the release of his war-time predecessor. Calls and a text to Information Minister Lenn Eugene Nagbe for this story, asking about the Government of Liberia's position regarding a request for Mr. Taylor's release, went unanswered. Dumoe stated that to ensure lasting peace in the sub-region there is a need that Liberia and Sierra Leone join effort to engage the International Community to release the former president.

"History makes us know that some of our own citizens used Sierra Leone to facilitate wars in Liberia that destroyed the lives of people and infrastructures. If we were to say that Sierra Leone owed us reparation for facilitating the process this will lead to tension, but we have forgiven all of these. Therefore, to complete the process, they too need to forgive us. This is the only way that we can curtail future problems. This issue is about African solidarity to avoid disunity in the sub region," he explained.

According to him, the release of former president Taylor is the only outstanding problem that hampers reconciliation in Liberia and the sub-region.

"The release of former president Charles Taylor has the way to reconcile Liberia and Sierra Leone because, since his conviction, Liberians are not happy. So I want Sierra Leone to join Liberia to get Taylor release," he emphatically said.

When asked why most Liberians are silent about the issue of Taylor's release, Dumoe said that many of the citizens lack the courage to speak out.

"People lack the courage to speak because of fear. We have to speak in the interest of our country if even it is going to lead us to jail," he said.

He further said despite the impact of the COVID-19 on the life of ex-President Taylor in Britain, where he has called for a transfer to another country, the Liberian government is doing nothing to intervene.

Dumoe, who is a member of the Collaborating Political Parties (CPP) of the opposition block, has in recent times spoken about his advocacy for the release of Taylor in many places, especially in Bong where he is an aspirant for the Senatorial post, despite concerns by some citizens of Liberia about the establishment of the war and economic crimes court in Liberia to investigate those accused of having committed war crimes in the country.

He explained that though some Liberians are wanting the court to be established in the country to try the accused, it is not as serious for many Liberians.

Dumoe is also the acting chair of the Council of Patriots (COP), Liberia's largest pressure group that advocates for the establishment of the war and economic crime court in Liberia. But when asked whether Dumoe's quest was a contradiction of the COP's position on war crimes and the nation's quest for justice, Mo Ali, former secretary general of the COP, told the Daily Observer that Dumoe is speaking in his own capacity as a senatorial aspirant.

"Dumoe has said that he has his own platform as a senatorial aspirant so, whatever he says does not represent the view of the COP," he said via mobile phone.

Taylor: Campaign Bait?

Menipakei Dumoe, whose name is being interpreted in the Kpelle dialect as 'something about to happen' and 'they talked', is a native born from lower Bong County. As a newcomer in the race, he is running his political campaign as an independent candidate on reconciliation, infrastructures, youth empowerment and agriculture. And, yes, because of a very close affinity many people of Bong County have to former President Charles Taylor, this issue features significantly in his campaign platform. Dumoe told the Daily Observer that the people of his county are divided because of the imprisonment of former

President Taylor. He said when he is given the opportunity to become senator, he will ensure that Taylor is released, a rhetoric that pundits have described as presumptuous and which the aspirant is simply using as campaign bait to win the senatorial election.

Dumoe said that the people of Bong greatly love the former president and would like to have a leader (which Dumoe hopes to be) who can help to appeal to the International Community for his release.

“One of the key things if elected is advocating for the release of the former president which is a way of reconciliation,” he said.

Commenting on his agenda for infrastructures, Dumoe said that the Bong County capital is ideally located for the establishment of an inland port to enhance commercial activities and boost revenue collection for the government. “If elected I will use my position as a lawmaker to craft a bill that will seek for the establishment of an inland port to improve the lives of the citizens,” he stated.

According to him, Bong County can contribute immensely to the Gross Domestic Product (GDP) through agriculture, if more investment is made by using the social development funds of the county as collateral to access finance from commercial banks in order to stimulate agricultural growth.

“There is a need that we prioritize agriculture in the county by using the social development fund coming every year from companies to support farmers which will provide more job opportunities for the youth,” he explained.

Civil Society actor disagrees

Meanwhile, a civil society actor in Bong County has condemned Dumoe’s concern for the release of former president Charles Taylor.

George Philip Mulbah of the Justice for Peace Commission and co-Chair of the National Civil Society Organization, says Dumoe’s concern is in error and there is a need that he re think his campaign message if he wants to get more votes from the people of his county.

“It is very unfortunate for Dumoe to use the Taylor issue as a way to attract votes. Does the government of Liberia have control over the imprisonment of our former president? This guy needs to redesign his strategy and not think that he can influence the Liberian government in any way possible.”

Mulbah said that Dumoe’s statement that he would pressure the government to request the release of Taylor, though he (Mulbah) does not actually see the context from whence speaks, is however not healthy for the peace of the country.

“During this midterm senatorial elections, it’s important that politicians be very careful with their utterances,” he disclosed, adding that Dumoe was once invited to attend a peace forum in the county in recent time but failed to show up.

“This is the guy who was invited to the peace forum in the county recently but failed to attend. He is not easily accessible in the county as there is no one found in his office to contact but he only moves around with journalists to make unpleasant statements,” he told this paper via mobile interview.

Jungle Jabbah’s Maximum Sentence Upheld (Daily Observer)

September 17, 2020

Mohammed Jabateh (alias Jungle Jabbah), a former commander of the infamous rebel group, United Liberation Movement for Democracy in Liberia, may not see remedy to his 30-year maximum sentence in the United States where he was arrested and charged for immigration fraud in relation to his role in the Liberian civil war.

Having received his conviction in the U.S. District Court for the Eastern District of Pennsylvania on October 18, 2018, and subsequently sentenced on April 19, 2018 for immigration fraud and perjury stemming from statement he made while applying for an asylum and permanent resident in the United States, Jabateh’s lawyer filed in an appeal to the Third Circuit in Philadelphia, but was on September 8 this year rejected thus upholding his conviction and 30 years imprisonment.

Immigration fraud usually occurs when a person gives conflicting accounts or lie to the U.S. Immigration in accounting for your role in society, and it seems evident that Jabateh, one of the fierce ULIMO-K commanders linked to many atrocities during the Liberian civil war, had committed this sin against the U.S. Law.

During the civil war, Jabateh served as a battalion commander for ULIMO, one of those warring factions led by ailing Alhaji G.V. Kromah that was fighting against Charles Taylor’s National Patriotic Front of Liberia (NPFL). According to Civitas

Maxima, a Swiss-based human rights organization, under Jabateh's command civilians and soldiers alike were abused, tortured, raped, and killed, and cannibalism was also a widespread ritual.

Even though he was charged, convicted and sentenced for breaching U.S. laws, the court did not rule out the atrocities Jabateh and his ruthless rebels under their commander, Alhaji Kromah, committed. The court indicated in its ruling, "The horrors recounted at trial, told only in part here, are indescribably tragic," "None, including the jury that weighed impartially the mountain of evidence marshaled against Jabateh, would view his conduct as anything less than monstrous."

Jabateh has lived in the United States since 1998. In order to prove that he provided false information to U.S. Immigration authorities, and thus that he procured asylum in the U.S. by fraud, the prosecution had to prove that he was a high-ranking rebel commander during the first Liberian Civil War and committed criminal acts while in that position.

Among several others who have been arrested in Europe and the United States for their roles in the 14-year civil crisis in Liberia, Jabateh is the first person convicted of crimes that relate to his role during the first phase of the Liberian war from 1989 to 1997. The trial of Jabateh succeeded through collaboration between Civitas Maxima and its Monrovia-based sister organization, the Global Justice and Research Project (GJRP) with the U.S. authorities on the investigation of crimes he (Jabateh) committed in Liberia.

Hassan Bility, Director of the GJRP, said that this case is a major success for victims of Liberia's Civil Wars. "This has re-enforced the faith of the victims in the international justice system. It should also serve as an encouragement to all Liberians to stand up for justice and fight impunity. I call on the Liberian Government and the opposition political parties to make accountability for war crimes a priority issue and not only focus on being elected to public offices. This sort of accountability will ensure that Liberia does not revert to conflict and war," said Mr. Bility.

Alain Werner, Director of Civitas Maxima also noted: "The work of the U.S. prosecutors in this case was extraordinary. We hope that in the future these types of crimes can be prosecuted in the U.S. for what they are—war crimes and crimes against humanity."

Since the war, the Liberian Government itself has downplayed justice for victims who are still living with the anguish of pains sustained during the 14-year period. Victims did not have the hope in the administration of Ellen Johnson Sirleaf being one of those caught in the TRC report for sponsoring the war, but President George Weah who promised to bring justice to victims of war crimes while campaigning for the presidency, he has reneged on meeting up with the promise and it is the most disappointment they have now.

Victims yearn for justice years after Liberia war (CAJ News) By Mulbah Wesseh
September 21, 2020

Liberian President, George Weah, has been urged to probe the violations committed against civilians during the country's civil wars.

The call by human rights groups comes as the president, a former footballer, addresses the United Nations General Assembly this week.

"He (Weah) should send a clear message that he stands with victims and that the brutal crimes committed during Liberia's civil wars will no longer go unpunished," said Elise Keppler, Human Rights Watch (HRW) Associate Director, International Justice Programme.

Last year, Weah gave hope to victims of brutal crimes committed when he spoke at the UN General Assembly about pursuing a war crimes court for Liberia. He said consultations with the national legislature were already in motion, and engagement with the judicial system and international partners on the court's creation was on the way.

"But since then, there has been little progress," Keppler said.

The activist noted Liberians suffered tremendously during the wars, which spanned more than 14 years starting in 1989, and left tens of thousands dead.

Warring parties gunned down civilians in their homes, marketplaces, and places of worship.

Women and girls were subjected to sexual violence including gang rape, sexual slavery, and torture. Villages were destroyed.

Children were abducted and forced into armed service.

The UN Human Rights Committee in 2018 concluded that Liberia should establish a process of accountability for past gross human rights violations and war crimes that conform to international standards and report back by July this year.

A report has yet to be submitted.

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EAST AFRICA

Uganda

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

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Kenya

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

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Rwanda (International Criminal Tribunal for Rwanda)

Official Website of the ICTR

UN Tribunal Rejects Laurent Semanza's Early Release (KT Press) By Daniel Sabiiti
September 19, 2020

The United Nations Residual Mechanism for Criminal Tribunals (IRMCT) has rejected an appeal case of a Rwandan genocide, Semanza-Laurent who had requested the court to consider his provisional release.

Semanza, former bourgmestre of Commune Bicumbi, now Rwamagana district is accused of committing genocide against Tutsi in 1994 with 14 counts and was sentenced in Benin to 34 years and six months imprisonment affirmed on appeal on 20 May 2005.

Semanza was accused of organizing, directing, and personally participating in attacks, which included killings, serious bodily or mental harm, and sexual violence at four locations in Bicumbi and Gikoro communes during the month of April 1994.

The suspect, now 76 years is currently serving his sentence in Benin and due to Coronavirus in the country, he had in March 2020 submitted an appeal to be released on grounds that his life was in danger due to his age and life in prison.

After assessing the request, IRMCT Court President, Judge Camel Agius stated this weekend that there was no strong ground to grant the request based on the gravity crimes that the suspect was convicted of.

“The convict (Semanza) cannot be released until he completes his sentence and in my opinion his appeal is not convincing to

take this decision, since there is not enough proof to base on his claims,” Agius said.

The judge said that in Semanza’s appeal, he had also not shown a tendency to regret committing the crimes he was sentenced for and basing on the request of the Rwandan government, he had to serve a full sentence as it is.

With this standing decision of which Judge Agius requested the court clerk to inform the government of Rwanda of, it means that Semanza, who has already served more than 22 years, will have to remain in jail.

The decision is contrary to those taken during the reign of Judge Theodor Meron who released indicted and arrested genocide suspect at the IRMCT without completing almost two-thirds of their sentences.

Out of a total of 96 Rwandan individuals indicted by the former International Criminal Tribunal for Rwanda (ICTR)-now IRMCT, 61 have been convicted, 31 of whom are currently serving sentences while 22 of whom have completed their sentences. Another eight convicts died while serving their sentences.

Another 14 people were acquitted. The court also transferred the cases of 10 individuals to national jurisdictions.

Rwandan genocide suspect Charles Ndereyehe: Arrested, then released (The Africa Report) By
Honoré Banda
September 14, 2020

Will Charles Ndereyehe be extradited to Kigali? A final showdown is under way between the legal team of the Rwandan national, who is suspected of playing a role in the Tutsi genocide, and the Dutch courts.

On 8 September, Ndereyehe, alias Karoli, was arrested in the Netherlands, where he has lived since 1997. According to our sources, his arrest came about after he lost his Dutch citizenship, which he had obtained in 2003.

However, his lawyer Marq Wijngaarden has mounted a counterattack by producing a document in which his client challenges his deprivation of citizenship. In an unexpected turn of events, the Rwandan national was ultimately released pending the outcome of his appeal.

Sentenced in absentia

For several years now, Kigali – which issued a warrant for Ndereyehe’s arrest on 20 April 2010 – has been calling for these deprivation of citizenship proceedings, as they are the only route to his extradition.

The Rwandan authorities primarily allege that he took part in massacres carried out at the Rwanda Agricultural Research Institute (ISAR), of which he had become director general of in 1993. On 26 April 1994, “more than 300 people were killed under his orders”, according to the National Commission for the Fight against Genocide (CNLG).

Said to be a former member of the Coalition for the Defence of the Republic (CDR), an extremist Hutu party created in 1992, he fled to Zaire after the genocide and eventually went on to the Netherlands. He continues to be an active member of FDU-Inkingi, which the opposition leader Victoire Ingabire headed for a long time before founding a new party, DALFA.

In November 2008, Ndereyehe was sentenced in absentia to a life term in prison by a Gacaca court (a Rwandan system of community justice).

Dutch authorities conduct investigation After the Rwandan courts revived the proceedings in 2018 via a new request for arrest, the Dutch courts undertook, in cooperation with the Immigration and Naturalisation Service (IND), to verify the allegations contained in the warrant. According to our sources, these efforts made it possible to notify Ndereyehe of his deprivation of citizenship six weeks ago.

Given that the deadline for him to appeal this decision expired on 8 September, the Dutch courts moved forward with his arrest, although Wijngaarden later obtained his release.

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Several killed in suicide bombing outside mosque in Somalia (Aljazeera)

September 11, 2020

At least six people have been killed in a suicide bombing outside a mosque in the Somali port city of Kismayo, according to a regional official.

“A suicide bomber wearing a heavy vest of explosives targeted the Muslim congregation at the Qaadim mosque in the centre of the town as people were leaving the mosque after performing Friday prayers,” Abdinasir Gulled told the dpa news agency.

Another 20 people were injured in the attack, which may have been aimed at a provincial politician, Gulled said.

Al-Shabab claimed responsibility for the attack on their Radio Andalus.

The armed group, which has ties to al-Qaeda, regularly launches attacks on government officials, journalists and prominent businessmen, as well as civilians, in the volatile nation in the Horn of Africa.

Attacks continue

The incident comes after three people were killed and seven were injured in a suicide attack at a Mogadishu restaurant on Wednesday. Information ministry spokesman Ismail Mukhtar Omar said the attacker walked into the Blue Sky restaurant near Mogadishu National Theatre before blowing himself up.

At least three Somali special forces soldiers were also killed and an American officer was wounded in a car bombing and mortar attack outside a military base in Somalia’s south on Monday. Al-Shabab said it was behind the attack and put the number of dead at 20.

A Somali soldier was also wounded in the attack in Janay Abdalla village, some 60km (37 miles) from Kismayo – which is also Jubaland state’s administrative capital.

Somalia has faced near-continuous conflict for almost 30 years, while the internationally-backed government in Mogadishu has been fighting al-Shabab since 2008.

In August, 10 civilians and a police officer were killed in a gun-and-bomb attack by al-Shabab on an upscale beachfront hotel in the capital.

That same month, four al-Shabab fighters held in Mogadishu’s central prison were killed in an intense shoot-out with security forces after they managed to get their hands on weapons within the facility.

At least seven people were killed in a separate attack in August when a car bomb exploded at an army base in Mogadishu where members of the Somali National Army (SNA) were stationed.

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EUROPE

The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [English translation]

Pandemic ‘Will Cause Long-Term Problems’ for Major Bosnian War Trials (Balkan Transitional Justice) By Admir Muslimovic

September 10, 2020

War crimes cases involving multiple defendants and defence lawyers have been suspended for six months and will remain so until further notice because of the lack of space for social distancing and other coronavirus-related restrictions at the Bosnian state court.

The capacity to hold hearings is being further reduced by the cleaning of courtrooms after each session. “After each hearing, the space is disinfected and the courtroom cannot be used until the following day with the exception of detention cases due to their urgency,” the state court told BIRN.

Bosnia and Herzegovina’s Law on Criminal Proceedings of Bosnia and Herzegovina says that if a hearing in a case is not held for six months, those involved can ask for the trial to be restarted from the beginning, which would create major problems for war crimes proceedings, which already drag on for too long, experts claim.

“Imagine a situation in which someone requests a restart of a war crime trial three or four years after it begins,” said Lejla Covic, a lawyer representing defendants in six major cases at the state court.

Covic argued that the state court must do more to resolve the problem, and argued that hearings in trials involving fewer defendants could be scheduled more frequently.

Lawyer Miodrag Stojanovic, who represents defendants in five major cases, said the consequences of the long-term suspension of hearings will be significant.

“There are many defendants of advanced years, so even when the trials resume, it will be hard to ensure their presence in courtrooms, primarily due to the fact that they belong to high-risk groups,” Stojanovic explained.

“The same goes for witnesses. That is even a bigger problem because the time takes its toll. Many of the witnesses, as far as I know, have changed addresses, they left to their children’s places abroad during the pandemic. How do we make sure they appear in courtrooms again?” he asked.

Stojanovic also pointed out that some judges are close to retirement age, which means trials will have to start again if they retire and are replaced.

“An indefinite chaotic atmosphere will be created should things continue in this way. Victims’ families will pay the highest price because they have already waited too long to see the truth about their loved ones,” he said.

But veteran lawyer and judge Vasvija Vidovic said that the state court is doing everything it can under the circumstances, and that nothing is more important than protecting public health.

“You know that the virus has entered the Bosnian state court itself, and it is [circulating] among lawyers too. It is very dangerous to risk holding mass trials during the pandemic, because some courtrooms do not even have proper ventilation,” said Vidovic.

“I think the Court of Bosnia and Herzegovina is as efficient as possible considering the pandemic circumstances and everybody should adjust to the situation in order to meet in the middle,” she added.

Trials involving a large number of defendants will not be held until further notice. More than 15 such cases are currently underway at the state court.

Bosnia officials arrest 9 for crimes during 1992 war (Jurist) By Zoe Gujral
September 18, 2020

The Prosecutor’s Office of Bosnia and Herzegovina on Wednesday announced the arrest of nine men suspected of participating in the massacre of 44 Bosnian Muslims in 1992.

In addition to the nine who have been arrested, the prosecutor’s office has accused two others, an unnamed man living in Canada and Radislav Krstic. The prosecutor’s office will seek extradition of the unnamed man in Canada. Krstic, a former Bosnian general, was convicted of war crimes by the Hague Tribunal and is currently imprisoned in Poland.

The 44 Bosnian Muslims lived in the village of Novoseoci, in the municipality of Sokolac. The victims were between the ages of 14 and 82, and included one woman. The rest of Novoseoci’s Bosnian Muslim population, all women and children, was reportedly sent to Sarajevo. After the massacre, the village mosque was destroyed and the rubble dumped over the bodies. All

but one of the bodies was found after the war. Novoseoci sits within territory Bosnian Serb forces sought to annex for an exclusively Serb state.

The arrests came the same day as the Organization for Security and Cooperation in Europe (OSCE) released a report on the processing of war crimes in Bosnia and Herzegovina. Commissioned by the government of Bosnia and Herzegovina, with support from the UK, the report notes an increase in the processing of war crimes by the Special Department for War Crimes (SDWC). Judge Joanna Korner, the author of the report, attributes this to the change in leadership. According to the report, the SDWC has increased communication with judges over pending cases.

Several years ago Bosnia and Herzegovina stated their intent to finish processing and prosecuting war crimes by 2023. There are still more than 600 unresolved cases involving more than 4,500 suspects.

One Person sentenced to One Year Imprisonment for War Crimes against Civilians (Sarajevo Times)

September 22, 2020

Having completed the main trial, a Court Panel of Section I for War Crimes of the Court of Bosnia and Herzegovina delivered a judgment in the case of Mile Pažin et al. finding the accused Mile Pažin guilty of the criminal offense of War Crimes against Civilians under Article 142(1) CC SFRY, so the 24(7) Panel of the Court of Bosnia and Herzegovina, applying Articles 33, 38, 41, 42(2) and 43(1) CC SFRY, sentenced him to 1 (one) year and 6 (six) months of imprisonment.

The accused Mile Pažin was found guilty that during the war in Bosnia and Herzegovina and the armed conflict between the Army of RBiH and the HVO in the territory of Stolac municipality, in violation of the rules of international humanitarian law, he committed inhumane treatment of a civilian, in his capacity as a member of the Croat Defense Council (HVO), between 20 June 1992 and 23 December 1995, and since 1 May 1993 also as Commander of the Stolac Civilian Protection Unit.

Pursuant to Article 284, Subparagraph c) CPC BiH, the accused Mile Pažin and Vide Krešić are acquitted of the charges that they committed the criminal offense of War Crimes against Civilians under Article 173(1) CC BiH as read with Article 180(1) and Articles 21 and 29 CC BiH; specifically the accused Mile Pažin by the acts described in Section 1 of the Acquittal – unlawful detention, the acts described in Sections 2 and 3 of the Acquittal, as a perpetrator – inflicting serious physical or mental pain or suffering on a person, the acts described in Section 4 a) and b) of the Acquittal – inhumane treatment, the acts described in Section 4c) of the Acquittal – pillaging, the acts described in Section 4. d) of the Acquittal – relocation of population, the acts described in Section 5 of the Acquittal – forced labor; and the accused Vide Krešić the acts described in Section 1 of the Acquittal – unlawful detention, and in Section 6 of the Acquittal – torture.

Pursuant to Article 188(4) and Article 189(1) CPC BiH, the accused are relieved of the obligation to cover the costs of the criminal proceeding.

Having delivered the judgment, the Panel lifted the prohibitive measures previously imposed on the accused Vide Krešić, specifically the travel ban under Article 126(2) CPC BiH, while the travel ban is still in place in relation to the accused Mile Pažin.

SIPA arrested One Person for Killing Four Bosniak Civilians (Sarajevo Times)

September 11, 2020

On the order of the prosecutor of the Special Department for War Crimes, SIPA police officers located in the Ugljevik area and arrested Ratko Đurković, born in 1943, former commander of the 1st Battalion of 1st Majevica Brigade of the Army of Republika Srpska VRS.

The said suspect is under investigation in the case of the Special Department for War Crimes against the suspects Ratko Đurković and Radomir Nedić, former commander of the 1st Majevica Brigade.

They are charged that, during a widespread and systematic attack on the Bosniak civilian population, knowing of the attack and that their actions formed part of that attack, they as VRS commanders, who had effective control over their units, failed to prevent the killing of civilians and prisoners and, after the crime, to take any actions to prosecute and punish the perpetrators for the crime committed in the village of Tursunovo Brdo, Teočak, Ugljevik municipality in July 1992.

During the attack, military forces commanded by the suspects killed 4 Bosniak civilians, as well as two members of the Army of the Republic of BiH, who had previously been captured. The suspects are charged as commanders for the criminal offences of Crimes against Humanity under Article 172 (1) (h) of the Criminal Code of Bosnia and Herzegovina /BiH CC/ as read with

paragraph (a) thereof, and War Crimes against Prisoners of War under Article 175 (1) (a) of the BiH CC, all in conjunction with with Article 180 (2) of the BiH CC.

The suspect Đurković has been deprived of liberty and, within a period set by law, will be handed over to the case prosecutor who will interview him.

In relation to the suspect Nedić, the case prosecutor will, after collecting all the information and data on his health condition, decide on further activities with regard to the suspect.

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

Official Website of the ICTY

Bosnian Serb official jailed for war crimes dies of COVID-19 (AP News)

September 15, 2020

Momcilo Krajisnik, a former top wartime Bosnian Serb official who was convicted of war crimes by a U.N. court, has died after contracting COVID-19. He was 75.

The hospital in the northern Bosnian town of Banja Luka said that Krajisnik died early Tuesday “from consequences of infection with the new coronavirus.”

Krajisnik was convicted and sentenced to 20 years in prison by the U.N. Yugoslav war crimes tribunal in The Hague, Netherlands, for persecuting and forcibly expelling non-Serbs during the 1992-95 war.

He was released from a British prison in 2013 after serving two-thirds of the sentence.

Krajisnik served as the Bosnian Serb parliament speaker during the conflict that erupted after the breakup of the Yugoslav federation in the 1990s.

He was among the top Bosnian Serb leadership that led the effort to create a Serb self-styled state in parts of Bosnia and unite it with neighboring Serbia. He was a close aide to Bosnian Serb leader Radovan Karadzic, who was convicted by the Hague tribunal for genocide.

Bosnian Serb forces took control of about one-third of Bosnian territory, expelling Muslims and Croats from their homes and brutally killing thousands.

More than 100,000 people died before the war ended in a U.S.-brokered peace agreement that created Serb and Muslim-Croat entities under a joint government.

Many Serbs consider Krajisnik and other Bosnian Serb wartime officials as heroes despite the U.N. war crimes convictions against them.

Reflecting such sentiments, Milorad Dodik, a top Bosnian Serb politician who is a member of Bosnia’s multi-ethnic presidency, described Krajisnik as a “great patriot.”

“Momcilo Krajisnik’s name will be written in special letters in the history of our Republic and our nation,” Dodik said in a note of condolence to the family.

In Sarajevo, Bosnia’s other two ethnic groups, had a different view.

“Momcilo Krajisnik is one of the biggest criminals in the history of Europe,” said Zeljko Komsic, another member of Bosnia’s presidency. “He will be remembered as one of the signatories of a genocidal policy.”

Munira Subasic, who leads a Mothers of Srebrenica group comprising relatives of the more than 8,000 Bosniak men and boys killed in the 1995 massacre in the eastern town, said “I am sorry that he died.”

“He should have lived 100 years with his crime, sleep with the crime and wake up with the crime, with the images of our children always before his eyes,” Subasic said.

Funeral arrangements were not immediately known. Krajisnik is survived by two sons and a daughter.

Bosnian Croat War Criminal Transferred to Prison in Belgium (Balkan Transitional Justice) By Lamija Grebo

September 23, 2020

The UN-backed Mechanism for International Criminal Tribunals in The Hague told BIRN that Milivoj Petkovic has already been transferred to a Belgian jail to serve the remainder of his 20-year term for crimes against Bosniaks during the Bosnian war.

Petkovic was convicted in 2017 of committing crimes against humanity, violations of the laws or customs of war, and grave breaches of the Geneva Conventions between 1992 and 1994.

He was found guilty of participating in a joint criminal enterprise intended to remove Bosniaks from territories of Bosnia and Herzegovina in which the Bosnian Croat leadership, along with the leadership of Croatia, wanted to establish Croat domination.

Five other military and political officials of the self-proclaimed wartime Bosnian Croat statelet of Herzeg-Bosnia were convicted alongside him – Jadranko Prlic, Bruno Stojic, Slobodan Praljak, Valentin Coric and Berislav Pusic.

Upon hearing his verdict, Praljak took poison in the Hague courtroom and died a few hours afterwards.

After Petkovic’s transfer to Belgium, former Bosnian Serb political leader Radovan Karadzic is the only inmate in the United Nations Detention Unit in the Netherlands still awaiting a decision about where he will serve his sentence.

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Domestic Prosecutions In The Former Yugoslavia

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Turkey

Turkish-backed forces may have committed war crimes in northern Syria - U.N. report (Ahval News) By Ilhan Tanir

September 15, 2020

A newly released U.N. Commission report calls on the Syrian National Army (SNA), a collection of Islamist factions under Turkish control, to immediately cease all looting of civilian property, including of religious and archaeological sites, return such property to its owners, and discipline or dismiss those individuals responsible while making the findings public.

There are reasonable grounds to believe that Turkish-backed SNA members committed war crimes in Syria, including hostage-taking, cruel treatment and torture, and rape, the report says.

“The Independent International Commission of Inquiry on the Syrian Arab Republic,” report published on Tuesday, touches on human rights violations and living conditions in both government-held areas, as well as regions of the country that are

independent from Damascus.

There are no clean hands in Syria, “behind the frontlines and the headlines, armed actors continue to subject civilians to horrific and increasingly targeted abuse,” it says.

Turkey and Turkey backed Syrian factions have control of three different areas in Syria's north – the northwestern enclave of Afrin, Idlib, and Ra's al-Ayn.

Grave human right violations are being conducted by Turkish-backed SNA and its affiliates in all three areas, the report finds.

According to the commission, Turkey is responsible for all individuals present in such territories, and it needs to “ensure public order and safety, and to afford special protection to women and children. Turkey remains bound by applicable human rights treaty obligations vis-à-vis all individuals present in such territories.”

The looting has been rampant in Afrin, which was taken over in early 2018 by the Turkish Armed Forces as well as Turkey backed Syrian opposition fighters, the report said. Civilian properties of the Kurdish people both in Afrin and Ra's al-Ayn, a northern Kurdish town was also seized by Turkey backed forces in October of 2019, being appropriated by SNA members, it says.

According to the report, Turkish forces were aware of these grave human rights violations, and may have violated the human rights treaty obligations of Turkey in failing to address them.

“The Commission corroborated repeated patterns of systematic looting and property appropriation as well as widespread arbitrary deprivation of liberty perpetrated by various Syrian National Army brigades in the Afrin and Ra's al-Ayn regions,” the report says.

“After civilian property was looted, Syrian National Army fighters and their families occupied houses after civilians had fled, or ultimately coerced residents, primarily of Kurdish origin, to flee their homes, through threats, extortion, murder, abduction, torture and detention,” it added.

The report emphasizes that the accounts indicate that the property of Kurdish owners were looted and appropriated by SNA members in a coordinated manner, rather than accidentally.

More than 170 women have been kidnapped by Turkish-backed rebels in Syria's Afrin province since the start of the Turkish occupation in January 2018, including 11 more in August, and that Turkey has no intention of responding to reports of war crimes and rights violations in Afrin or northeast Syria, researcher Meghan Bodette told Ahval.

Turkish troops, along with militia groups like the Free Syrian Army, took control of Afrin following several months of intense clashes with Syrian Kurdish forces, who had at the time carved out an enclave in northeast Syria relatively isolated from Syria's ongoing civil war, save for attacks by the Islamic State (ISIS).

“Looted household items were transported and sold through a coordinated process, which may indicate a premeditated policy implemented by several brigades,” one of reported findings in the study says. “Such items were often moved freely through Syrian National Army-staffed checkpoints by both Syrian National Army fighters and senior-ranking members and were stored in ad hoc locations such as warehouses, or sold at open markets.”

The 25-page report says civilians who approached senior SNA members in Afrin and Ra's al-Ayn regions to file complaints were faced threats, extortion or detainment, while others were abducted and forced to pay ransom directly to SNA senior members for their release.

The report also allocates several pages focusing on sexual and gender-based violence in Afrin and Ra's al-Ayn, the regions under the control of Turkish government via proxy Syrian forces.

“During the period under review, cases of sexual violence against women and men at one detention facility in Afrin were documented. On two occasions, in an apparent effort to humiliate, extract confessions and instill fear within male detainees, Syrian National Army Military Police officers forced male detainees to witness the rape of a minor,” the report indicates.

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

Another part of the violations covered in the report on attacks against cultural property which points that SNA members also looted and destroyed religious and archaeological sites of profound significance in the Afrin region.

For example, SNA forces looted and excavated ancient artefacts, including mosaics, from the Hellenistic archaeological site of

Cyrrhus, as well as the Ain Dara temple, protected by the UNESCO. Satellite imagery showed that both sites had likely been bulldozed between 2019 and 2020.

The commission also found that there are reasonable grounds to believe that members of the SDF and related entities may have committed the war crime “of cruel treatment and ill-treatment of those deprived of liberty in military intelligence facilities,” and has “reasonable grounds to believe that in holding tens of thousands of individuals in Hawl camp and its annex, the majority of them children, for 18 months with no legal recourse, the SDF forces held these individuals in inhuman conditions.”

The commission noted that it welcomed the development of Women’s Protection Units, taking action to remove 51 girls ranging between 13 and 17 years of age from their own ranks and housed in a “rehabilitation centre”. Eighteen boys were also in the process of being formally released at the time of reporting.

Syrians continue to be killed, suffer severe hardships and grave rights violations, despite a relative reduction in largescale hostilities since the March 5 ceasefire, the U.N. Syrian Commission of Inquiry report finds.

UN rights chief calls for Turkey to probe violations in northern Syria (UN News)

September 18, 2020

Michelle Bachelet warned that the human rights situation in places such as Afrin, Ras al-Ain and Tel Abyad, is grim, with violence and criminality rife.

An alarming pattern of grave violations has been documented in these areas in recent months, such as increased killings, kidnappings, and unlawful transfers of people, as well as seizures of land and properties, her Office, OHCHR, has reported.

Victims include those perceived to be allied with opposing parties, or critical of Turkish-affiliated armed groups, or rich enough to pay ransoms.

“People living in these areas whose rights have been violated are entitled to protection and a remedy. In this regard, I urge Turkey to immediately launch an impartial, transparent and independent investigation into the incidents we have verified, account for the fate of those detained and abducted by the affiliated armed groups, and hold accountable those responsible for what may, in some instances, amount to crimes under international law, including war crimes”, said Ms. Bachelet.

“This is all the more vital given that we have received disturbing reports that some detainees and abductees have allegedly been transferred to Turkey following their detention in Syria by affiliated armed groups.”

Civilian deaths, unknown fates

OHCHR has verified that since January, at least 116 civilians were killed in these areas, and some 463 injured, by improvised explosive devices (IEDs) and explosive remnants of war (ERW). Those killed included 15 women, 20 boys and two girls.

Staff have also documented the abduction and disappearance of civilians, including women and children. The fate of some of them remains unknown.

Meanwhile, a rise in infighting among the groups over power-sharing has also put civilian lives and civilian infrastructure at risk.

Turkish-affiliated armed groups have also seized and looted homes, land and other properties without any apparent military necessity, and have occupied many of them with their own families.

Water as a weapon of war Ms. Bachelet remains concerned that warring parties in Syria are using water, electricity and other essential services as a weapon.

She cited the example of Turkish-affiliated armed groups disrupting water supply in Ras al-Ain, affecting access for up to one million people, including displaced people living in camps.

Similarly, the Kurdish-led Syrian Democratic Forces (SDF), which controls al-Hassakeh, has been accused of hindering electricity supplies for the pumping station.

“As we have previously warned, impeding access to water, sanitation and electricity, endangers the lives of large numbers of people, a danger rendered all the more acute amid fighting a global pandemic”, said Ms. Bachelet.

She urged all parties to the conflict to ensure protection of civilians and civilian infrastructure.

Turkey rejects UN human rights violation claims in Syria (Middle East Monitor)

September 19, 2020

Turkey rejected on Friday the human rights violations claims in northern Syria laid out in a report by the United Nations Commission of Inquiry and following criticism.

“We categorically reject the baseless allegations of human rights violations claimed against the Syrian opposition... and concerning our country in relation to them” the Turkish foreign ministry said on Friday.

On Tuesday, UN war crimes investigators said Turkey must rein in Syrian rebels it supports in northern Syria who may have carried out kidnappings, torture, and looting of civilian property following a report covering the first half of 2020.

UN High Commissioner for Human Rights Michelle Bachelet said the human rights situation in parts of northern Syria is grim and called on Turkey to ensure that violations committed by armed groups under their control cease.

“I urge Turkey to immediately launch an impartial, transparent and independent investigation into the incidents we have verified,” Bachelet also said.

Ankara also rejected the criticism and called it groundless.

Ankara backs rebels trying to oust Syrian President Bashar al-Assad backed by Russia and Iran. Turkey seized control of some northern border towns in recent years with cross border incursions to push back Syrian Kurdish YPG fighters, which Ankara views as a terrorist group.

US sends armoured vehicles to Syria as UN urges Turkey to probe militia's human rights abuses (The Telegraph UK) By David Enders

September 20, 2020

The US military has sent half a dozen armored vehicles on a 90-day mission to reinforce its troops in eastern Syria, less than a month after four US soldiers were injured during an altercation with Russian troops in the area.

The military said fewer than 100 soldiers would accompany the vehicles. There are currently less than 1,000 US troops in Syria, a number that has remained approximately the same since the end of the US military offensive that deprived the Islamic State [IS] of most of the territory in Syria.

Russia has deployed military forces to Syria in support of the Syrian regime, while US troops conduct joint patrols and operations with the Syrian Democratic Forces, a militia it backed in 2015 to fight against IS. The US and Russia have previously clashed with each other in Syria, such as a 2017 incident that led to the deaths of around 300 Russian military contractors.

“The United States does not seek conflict with any other nation in Syria, but will defend Coalition forces if necessary,” said Captain Bill Urban, a spokesman for the US military’s Central Command.

Also on Friday, the United Nations High Commissioner for Human Rights urged Turkey to investigate war crimes committed by groups it backs in northern Syria.

Turkey began launching major military operations in 2016 in order to remove Syrian Kurdish militia groups, including the US-supported SDF, from areas they controlled along the Syrian-Turkish border.

Those operations included support for other Syrian militia factions, some of which the UN says are responsible for an “alarming pattern in recent months of grave violations,” including kidnappings, killings of civilians and unlawful transfers of people and property.

“I urge Turkey to immediately launch an impartial, transparent and independent investigation into the incidents we have verified, account for the fate of those detained and abducted by the affiliated armed groups and hold accountable those responsible for what may, in some instances, amount to crimes under international law, including war crimes,” UN High Commissioner for Human Rights Michelle Bachelet said in a statement.

The Turkish government has denied the allegations. However, the Syrian Observatory for Human Rights, which monitors the conflict, has consistently documented similar allegations to those being made by the UN. It has also documented potential war crimes committed by Turkey's opponents.

After U.N. Finds War Crimes Evidence in Syria, Turkey Points Finger of Blame at Kurds

(Polygraph)

September 23, 2020

On Sept. 18, the United Nations Office for the High Commissioner for Human Rights (OHCHR) announced a report on human rights violations allegedly committed by various factions in the Syrian conflict, including Turkish-backed armed groups in northern Syria operating in areas that are controlled by Turkey. Among other things, the U.N. report documents kidnappings, illegal population transfers, killings and theft of property.

“People living in these areas whose rights have been violated are entitled to protection and a remedy,” said U.N. High Commissioner for Human Rights Michelle Bachelet.

Bachelet called on Turkey “to immediately launch an impartial, transparent and independent investigation into the incidents we have verified, account for the fate of those detained and abducted by the affiliated armed groups, and hold accountable those responsible for what may, in some instances, amount to crimes under international law, including war crimes.”

The Turkish Foreign Ministry responded:

“We categorically reject both the baseless allegations of human rights violations claimed against the Syrian opposition, which operate on the ground to combat terrorism and ensure the return of Syrian refugees, and concerning our country in relation to them, as well as the groundless criticisms by the [U.N.] leveled against Turkey on the basis of the said allegations.”

This is misleading.

First, it is not true, as the Turkish Foreign Ministry claims, that the report ignores alleged atrocities by the Kurdish People’s Protection Units (YPG), which worked with the United States to combat Islamic State and also joined the fight against the Assad regime in the long-running Syria conflict.

Turkey views the YPG as a front for the Kurdish Worker’s Party (PPK), a separatist group that has operated in southeastern Turkey and which the United States and European Union have also designated as a terrorist group.

The U.N. report refers to the YPG’s past recruitment of child soldiers and states that the opposition Syrian Democratic Forces (SDF), in which the YPG plays a major role, also uses child soldiers. The report accuses the SDF of detaining and torturing civilians.

The U.N. report mentions an April car bombing attack in the northern Syrian city of Afrin. The attack killed four Turkish soldiers and several dozen civilians, wounding some 50 others. Turkey blamed the YPG for the attack, and although the U.N. report does not assign blame it does not exonerate the YPG.

Regarding alleged abuses by Turkish-backed units, the report gets specific. A sample:

“The Commission has reasonable grounds to believe that Syrian National Army fighters, in particular members of Division 14, Brigade 142 (the Suleiman Shah Brigade), Division 22 (the Hamza Brigade) and Division 24 (the Sultan Murad Brigade), repeatedly perpetrated the war crime of pillage in both the Afrin and Ra’s al-Ayn regions ... and may also be responsible for the war crime of destroying or seizing the property of an adversary.”

Describing systematic looting in detail, the report states:

“Throughout the Afrin region, multiple accounts indicate that the property of Kurdish owners was looted and appropriated by Syrian National Army members in a coordinated manner. For example, in September 2019, civilians in the Shaykh al-Hadid subdistrict (of the Afrin region) described how members of Division 14, Brigade 142 (the Suleiman Shah Brigade) of the Syrian National Army had gone from door to door instructing Kurdish families with fewer than three members to vacate their houses to accommodate individuals arriving from outside of Afrin.”

Elizabeth Tsurkov, a fellow and Syria expert at the Center for Global Policy, a Washington D.C.-based policy research institute, says that while Turkey publicly denies the accusations against its Syrian proxies, it has privately acknowledged excesses.

In a Sept. 19 Twitter thread, Tsurkov detailed a meeting between a Turkish intelligence officer and commanders from Syrian rebel groups that receive Turkish financing and aid. According an attendee identified as Abu Said, the Turkish officer brought up crimes committed by rebel fighters and told commanders to “halt the abuses against civilians.”

Tsurkov’s source said that Syrian rebel commanders were told they’d be held responsible for their subordinates’ crimes, but he did not say how Turkey would enforce this. She noted that Turkey supplies these groups with arms and salaries but thus far

hasn't used this leverage to modify any of the groups' behaviors.

Turkey was an early supporter of the Syrian opposition after the uprising against Bashar al-Assad's regime began in 2011. Turkey not only provided refuge for defectors from the Syrian Arab Army who went on to form the Free Syrian Army, but subsequently took in 3.6 million Syrian refugees. Since 2016, the Turkish military has operated inside Syria.

In January 2018, Turkey launched Operation Olive Branch, aimed at driving the U.S.-backed Kurdish YPG/YPJ from the Afrin region. In October 2019, it launched another offensive against the YPG/YPJ and its allies in the Syrian Democratic Forces, dubbed Operation Peace Spring, which expanded Turkey's area of control in northern Syria.

The Turkish military also maintains observation posts in the besieged northwestern Syrian rebel enclave of Idlib and conducts joint patrols with Russian forces in the area.

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MIDDLE-EAST

Iraq

Grotian Moment: The International War Crimes Trial Blog

How to Answer Iraq's Failure to Put a Stop to Torture (Just Security) By Belkis Wille
September 16, 2020

My heart sank as my colleague told me recently about the latest torture victim from Iraq who had contacted us to share his story. I had heard the same kinds of accounts from other victims of torture in detention, including the same names of two lieutenants and a major who he said had supervised and participated in torturing him and others.

I had sent those same names to Faik Zaidan, the head of the Iraqi High Judicial Council in April 2019, after earlier victims shared them with me, asking the council to investigate their actions. In fact, at Human Rights Watch, we have reported on torture in Iraq for decades, but it continues. It is clearly futile to keep calling on the Iraqi government to address the systemic use of torture and inhuman prison conditions on its own. Outside help is needed. Iraq's Parliament should ratify the Optional Protocol to the Convention Against Torture. This would allow an independent United Nations team to visit prisons in Iraq and advise and assist Iraq in strengthening protections against torture. And short of parliamentary action, the new prime minister can act to uphold the dignity of his fellow citizens and reverse the country's shameful record on torture in detention.

The young man who contacted us recently, now 22, told my colleague that as a boy of 17, he smuggled himself out of the city of Mosul in early 2015 after the Islamic State (ISIS) took control. He made his way to Iran for surgery he had needed for years. He returned to Mosul in May 2017, after Iraqi forces, with U.S. military support, retook the city.

But Iraqi soldiers arrested him in April 2018 without a warrant, he said, put guns to his head, and ordered him to confess that he had been an ISIS member. When he refused, they beat him with a leather truncheon, shocked him with electricity, and hung him repeatedly from his hands bound behind his back and suspended from the ceiling on and off for five days. When he did not give in, they threatened to rape his mother and sister in front of him, he said.

On the fifth day, they brought him a piece of paper, saying he needed to sign it, while blindfolded, so they could transfer him to the hospital. "I later found out they had tricked me into signing a statement that I had joined ISIS for 20 days," he said. At the hospital, the officers forced the doctor to sign a document that he had not been tortured, though he says he had visible bruising, including on his face. They took him before an investigative judge, who ignored his bruises and told him a "secret informant" had accused him of manning an ISIS checkpoint on a Mosul road in 2015. He showed the judge the Iranian stamp

in his passport — proof he hadn't been in Mosul at the time.

Ten weeks after his arrest, police transferred him to the Intelligence and Counter Terrorism Office and prison compound in Faisaliya, in east Mosul, infamous as a torture site. He said he was held there for a year in a cell with at least 250 other men and boys. There was only one toilet, and he was only able to shower once every two months. He wasn't allowed to contact his family. During that time, they hung him from the ceiling several more times, he said.

In mid-2018, officers transferred him to a damaged home being used as a detention center in the town of Qayyarah, 60 kilometers south of Mosul, for five days, to a cell with at least 50 other men and boys. He said that every day the guards would bring the detainees rice and soup, dump both on the floor, and make them eat off the floor. Once, he said, guards took the detainees out in the rain and forced them to crawl on the ground in the mud.

In December 2018, he said, officers transferred him to Tal Kayf prison, 10 kilometers north of Mosul, to a cell holding around 250 men and boys: "There wasn't enough room for all of us in the cell to lie down at the same time, so we had to take turns sleeping." He said prison guards watched as two former security officers being held on criminal charges regularly beat other detainees.

In June 2019, he said, the authorities transferred the adults out of Tal Kayf prison, leaving only the detainees who, like him, were children at the time of their alleged crimes. He said this reduced the crowding but that SWAT forces — Special Weapons and Tactics, under the Interior Ministry's Counter-Terrorism Service — came to his cell at least six times and beat him and his cellmates.

The Nineveh juvenile court in August 2019 convicted him and sentenced him to six years for ISIS affiliation. On Feb. 3, 2020, the federal appeals court acquitted and released him because of the evidence that he presented — the Iranian passport stamp and medical records of his eye surgery. We reviewed the court records and spoke to a court employee who confirmed his account to us.

The Iraqi Parliament has been unwilling to pass an anti-torture bill for years, even though Iraq's constitution prohibits torture. The bill would require a judge to order a medical examination of any detainee alleging torture within 24 hours of learning of the allegation, which often does not occur now. Parliament might be more willing to ratify the Optional Protocol to the Convention Against Torture that brings with it outside expertise and support to tackle this widespread wrong. But that should not prevent the government of Prime Minister Mustafa al-Kadhimi from taking action.

The many governments that have been supporting Iraq for years in its fight against ISIS, including the United States, the United Kingdom, and France, should bring funding and expertise to Baghdad to help the government at this critical juncture to set up a national unit to prevent torture — a key pillar of the torture treaty's optional protocol. The unit should have the authority to inspect all detention centers in Iraq, and to create an effective system to bring complaints about mistreatment in Iraqi detention. The day the government does this, I will have a wealth of information to share.

UN team investigating ISIS crimes in Iraq gets one-year mandate extension (Rudaw) By Shahla Omar
September 19, 2020

The mandate for a United Nations team working on holding the Islamic State (ISIS) to account for its crimes was extended for a year by the UN Security Council on Friday.

The decision to extend the United Nations Investigative Team to Promote Accountability for Crimes Committed by Daesh/ISIL (UNITAD)'s mandate until September 18, 2021 was made unanimously, according to a UN statement released after the virtual Security Council meeting.

"Special Adviser and Head of the Investigative Team, Karim Asad Ahmad Khan QC welcomed the unanimity of the Council's decision as a demonstration of the continued collective will of the international community and the Government of Iraq to work side-by-side in pursuit of justice and accountability for the victims and survivors of Daesh [ISIS] crimes," the UN statement read.

The Iraqi government had submitted a letter to the Security Council on Wednesday to call for UNITAD's mandate to be extended.

"Expressing his appreciation for the continued support of the Government of Iraq for the mandate and work of the Team, the Special Adviser underlined the commitment of UNITAD to continue to work closely with Iraqi authorities in the implementation of its mandate," the decision added.

ISIS swept through swathes of Iraq and neighbouring Syria in 2014, exercising its caliphate rule with exceptional violence. Among the group's crimes are "executions, torture, amputations, ethno-sectarian attacks, rape and sexual slavery imposed on women and girls."

The investigative unit was formed after Baghdad called at the United Nations in August 2017 for assistance in ensuring that ISIS members would be held to account for their crimes in Iraq.

The Security Council adopted a resolution in September 2017 for the UN Secretary General to establish an investigative team "to support domestic efforts to hold ISIL accountable by collecting, preserving and storing evidence in Iraq of acts that might amount to war crimes, crimes against humanity and genocide committed in Iraq."

UNITAD focuses on crimes committed in the Yezidi heartland of Shingal, in Mosul, once the Iraq stronghold for ISIS, and at Tikrit Air Cadet Academy, where more than 1,600 cadets were slaughtered by the terror group.

Special Adviser Khan told a Security Council briefing in June that the Iraqi authorities had helped provide millions of cell data records to geo-locate witnesses and perpetrators, access to physical items of evidence seized from ISIS members, and cell phones, hard drives, computers and other electronic material that can be scrubbed for evidence.

The unit started work in Iraq in late 2018. Alongside Iraqi teams, UNITAD began in early 2019 to exhume the mass graves of Yezidis killed in Shingal.

In November 2019, Khan said that more than 160 ISIS members have been identified as perpetrators of atrocities against the Yezidi community.

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Syria

Terror attack kills 9 in Afrin, northwestern Syria (Anadolu Agency) By Omer Koparan
September 14, 2020

At least nine people were killed and 43 injured in a terror blast in northwestern Syria on Monday, according to the governor's office of Turkey's southern Hatay province.

An explosives-laden small truck went off in the opposition-held city of Afrin, Anadolu Agency earlier learned from sources on the ground.

Investigation of the attack and identifying the people involved continue, said a governor's office statement.

Afrin was largely cleared of YPG/PKK terrorists by Turkey in 2018 through its anti-terror offensive, Operation Olive Branch.

YPG/PKK terrorists continue to carry out attacks but do not claim responsibility as they end up harming civilians, according to local security sources.

The YPG/PKK terror group, which continues to attack from Syria's Tal Rifaat and Manbij regions, often targets Jarabulus, Azaz and Afrin.

In its more than 30-year terror campaign against Turkey, the PKK -- listed as a terrorist organization by Turkey, the US and the European Union -- has been responsible for the deaths of nearly 40,000 people, including women, children, and infants. The YPG is the PKK's Syrian branch.

Since 2016, Turkey has launched a trio of successful anti-terror operations across its border in northern Syria to prevent the formation of a terror corridor and to enable the peaceful settlement of residents: Euphrates Shield (2016), Olive Branch (2018), and Peace Spring (2019).

Turkish Red Crescent worker killed in northern Syria (Reuters)
September 15, 2020

An aid worker from Turkey's Red Crescent was killed and another was wounded after masked assailants attacked the group's vehicle near the northern Syrian town of al-Bab, the aid agency said in a statement on Monday.

It said the attack took place between al-Bab and the Turkish border town of Cobanbey, despite the vehicle having a Kizilay, or Red Crescent, logo on its roof.

"With the help of our country, I believe the attackers will be captured soon," Kizilay Chairman Kerem Kinik said.

Turkey has seized swathes of northern Syria in four cross-border offensives since 2016 to drive back Islamic State and the Syrian Kurdish YPG, which Ankara deems a terrorist group. In 2017, Syrian rebels backed by Turkey seized al-Bab as part of Ankara's "Operation Euphrates Shield".

"Every measure from the ground and air is being taken to capture the terrorists, who stooped to attacking an aid group that is untouchable under international law," Turkey's Defence Ministry said.

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Yemen

U.N. report calls for alleged war crimes in Yemen to be referred to International Criminal Court (Washington Post) By Missy Ryan

September 10, 2020

A new United Nations report detailing atrocities in Yemen's civil war calls on the U.N. Security Council to refer alleged actions by all parties in the conflict, including the Houthi rebels and U.S. ally Saudi Arabia, to the International Criminal Court for possible war crimes prosecutions.

The report, prepared by a panel of experts designated by the U.N. Human Rights Council, also urges the Security Council to expand sanctions against individuals involved in the conflict and to establish a criminal investigations body.

"The international community can and should take further initiatives to help bridge the acute accountability gap that persists in relation to the conflict in Yemen," the Group of Eminent International and Regional Experts on Yemen said in its report, which focused on events between July 2019 and June 2020 and was based in part on more than 400 interviews.

The group said there were "reasonable grounds" to believe that the Yemeni government and the Iran-backed Houthis, along with the governments of Saudi Arabia and the United Arab Emirates, were responsible for a range of rights violations, including unlawful deaths, disappearances and imprisonments, along with sexual violence and the use of child soldiers.

The conflict, which erupted in 2015 and spawned a massive humanitarian crisis, has pitted the country's internationally recognized government, which receives support from a Saudi-led coalition that includes the UAE, against the Houthis, who are likewise vying for control of the country.

The panel also said other nations, including Iran, France, Canada, the United States and Britain, helped perpetuate the war by supporting the parties to the conflict through arms transfers and other assistance.

Radhya Almutawakel, chairperson of the Yemeni organization Mwatana for Human Rights, said the report "made crystal clear that no warring side has clean hands, and states must do a lot more to ensure accountability and redress."

Muhsin Siddiquey, Yemen country director for the aid group Oxfam, said the findings "should shame all those who are fueling this conflict by selling arms to the belligerents."

Representatives of the governments of Saudi Arabia, the UAE and the United States, along with a representative for the Houthis, did not immediately provide comment on the report.

The Trump administration has scaled back military support to Saudi Arabia in its air war against the Houthis, halting its earlier practice of refueling Saudi jets in 2018 after repeated incidents of civilian death triggered congressional outcry. The

kingdom has nevertheless remained an important U.S. military partner and customer for U.S. weaponry, particularly as the administration has sought to strengthen its standing against Saudi rival Iran.

In one example cited by the report, an Aug. 31, 2019, airstrike attributed to the Saudi-led coalition on a community college in Dhamar governorate — which was being used as an informal detention center by the Houthis — allegedly killed 134 detainees.

The report said a coalition investigation concluded that the site, which was publicly known to be in use as a makeshift prison, was a valid military target because it housed Houthi weapons and was not on a “no-strike list” of civilian targets.

“Even if this were the case, the presence of military targets does not negate the coalition’s legal obligation to take account of the likely civilian impact of attacks, undertake necessary proportionality analyses and ensure sufficient precautions in attack,” the experts stated.

The panel also blamed the Houthis for acts of indiscriminate violence prohibited under international humanitarian law, including an April 5 mortar attack on a prison in the city of Taiz, which allegedly killed at least six female prisoners. It also said the Houthis had recruited children as young as 7 to serve as fighters.

The report said the Yemeni government was responsible for other actions, including attacks on a major wheat storage and processing site in the port city of Hodeida that is important to the food supply across the country. As the war has dragged on, Yemen has been gripped by a health crisis, including widespread malnutrition, a problem compounded by the novel coronavirus.

The report’s authors said that Yemen’s judicial system is not capable of addressing the alleged violations and that the response of external bodies, such as a board set up by Saudi Arabia to look into alleged civilian casualties caused by coalition airstrikes, had been inadequate.

War Crime Risk Grows for U.S. Over Saudi Strikes in Yemen (New York Times) By Michael LaForgia and Edward Wong
September 16, 2020

The civilian death toll from Saudi Arabia’s disastrous air war over Yemen was steadily rising in 2016 when the State Department’s legal office in the Obama administration reached a startling conclusion: Top American officials could be charged with war crimes for approving bomb sales to the Saudis and their partners.

Four years later, more than a dozen current and former U.S. officials say the legal risks have only grown as President Trump has made selling weapons to Saudi Arabia, the United Arab Emirates and other Middle East nations a cornerstone of his foreign policy.

Yet rather than taking steps to address the legal issues, State Department leaders have gone to great lengths to conceal them. Even after a State Department inspector general investigation this year revealed that the department had failed to address the legal risks of selling bombs to the Saudis, agency officials ensured that details of the finding were put in a classified part of the public report released in August, and then so heavily redacted that lawmakers with security clearances could not see them.

At a congressional hearing on Wednesday, Democrats on the House Foreign Affairs Committee accused the State Department’s top lawyer and the assistant secretary overseeing weapons sales of negligence on civilian deaths and of covering up the legal risks.

“It’s a moral issue and a criminality issue,” said Representative Ted Lieu, a California Democrat and a former military lawyer, adding that it was clear that State and Defense Department officials had “potential legal liability for aiding and abetting war crimes.”

The assistant secretary, R. Clarke Cooper, admitted that the issue “has vexed several administrations.”

Legal scholars say U.S. officials are right to be concerned. No episode in recent American history compares to Yemen, where the United States has provided material support over five years to the Saudi-led coalition for actions that have caused the continuous killing of civilians. More than 127,000 people have died in the war, including 13,500 civilians in targeted attacks, according to an estimate from the Armed Conflict Location and Event Data Project.

U.S. officials have had full knowledge of the pattern of indiscriminate killing, which makes them legally vulnerable. Legal scholars say prosecutors abroad — including those from nations like Sweden, Germany and Argentina that assert universal jurisdiction over war crimes anywhere in the world — could bring charges against American officials. Although there has been no move so far by any foreign court to do so, some State Department officials who shepherd arms sales overseas are worried

enough to consider retaining their own legal counsel and have discussed the possibility of being arrested while vacationing abroad.

“If I were in the State Department, I would be freaking out about my potential for liability,” said Oona Hathaway, a Yale Law School professor and a Defense Department lawyer in the Obama administration. “I think anyone who’s involved in this program should get themselves a lawyer. It’s very dangerous territory the U.S. is in, continuing to provide support given the number of civilians who have been killed.”

There are precedents. Spanish prosecutors in 2009 pursued charges against six officials in the George W. Bush administration over torture of prisoners at Guantánamo Bay, Cuba, although a higher court dismissed the case.

Beyond courts in sovereign nations, charges against Americans over Yemen could also be brought in an international tribunal if one were set up to investigate atrocities in that war. United Nations investigators last week issued a detailed report on atrocities in Yemen that asked the Security Council to refer actions by all parties to an international tribunal for potential war crimes prosecution, a sign of momentum behind the idea of legal action.

International judges and prosecutors are at the same time more eagerly embracing the idea of holding Americans accountable for wartime actions in other parts of the world. In March, the International Criminal Court in The Hague ruled that its chief prosecutor could open an investigation into the actions of American forces in the Afghanistan war — the first time the court had authorized a case against the United States. The Trump administration responded this month by imposing sanctions on the chief prosecutor and another court lawyer, a sign of how seriously it takes the potential of war crimes charges.

State Department spokespeople declined to discuss the decision-making process but issued a statement that said the agency had a strategy to lessen civilian casualties before the last major arms sale to the Saudi-led coalition in May 2019. They added that the department had “continued to work tirelessly” on reducing civilian harm in Yemen and elsewhere, citing redesigned policies, expanded analyses and new training for the Saudis and the Emiratis, who are part of the Saudi-led coalition.

The Obama administration had its own struggles with Yemen. When a State Department lawyer determined in 2016 that American officials could be charged with war crimes, the agency’s top lawyer effectively set the opinion aside when he decided not to send the analysis to the secretary of state’s office. By then the administration was already taking a tougher line on civilian deaths in Yemen. That December, a month before leaving office, President Barack Obama blocked a shipment of precision-guided bombs that he had agreed to sell to the Saudis.

But within months, the new Trump administration delivered the bombs Mr. Obama had halted. Then the administration sought to advance still more sales: \$8.1 billion in weapons and equipment in 22 batches, including \$3.8 billion in precision-guided bombs and bomb parts made by Raytheon Company, to Saudi Arabia and the United Arab Emirates.

Lawmakers blocked shipments for nearly two years, until Secretary of State Mike Pompeo instructed his subordinates to circumvent Congress. They did so by declaring an emergency over Iran, which prompted the inspector general review. That investigation not only documented the longstanding legal worries but also created a critical report that could itself increase the legal risks, scholars said.

“The findings could be used as evidence in the future against U.S. officials or the U.S. government,” said Ryan Goodman, a New York University law professor who was a Defense Department lawyer in the Obama administration.

With the civilian death toll rising in Yemen, the American role in the war has become a significant political issue.

Joseph R. Biden Jr., the Democratic presidential candidate who was vice president when the conflict began, says he would end U.S. support for the war. By contrast, Mr. Trump is doubling down on arms sales and boasting of revenue from the Saudis.

“I have a very good relationship with them,” Mr. Trump said during an interview in February. “They buy billions and billions and billions of dollars of product from us. They buy tens of billions of dollars of military equipment.”

The Specter of War Crimes

In March 2015, when the Saudi-led coalition first moved to dislodge Houthi rebels who had captured Sana, the Yemeni capital, Mr. Obama agreed to support the effort. His administration signed off on the sale of \$1.3 billion in precision-guided bombs and bomb parts to replenish Saudi stockpiles depleted “due to the high operational tempo” in Yemen.

But it quickly became clear that the Saudis and their partners at the time, including the Emiratis, were either using the bombs negligently or deliberately aiming them at civilians. In the first 18 months of fighting, human rights groups linked American bombs to attacks on homes, apartment buildings, factories, warehouses, a cultural center, an agricultural complex, a primary school and other nonmilitary sites.

As concerns over such strikes were intensifying in Washington, the State Department's legal office examined whether American officials who approved arms sales to the Saudis and their partners faced legal risks.

Drawing on an international tribunal case against Charles Taylor, the Liberian warlord, that the United States has cited in Qaeda prosecutions, the legal office reached the alarming conclusion that it put in writing in a memo in 2016: American officials, including the secretary of state, could be charged with war crimes for their role in arming the Saudi coalition, according to six current and former government officials with knowledge of the memo.

That year, scholars discussed a law journal paper laying out a war crimes argument for that type of conflict written by Brian Finucane, a State Department lawyer assigned to the agency's Bureau of Political-Military Affairs, which oversees arms exports. Speaking in a private capacity at a Yale Law School conference in 2018 on the Yemen war, Mr. Finucane said officials who could be prosecuted were "those who have decision-making authority or veto authority." He added, "I think you're looking at potentially very senior individuals."

But the top State Department lawyer never sent the memo to the secretary of state's office. Legal scholars say the government's national security lawyers often engage in an increasingly problematic practice: refraining from enshrining blunt legal opinions that might tie the hands of policymakers. Brian Egan, the department's legal adviser at the time, did not respond to requests for comment. (Reuters reported on aspects of the concerns in 2016.)

Though the analysis did not advance within the State Department, the Obama administration opened a policy review, and Secretary of State John Kerry tried to broker a cease-fire.

Since 2018, Mr. Lieu has asked the State Department to release the memo, but it has refused to do so.

Scrambling for a Legal Shield

Over the spring of 2017, Mr. Trump's aides and some State Department officials worked to unfreeze the bomb delivery that Mr. Obama had halted. Mr. Trump and his son-in-law and adviser, Jared Kushner, were preparing for a trip to Saudi Arabia that May and were eager for a big presidential announcement in Riyadh on the restart of U.S. arms sales.

Still, officials in the Political-Military Affairs Bureau wanted assurances that they could do the president's bidding on arms sales without putting themselves in legal jeopardy. During one White House meeting before the trip, Mike Miller, then a senior State Department official involved in arms sales, put the concerns bluntly, according to two officials. He said he was worried he could be found liable for aiding the killing of civilians.

U.S. officials set to work to address the concerns. They had been given an opening by Defense Secretary Jim Mattis, who in March at the Pentagon had pressed the visiting Mohammed bin Salman, the Saudi deputy crown prince, to "stop bombing the women and children." The crown prince agreed to take steps to curb the killing. Over weeks, U.S. officials drafted guidelines for the Saudi and American governments to follow as a condition of future arms sales.

The officials envisioned the plan not only saving civilian lives, but also offering protection against claims of American complicity in war crimes.

"We worked pretty rigorously to try to give them a sense that this was now going to be a harder sell," Tina S. Kaidanow, who headed the Political-Military Affairs Bureau at the time, said of the Saudis.

But as Mr. Trump and Mr. Kushner prepared for the Saudi trip, officials pared back the guidelines in their effort to push through the weapons sales.

Emails obtained by The Times show that Stuart E. Jones, then the acting assistant secretary in the Bureau of Near Eastern Affairs, and his colleagues discussed how to draft acceptable language about the use of precision-guided munitions for a letter that Adel al-Jubeir, the Saudi foreign minister, was to sign before Mr. Trump's trip.

In April 2017, Timothy A. Lenderking, a deputy assistant secretary in the bureau, wrote to Mr. Jones that he had met with State Department lawyers "and agreed on edits to cut back the language of the letter." The next day, Mr. Jones wrote that Mr. al-Jubeir had "quickly agreed" to sign a letter. (Mr. Jones, who left the State Department in 2018, referred questions to the department.)

The letter listed about five assurances, including a promise by the Saudis to have their forces take part in a \$750 million training program run by the U.S. military.

In Riyadh, Mr. Trump and King Salman announced the arms deal.

'A Horror Show'

After Mr. Trump abruptly fired his first secretary of state, Rex W. Tillerson, in March 2018, and as Mr. Pompeo awaited Senate confirmation to lead the State Department, John J. Sullivan, the deputy secretary, served as the agency's acting head.

The officials worried about the arms sales believed Mr. Sullivan to be attentive to the humanitarian concerns in the Yemen war. In the roughly three weeks he was running the department, they sent an appeal for legal clarity.

Mr. Sullivan responded by approving a memo the officials had drafted that recommended carrying out a robust strategy to reduce civilian casualties and updating the legal analysis before the bomb sales moved forward, according to two U.S. officials. But the agency failed to do those, the inspector general later determined.

Mr. Pompeo took over soon after. That August, a coalition jet dropped an American-made bomb on a Yemeni school bus, killing 54 people, including 44 children, in an attack that Mr. Trump would later call "a horror show."

The next month, Mr. Pompeo issued a formal certification to Congress that the Saudi-led coalition was working to minimize civilian deaths, despite news reports and internal State Department assessments to the contrary. Senior department officials had warned Mr. Pompeo against the certification, in part because they had grown more anxious over the legal issues, officials said.

The move provoked a backlash in Congress and strengthened lawmakers' resolve to continue blocking arms sales.

By April 2019, Mr. Pompeo was frustrated by the delay, and senior State Department political appointees were discussing a rarely invoked tactic to force through \$8.1 billion in weapons sales without congressional approval: declaring an emergency over Iran.

At the center of those discussions was Marik String, a former Senate aide who had joined the State Department in 2017. By January 2019, he had become the acting head of the Political-Military Affairs Bureau and closely oversaw the emergency planning.

Mr. Pompeo announced the emergency on May 24, 2019, and the stalled weapons deals moved forward, including the sale of some 120,000 bombs and bomb parts to the Saudis and Emiratis.

But no updated civilian casualty mitigation strategy or legal analysis was carried out before the equipment was shipped, according to the inspector general's report.

Released this August, the report said that although Mr. Pompeo did not violate the law in declaring an emergency, the State Department had failed to take proper measures to reduce civilian casualties and the associated legal risk.

Notably, the public section of the final report did not include a recommendation from an earlier draft: The department should "update its analysis of legal and policy risks" related to selling bombs to the Saudi coalition, according to text obtained by The Times. The language of that recommendation was edited and moved to the classified annex after pressure from department officials.

The day Mr. Pompeo declared the emergency, he also promoted Mr. String to be the State Department's top lawyer. From that position, Mr. String tried to pressure Steve A. Linick, the inspector general, to drop his investigation, Mr. Linick said in congressional testimony this June. Mr. String's office also handled the redacting of the report, while R. Clarke Cooper, the current head of Political-Military Affairs, pushed to classify the most significant material — after he had been an interview subject in the investigation. This May, Mr. Pompeo pushed Mr. Trump to fire Mr. Linick.

Since the emergency declaration, which applied to only the sales last year, the Saudis and their partners have sought to buy more American bombs. About \$800 million in orders is now pending, held up in the same congressional review process that had frustrated Mr. Pompeo and the White House.

The Emirates announced last summer that it was withdrawing most of its forces from the grinding war in Yemen, but it continues to fight in the Libyan war.

From July to early August this year, at least three airstrikes by the Saudi-led coalition in Yemen killed civilians, including a total of nearly two dozen children, according to the United Nations, aid workers and Houthi rebels. One strike occurred during a celebration after the birth of a newborn baby, a human rights worker said. The boy, just 1 week old, did not survive.

U.S. War Crimes in Yemen: Stop Looking the Other Way (Human Rights Watch) By Andrea Prasow
September 21, 2020

The longstanding involvement of the United States in the conflict in Yemen is facing renewed scrutiny. On September 16, State Department officials testified before the House Foreign Affairs Committee about whether the State Department misled Congress — and the American people — by circumventing controls designed to limit arms sales and ensure congressional oversight.

The crimes occurring in Yemen are serious — and the responsible parties demonstrably unwilling or unable to address them. The most recent report by the United Nations Group of Eminent and International Regional Experts on Yemen described “an acute accountability gap” and recommended that the UN Security Council refer the situation in Yemen to the International Criminal Court.

A State Department Inspector General report found that “the department did not fully assess risks and implement mitigation measures to reduce civilian casualties and legal concerns associated with the transfer” of weapons to Saudi Arabia and the United Arab Emirates.

Much of the hearing focused on whether the subsequent firing of the inspector general was appropriate. But some members used the opportunity to draw attention to the tens of thousands of civilians who have died since the Saudi-led coalition began an aerial bombardment campaign in Yemen in March 2015.

Media reports have detailed the suppression of an internal State Department analysis that U.S. personnel could be legally liable for war crimes in Yemen because of continued U.S. arms sales to Saudi Arabia. Some members of Congress raised this during the hearing. The State Department’s acting legal adviser acknowledged civilian casualties were a concern, but refused to say whether he believed U.S. personnel could be held culpable for war crimes in Yemen.

The latest revelations are hardly that, though they are painful to read when compiled in such a stark narrative. Back in November 2015, less than a year into the conflict, Human Rights Watch warned that the U.S. might be liable for laws-of-war violations in Yemen. We had examined 10 apparently unlawful airstrikes by the Saudi-led coalition that killed at least 309 civilians and wounded more than 414 in the period from April to August 2015.

Saudi Arabia assembled its coalition to support Yemen’s government against the Houthi forces who had taken control of part of the country, including the capital. Six years later, the fighting has continued and taken a brutal toll on Yemeni civilians.

Despite U.S. denials, we considered the U.S. to be a party to the conflict because of the direct role U.S. forces played in specific military operations, and that this participation might implicate U.S. forces in violations by coalition forces.

The numbers we put forward in 2015 seem almost quaint now. Nearly six years later, the Armed Conflict and Event Data Project estimates that 112,000 people have died from the hostilities, including 12,000 civilians. Millions more suffer, or have perished, from hunger caused by the Saudi-led coalition’s blockade and the Houthis’ massive restrictions on aid delivery, a situation that’s been exacerbated in recent months by COVID-19..

Human Rights Watch isn’t alone in raising concerns about potential U.S. liability for war crimes over the years. In September 2016, Ryan Goodman, a former Defense Department lawyer and New York University professor, laid out the case for legal liability for U.S. personnel in a blog post. Though he took no position on the facts, he concluded that a state assisting another state or a nonstate armed group faced “substantial legal risk that aiding and abetting liability for war crimes would be found under international law even absent any intent or purpose to promote the crimes.”

The media have reported that in 2016, a State Department lawyer concluded that Americans could potentially be charged with war crimes for conduct in Yemen, though it has been reported that the letter was never sent to the secretary’s office. Its existence, however, was known, and in October 2018, Congressman Ted Lieu wrote to the State Department inquiring about it. The department refused to comment on any specific legal advice that might have been given.

How did we get here? For years, the Defense Department has claimed that U.S. involvement in the war in Yemen saves lives. Congress disagrees. Twice, it has voted to ban weapons sales to Saudi Arabia because of its poor track record on protecting civilians; twice, President Trump has vetoed the ban. Though congressional interest in the ban increased following the murder of U.S. journalist Jamal Khashoggi by the Saudis, war crimes in Yemen remain a key area of congressional concern.

It doesn’t help that Defense Department officials have misled Congress about their ability to track and analyze coalition strikes in Yemen. If testimony from officials on September 16 is any indication, near unequivocal support of Saudi Arabia — including continued arms sales — remains a top State Department priority.

What was largely missing from the congressional hearing was a focus on true accountability. The risks of government responsibility for arms sales in the face of mounting evidence of war crimes, or individual criminal liability for aiding and abetting, should be of serious concern to U.S. lawmakers.

But the U.S. government should also be seeking to hold to account those directly responsible for targeting civilians, torturing detainees, enforced disappearances, and other crimes detailed in the Group of Experts report. Instead, the decision to continue to arm Saudi Arabia and look the other way as each school bus, hospital, or wedding party is bombed, may say more about U.S. culpability than any technical argument buried in a State Department legal memo.

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Special Tribunal for Lebanon

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

Special Tribunal for Lebanon Dismisses Motion Regarding Jurisdiction in Second Ayyash Case (American Society of International Law) By Emma Schoenberger
September 15, 2020

On September 10, 2020, Trial Chamber II of the Special Tribunal for Lebanon released a decision confirming its jurisdiction to hear the case against Salim Jamil Ayyash. Mr. Ayyash was previously indicted and found guilty by the Tribunal for his involvement in “the Hariri attack.” This second case relates to Mr. Ayyash’s alleged involvement in “three attacks against prominent Lebanese political figures” that the prosecution asserts “are ‘connected’ to the 14 February 2005 attack with killed Mr Hariri.” The defense filed a preliminary motion challenging the Pre-Trial Judge’s finding that the Tribunal had jurisdiction. However, a press release issued by the Tribunal states that “Trial Chamber II found that there is no reason to decline to exercise its jurisdiction ... as it considers that the requirements of Article 1 of the Statute have been met when it comes to the connectedness between the three attacks pleaded in the indictment and the 14 February 2005 attack.” In light of this finding, the motion was dismissed.

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Israel and Palestine

Israel's home demolitions in West Bank spiked during pandemic: UN (AI- Monitor)
September 13, 2020

The number of Palestinian homes demolished by Israel in the West Bank has increased sharply in recent months and further exposed displaced residents to the coronavirus pandemic, the United Nations said on Friday.

From March to August, 389 Palestinian-owned structures were razed, in what the the UN Office for the Coordination of Humanitarian Affairs (OCHA) said was the highest average destruction rate in four years. During that period, 442 Palestinians were made homeless, the agency said. In just the month of August, 205 people lost their homes, the highest displacement figure since January 2017.

The UN and human rights organizations say the policy amounts to collective punishment. According to OCHA, building permits are nearly impossible for Palestinians to obtain from Israel, describing the processing as “restrictive and discriminatory.”

Haaretz reported that between 2016 and 2018 the Israel government approved just 21 percent of 1,485 construction permit applications in Area C, the part of the West Bank under total Israeli control. The Civil Administration told the newspaper that most of the applications were for retroactive approval of buildings that were already under consideration for demolition.

The Coordinator of Government Activity in the Territories (COGAT), Israel's military-run body handling civilian matters in the Palestinian territories, told AFP it had an "obligation to maintain order." In the past, Israel has also said the demolitions are necessary because the buildings posed a security risk to Israeli soldiers operating in the vicinity.

On Friday, the UN humanitarian coordinator for the Palestinian territories called on Israel to stop the demolitions, which he described as unlawful.

"The destruction of property in an occupied territory is prohibited under international humanitarian law, unless absolutely necessary for military operations," Jamie McGoldrick said. "The global pandemic has increased the needs and vulnerabilities of Palestinians who are already trapped in the abnormality of prolonged military occupation."

The coronavirus has worsened economic situation in the Palestinian territories, the UN warned this week, with donor support expected to drop to its lowest level in more than a decade. As of Thursday, the death toll from COVID-19 in Gaza and the West Bank had reached 224 and the total number of infections surpassed 37,000.

Israel's UN envoy insists West Bank annexation 'not off the table' (The Times of Israel)
September 16, 2020

Israel's new ambassador to the United Nations said Wednesday that plans to annex parts of the West Bank were still on the table, despite officials from the United States and United Arab Emirates indicating the move has been called off for the foreseeable future as part of the normalization deals Jerusalem signed this week with the UAE and Bahrain.

Gilad Erdan, a former top member of Prime Minister Benjamin Netanyahu's Likud party who is also set to take over as ambassador to the US, said that he had spoken to the premier about the matter.

"The annexation is not off the table. It can be discussed again after the US elections," Erdan told Army Radio, referring to the November 3 vote in which US President Donald Trump faces Democrat Joe Biden.

"The annexation hasn't been canceled, but it is off the Americans' priority list," he added. "We knew this can't happen without cooperation from the Trump administration."

Netanyahu had for months promised to annex large parts of the West Bank as early as July 1, but that plan was suspended as part of the normalization agreement with the UAE, as specified in the countries August 13 joint statement. Trump said last month that the matter has been "taken off the table," though Netanyahu insists that it remains "on the table."

Hosting Netanyahu on Tuesday, and asked if annexation was now "off the table," Trump replied: "We don't want to talk about that right now, but that's working out very well and very fair and very good for the people that are coming in [to the normalization deals] and for Israel."

Sources with direct knowledge of the matter told The Times of Israel recently that the Trump administration had given the UAE a commitment during normalization negotiations that Washington would not recognize an Israeli annexation of the Jordan Valley and West Bank settlements until 2024 at the earliest.

The sides have not formally provided an exact timeframe for how long the matter has been taken off the table.

According to three sources with direct knowledge of the normalization negotiations, Emirati officials, led by the UAE's Ambassador to the US Yousef Al Otaiba, focused on seeking assurances from the US, rather than Israel, on the matter.

They were largely uninterested in receiving an Israeli commitment to an annexation freeze, the sources said, since they understood that Netanyahu would not move forward with the move without US support; the premier for months had said as much himself. Trump administration negotiators, led by senior White House adviser Jared Kushner, agreed to set a timetable for annexation that was consistent with the one laid out for the Palestinians in the Trump peace plan, the sources said.

The Trump administration's "Peace to Prosperity" plan unveiled in January 2020 gives the Palestinian Authority a four-year window to engage with it, during which Israel is barred from expanding into areas earmarked under the plan for a future Palestinian state.

The Trump administration is hoping to use the final year of its hypothetical second term to “hold the Palestinians’ feet to the fire,” using the possibility of it otherwise backing annexation as a last piece of leverage to bring the PA to the table, one source said.

The White House declined to comment, as did UAE officials in Washington and New York.

ICC permanently closes flotilla war crimes case (The Jerusalem Post) By Yonah Jeremy Bob
September 16, 2020

The International Criminal Court on Wednesday closed for good the case of war crimes allegations against Israel concerning the 2010 Mavi Marmara incident in which 10 Turkish citizens were killed during a clash with IDF naval commandos.

The decision by the ICC’s Pretrial Chamber followed a decision by the ICC prosecutor to close the case for a third time in December 2019, as well as prior rulings by the ICC’s highest body, the appeals chamber, which appeared to undermine attempts to force the ICC prosecutor to move forward with the case.

This is the first time that the ICC Pretrial Chamber has thrown in the towel after appeals against the ICC prosecutor’s decision to close the case.

In its December 2019 decision, the ICC Prosecution made some of its most complimentary statements regarding the IDF and Israeli positions on some war crimes issues.

From a technical perspective, ICC Prosecutor Fatou Bensouda’s third consecutive decision to close her preliminary probe of the alleged war crimes was nothing new. She and the ICC Pretrial Chamber have been at loggerheads over the case since 2014.

The ICC pushed her three times to open a full criminal investigation, and each time she said that there was no basis to move forward. But this time was different. Because the latest ICC ruling directed Bensouda to accept certain facts, she needed to more deeply analyze the IDF’s behavior.

In her past two decisions to close the case, she merely said that 10 dead activists who clashed with the IDF are not a high enough number of casualties to warrant her office’s attention, which deals mostly with genocide or mass killings.

However, the Island of Comoros – which was acting on behalf of the Palestinians – kept pushing Bensouda to analyze the case more deeply.

In hindsight, they probably wish they had not pushed so hard.

The compliments to the IDF were all indirect, but they were unmistakable to anyone who closely follows this arena, especially since international human rights forums frequently condemn Israel.

One of the reasons Bensouda gave for not proceeding with a criminal probe was that the case had been investigated by the IDF legal division.

Even if this was not a full sign-off on all investigations by the IDF legal division and only in the context of “command responsibility,” Bensouda could have come to the same conclusion without mentioning the IDF legal division. Bensouda further explained that if a country’s legal division’s probe had been a sham, it would not have been afforded any protection by the ICC. This, in effect, means that Bensouda agreed that the probe was not a sham.

Along the same lines, she pointed out that Spain, the United Kingdom, Sweden and Germany had all dismissed any war crimes allegations against the IDF over the incident. Some of the countries dismissed the allegations on the basis of recognizing Israel’s justice system as legitimate and as having properly probed the issue.

Next, the ICC Pretrial Chamber had previously ordered Bensouda to act as if IDF forces had started shooting before they boarded the Mavi Marmara – even though this claim was strongly disputed.

Bensouda said that even if the claim were true, the IDF had tried to take control of the Mavi Marmara by surprise in order to avoid an altercation, and that it tried to use other nonlethal means to avoid injuring passengers.

Moreover, the ICC Prosecution wrote that only one of the 10 people who died might have been killed in the initial shooting.

Even after the altercation, the ICC Prosecution said, the IDF tried to provide swift medical attention to passengers who had been hurt.

This narrative made it sound as if Bensouda viewed many, even if not all, of the IDF's actions in a positive light, and that it was a military that cared about the rule of law.

Bensouda distinguished between broad allegations made by passengers that they were uncomfortable and slightly roughed up, versus very limited allegations of actual possible inhuman treatment.

This was notable, as often, critics of Israel simply lump any uncomfortable treatment by Israel of arrested persons as full-fledged "torture."

Even more surprising were the ICC Prosecution's comments made directly against the Palestinian-Comoros Island's position. While Israel's critics portrayed the Mavi Marmara passengers as having practically the status of UN peacekeepers, Bensouda declared their aim to be political.

She also dismissed any attempt by the ICC Pretrial Chamber to view Israel's blockade of Gaza as part of the war crimes' scenario, saying that analyzing this issue was inherently subjective.

Despite the ruling, a major question still remains as to what the ICC Pretrial Chamber will decide concerning the war crimes allegations in the 2014 Gaza war and Israel's settlement building enterprise.

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Extraordinary Chambers in the Courts of Cambodia (ECCC)

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

Cambodia Tribunal Monitor

Bangladesh International Crimes Tribunal

Bangladesh in the Shadow of Censorship (The Diplomat) By Azeez Intizar and Sabrina Majed
September 14, 2020

Independent Bangladesh has witnessed both military rule and the establishment of democratic institutions; throughout, the press have continued to suffer at the hands of not only various censorship laws, but also a number of sedition and criminal libel laws. With increasing use of social media in the recent decade, one of the most draconian laws, the Digital Security Act 2018, allows for conducting searches and arresting individuals without a warrant, and criminalizes various forms of speech.

Bangladesh now ranks 151st among 180 countries, with the lowest score for press freedom among all South Asian countries, according to Reporters without Borders (RSF). In the two years since the Digital Security Act was passed, Bangladesh has dropped five places.

In the article, we reflect on how freedom of speech in Bangladesh has evolved since the country's birth.

Liberation and the Ensuing Chaos

After Bangladesh's brutal fight for independence from Pakistan in 1971, the country witnessed a period of intense upheaval as it rose from the ashes of war. The country's constitution, designed in 1972, upheld secular ideals. However, with the assassination of the country's founding father, Bangabandhu Sheikh Mujibur Rahman, in 1975, secularism slowly started eroding. A significant development can be noted in the fact that the phrase "Bismillahir Rahmanir Rahim" (In the name of God, most Gracious, most Compassionate) was introduced into the constitution during Ziaur Rahman's era, indicating Islam's superiority over other religions.

Also while Rahman was in power, the country saw strict rules imposed on the press. Naeem Mohaiemen, a political analyst, writes that it became an offense in that period to criticize the martial law in any way. "Press reports about attacks on journalists were focused on non-state actors," he writes further.

In 1982, General Hussain Muhammad Ershad rose to power through a bloodless coup. His regime had a troubled relationship with the press, as observed by Mohaiemen and many others who lived through that period.

"His era was marked by a continuous cat and mouse game between the press and the regime, with newspapers and magazines getting censured for reports, and then immediately committing the same offense. The period was also marked by the use of coded signals in the press (e.g., romance stories that were actually about a corruption scandal) as well as a thriving parallel press of underground leaflets and pamphlets," writes Mohaiemen.

One journalistic platform, Ittehad, was banned shortly after publishing the first criticism about the regime.

The decade following Ershad's rise saw the frequent usage of issuing "Press Advice" to outlets, guiding them about what not to print. It was during his regime that Islam was formally introduced as the state religion of Bangladesh, setting a stage for extremism to exercise its influence (notably, through charges of blasphemy) in the coming years. Veteran journalist Syed Badrul Ahsan writes, "General Hussein Muhammad Ershad did lasting damage to the Bangladesh idea through imposing the concept of a state religion."

As the regime's grip on dissent was slowly weakening, martial law was re-imposed in 1985 following political protests. The government became careful about international publications. In 1986, a London-based Bengali weekly, Janomat, was banned, among other publications like The Hindu from India. We see from Mohaiemen's analysis how seven journalists were arrested during that time under the 1974 Special Powers Act. After a state of emergency was declared in November 1987, a martial law regulation ordered that reports opposing the upcoming elections and covering the protests remain prohibited. In 1988, a national press ban on reporting about election violence (which claimed at least 13 lives, as seen from Mohaiemen's analysis)

was declared. Censorship coupled with a turbulent political climate continued until the regime fell owing to a pro-democracy mass uprising — backed by students and members of civil society, among others who sought democracy — in December 1990.

Turbulence and Democracy

With the advent of democracy in the political arena of Bangladesh in 1991, power mostly alternated between the two political parties — the Awami League and Bangladesh Nationalist Party (BNP). Both leaders of the parties had a similar approach toward media censorship; the only difference lay in the subjects that were monitored more heavily, which were simultaneously used to target critical voices.

BNP leader Khaleda Zia was the first democratically appointed prime minister of the nation; it was during her rule that blasphemy cases and politics of religion skyrocketed. Possibly one of the most infamous cases in the history of independent Bangladesh was that of Taslima Nasreen. In 1993, in an increasingly Muslim (rather than secular) Bangladesh, Nasreen published her novel titled “Lajja” (or Shame) set in the mise-en-scene of the anti-Hindu riots in the country as a consequence of the Babri Masjid demolition the year before. The government immediately banned the book. What aggravated the situation was a gravely misquoted interview in *The Statesman* newspaper of India, where, as Nasreen later clarified, her call for a reassessment of Shariah was incorrectly stated as the need to revise the Quran to ensure women’s rights. Although there had been noteworthy blasphemy cases in the past, Nasreen’s indictment roused Islamists in the country in a whole new way, allowing groups such as Touhidi Janata Jamat to come to the national limelight. Lawsuits, death threats, a bounty announced on Nasreen’s head in Sylhet forced her to ultimately flee into exile. In the years to come, debates surrounding her surfaced a number of times, especially when new books were published, or because of any statement she might have passed that did not go well with religious fundamentalists.

Another topic that Awami League and BNP leaders regularly engaged in conflict over involved ownership of the political legacy of the independence war. During the BNP’s regime, creative expressions and works of art that popularized the role of Sheikh Mujib in the independence struggle were banned, such as Tanvir Mokammel’s documentary “Sreeti Ekattor” (Remembrance of 1971) and Tareque Masud’s “Muktir Gaan” (Song of Freedom).

Similarly, conversations involving India became one particularly sensitive issue. As learned from a senior newspaper editor of the time, all licensed publications had to agree to a set of conditions, including one that instructed to not publish any news that could potentially “harm relations” with national allies. The ICT Act, which came into effect in 2006, was aimed to monitor information on online platforms and regulate e-commerce; the law grew to impose more serious effects in later years when social media starts to play a greater role in the lives of people.

As tensions between the Awami League and BNP flared, a caretaker government was installed for a brief period between 2007 and 2008. Local media played a big role in ending the tenure of the military during these years, defying censorship laws and not succumbing to the threats or cajoling by the authorities. Regardless, journalists during this time faced immense difficulties and were routinely picked up for interrogation. One such case involved *Forum*, a monthly magazine published by the country’s largest circulating English newspaper *The Daily Star*. In one of its issues, a cover story titled “Prince of Bogra” elaborated on the involvement of intelligence agencies with militant Islamist groups during the BNP era. Tasneem Khalil, the author of the report, was abducted and allegedly tortured while in custody, according to reports by Human Rights Watch (HRW). As he was also involved with international media, Khalil’s case caused a mass outcry globally, which finally allowed for his release. He eventually fled into exile in Sweden as a political refugee, from where he now runs an independent investigative journalism news platform called *Netra News*. Criticism was also stirred globally as censorship extended to international media; issues of the *Economist* magazine containing negative reports about the regime entered Dhaka with the relevant pages torn out.

As elections drew near, the military regime started to become increasingly unsteady, and religion once again entered the political periphery of the country. Attacks were launched on writers and students for any alleged blasphemous reference, such as when *Islami Chatra Shibir* threatened members of the group *Udichi* for staging the drama “Mandar” at Rajshahi University. *Jamaat e Islami* also announced its manifesto during this time, which included a section calling for a “blasphemy law.” However, the events backfired, leading to a large “anti-Islamist” vote bloc to emerge during the national polls.

The Rise of a Crackdown on Dissent

“Journalists expected the 2009 return to democracy to be accompanied with new appreciation for the press, whose voices had made the [caretaker government’s] tenure increasingly difficult. But perversely, government interference has now increased to the point that by 2012 there are regular reports of actions against a blog, blogger, or even Facebook accounts,” writes Mohaiemen. He further explores how press freedom’s landscape has been dotted with censorship from the start of the 2010s. Aside from press freedom, this was a time when social media and new films and exhibitions also came under the watchful gaze of censorship.

Fast forward to 2013, and the country saw a spate of assaults against writers, artists, and publishers by the forces of Islamic

extremism. That year was tied to a raw nerve in Bangladesh's history — the liberation war of 1971. The country came alive with protests demanding the capital punishment of an influential war criminal, Abdul Quader Mollah. A blogger and one of the organizers of the protests, Ahmed Rajib Haider was hacked to death outside his house during the protests, allegedly because he was an atheist. A group named Hefazat-e-Islam came into the spotlight during that period as it demanded the government enact blasphemy laws against “atheist bloggers.” It rose to prominence by harnessing the extremist Islamic ideals of its followers.

In 2015, a hit-list containing 84 names was circulated on the internet by a militant group called Ansar Bangla. Following a series of attacks and killings (the murder of Avijit Roy at the national bookfair a particularly horrific episode of the series), international writers including Salman Rushdie and Margaret Atwood urged the government to take stringent measures to ensure a space for free thinking. With the rise of a crackdown on dissent by machete-wielding extremists, it was upon the writers to ensure their own safety. After all, the Information and Communications Technology Act 2006 (amended in 2013) could “be used to prosecute anyone who publishes anything on or offline that hurts ‘religious sentiment’ or prejudices the ‘image of the state,’” as Lit Hub noted.

As killings relatively abated and more traditional censorship grew, a hostile climate for freethinking rolled in over the years. Shahidul Alam's arrest in 2018 — for covering the road safety movement and speaking to Al Jazeera about what he witnessed on the ground — garnered relentless criticism internationally. In the same year, the Digital Security Act came into play.

Shahidul Alam's niece, Sofia Karim, an activist and architect who staunchly advocated for his release back in 2018, said:

“My uncle (who always spoke out regardless of which party was in power) is one of countless citizens targeted for what should be part and parcel of every democracy: the right to criticize those who rule us — through art, satire, reportage, music, poetry and human expression in all its forms. When these collapse, the void is filled with a culture of fear driven by power that operates without checks and balances. Bangladesh was created as a democracy, through pain, courage and sacrifice on the part of the people. To dismantle that is a betrayal. Repression, arbitrary arrests, torture, enforced disappearances, and extra judicial killings should not occur in Bangladesh, under this government or any other. The country deserves better.”

Since the Digital Security Act was passed, 1,000 cases have been filed under the law. According to Odhikar, a Bangladeshi human rights monitor, it has been used largely by politicians and businessmen.

The latest controversy surrounding the act came as Shafiqul Islam Kajol, a photo-journalist, was arrested under the act, 53 days after his mysterious disappearance on March 10 this year. Ever since his arrest, hashtags like #freekajol and #RepealDSA have gone viral. An upsurge has also been noted in cases surrounding this act during the COVID-19 pandemic. Dhaka Tribune reports that 327 cases were filed under the Digital Security Act in the first three months of this year with the Cyber Crime Tribunal. Odhikar further claims that 59 journalists have been harassed for their work in the first three months of 2020.

A journalist, who wished to remain anonymous, told The Diplomat, “We have to think twice before writing about some influential figure and alter our language. And when we are dealing with sensitive assignments, we have to be extra-alert in terms of physical safety and legal aspects. My career has been overshadowed by the hands of censorship.”

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War Crimes Investigation in Myanmar

UN warns of ‘further war crimes’ against Rohingya in Myanmar (Al Jazeera)

September 15, 2020

Myanmar's alleged continued targeting of civilians in its Rakhine and Chin states could constitute additional war crimes and crimes against humanity, the UN High Commissioner for Human Rights has said.

Michelle Bachelet on Monday demanded action to remedy the serious rights violations suffered by Myanmar's Rohingya minority in particular.

Military operations in 2017 forced some 750,000 Rohingya to flee from conflict-torn Rakhine state to Bangladesh in violence that now sees Myanmar facing genocide charges at the UN's top court.

Speaking at the opening of the 45th Human Rights Council in Geneva, Bachelet decried that the abuses against the Rohingya and other minorities in the country were continuing.

"People from the Rakhine, Chin, Mro, Dagnet and Rohingya communities are increasingly affected by the armed conflict in Rakhine and Chin States," Bachelet said.

She pointed to "disappearances and extrajudicial killings of civilians; massive civilian displacement; arbitrary arrests, torture and deaths in custody; and the destruction of civilian property".

Bachelet said government administrators were now reclassifying areas where Rohingya villages were previously located, removing the names of villages from official maps and potentially altering how the land may be used.

"This should end immediately, and the prior situation should be restored," she said.

Satellite images and witness accounts indicate that areas in northern Rakhine have been burned in recent months – something contested by the Myanmar government.

"This only underscores the need for independent, on-the-ground investigation," she said.

A spokesman for the Myanmar military did not answer phone calls from Reuters news agency, seeking comment.

Myanmar's military has justified its 2017 operations as a means to root out Rohingya fighters after attacks against about a dozen security posts and police stations.

The Rohingya are widely seen as "illegal immigrants" in Myanmar, denied citizenship and rights.

Bachelet highlighted that most Rohingya will not be able to vote in the forthcoming November elections, branding the situation as "disappointing".

"The vast majority of Rohingya will be prevented from participating in the elections, since they have effectively been stripped of their previously recognised rights to vote and stand for office," she said.

Myanmar's Rakhine War Produces Grim Child Casualty Toll (Radio Free Asia)

September 16, 2020

The intensifying war in Rakhine state between Myanmar government troops and rebel Arakan Army soldiers, often fought in populated civilian areas, is killing and maiming increasing numbers of children, international and domestic NGOs say.

A recent rise in child casualties in northern Rakhine state comes as U.N. observers note an increased use of airstrikes and heavy artillery attacks on civilian communities by the Myanmar military in its 21-month-old conflict with the Arakan Army (AA), which says it fights for autonomy for ethnic Rakhine people who live in the coastal region.

Forty-two children under the age of 18 have died and 135 have been injured since December 2018 by artillery shelling, gunshots, and landmine explosions, according to groups that advocate for children. They are among nearly 300 civilians killed, and more than 640 injured in northern Rakhine state and in Paletwa township of next-door Chin state, according to an RFA tally.

In a conflict exacerbated by the coronavirus pandemic that has resurged in Rakhine, some 200,000 civilians have fled their homes to escape fighting and now live in official or makeshift displacement camps or in the homes of relatives, according to an estimate by the Rakhine Ethnic Congress, a local NGO.

On Monday, as the U.N.'s human rights chief issued a report in Geneva warning that the army's actions in Rakhine could constitute war crimes, two teenagers were seriously injured by mortar shells that fell onto their village amid what witnesses said was an exchange of artillery fire by a Myanmar Navy vessel in the Mayu River and AA soldiers on land.

Residents of Rathedaung township's U Gar village said Myanmar soldiers on the boat and troops in Rathedaung town fired artillery for more than an hour in response to the AA's firing.

AA spokesman Khine Thukha said his army's troops did not engage in combat with Myanmar forces along the Mayu River that day, and accused two navy vessels of intentionally firing artillery at the civilian villages.

A Myanmar military spokesman, however, said the troops were responding to 107-millimeter rockets and rocket-propelled grenades fired at the navy boat by the AA in a clash that lasted 30 minutes.

“Regarding the civilians who got injured, you can’t say it for sure it was caused by the military’s artillery. You can’t assume the military is responsible whenever there are artillery blasts,” he said.

Civilians ‘directly targeted’

The report on Myanmar presented Monday by Michelle Bachelet, the U.N. high commissioner for human rights, based on interviews with more than 80 victims and witnesses whose accounts were verified, said that it was frequently the case that villages were attacked by the army without any AA provocation or presence.

“Tatmadaw tactics have shifted, with periodic reliance on airpower against the Arakan Army, but in some instances it appears that civilians may have been directly targeted,” the report said, using the Burmese name for the military, Myanmar’s most powerful institution.

The report went on to say that there had been a significant increase in the number of airstrikes by fighter jets, helicopter and heavy artillery attacks, and ground battles in more densely populated civilian areas.

“For the most part, however, it appears that the Arakan Army was not active or present in the areas where these attacks took place and no armed clashes were reported to have been ongoing at that time,” the report said.

Hardly a week goes by without reports of new Rakhine child casualties in conflict-affected areas.

On Sept. 11, a six-year-old boy was transferred from a regional hospital to Sittwe General Hospital’s emergency unit after sustaining serious injuries from an artillery blast in Rathedaung’s Aung Si Kone village.

Cho Cho, the boy’s mother, told RFA that the child was injured while the family was hiding in a bomb shelter under their house as a military boat patrolling the Mayu River approached their village and passed.

They waited until the boat was far from the village and then left the bomb shelter though they were still under the house, she said.

“At that time, we heard the blast,” Cho Cho said. “It shattered a ceramic pot, house fences, and a door. Artillery fragments from the blast came under the house [and] penetrated the child’s left shoulder to the bone.”

Bomb shelters

On Sept. 8, four civilians, including two five-year-olds, were killed, and a child was among several others injured by artillery blasts in Nyaung Khat Kan village in Rakhine’s Myebon township, drawing condemnation from UNICEF.

“Children should never be targeted during armed conflicts,” said UNICEF in a statement issued the following day.

“They are being killed in crossfire between parties to the conflict or even deliberately shot. They are being killed and maimed by landmines and explosive remnants of war in different parts of the country,” the U.N. agency said, referring to the conflict in Rakhine and in other parts of Myanmar, a multiethnic country of 54 million people.

Adults have become inured to exchanges of artillery fire between AA troops and military vessels patrolling the rivers of Rakhine state. Everyone hides in bomb shelters as a precaution whenever Myanmar navy vessels are on the river, villagers said.

Life during conflict is stressful for children, experts said.

“Children in Rakhine state are insecure, both physically and mentally,” said Oo Khin Thein from Sittwe-based Arakan Youth New Generation Network, referring to minors in “dire conditions” in both internally displaced persons (IDP) camps and in towns and villages.

“I found children in towns and villages in conflict areas who were physically injured by the armed conflict,” she said. “They are also emotionally impacted by trauma and fear of getting injured in artillery blasts. We see more and more children living in fear.”

Intensifying hostilities mean that nowhere in northern Rakhine is safe for anyone, said Oo Tun Win, a lawmaker from Kyauktaw township

“Many people have been killed by artillery blasts while they are at home,” he told RFA. “They also have been killed by stray bullets as they fled from the blasts. People have been killed in their sleep. So, Rakhine society as a whole is not safe anywhere, not to mention the safety of the children.”

‘Senseless’ shelling of a school

Myanmar forces also have detained a few minors on suspicion of having connections to the AA and charged them under the country’s Counter-Terrorism Law, said Myo Myat Hein, the director of the Thazin Legal Aid Group in Sittwe.

“In these cases, the accused children have not been given their rights under the Child Rights Law, [which] guarantees detainees immediate access to legal representation, though this is often not the case,” he said. “In many cases, the lawyers meet the detained children only when they are brought to trial.”

Those held in custody are sometimes subject to torture by authorities or disappear, their family members have reported, according to Myo Myat Hein, who is also known as Nyein Chan.

The annual report by the U.N.’s human right chief noted that schools, religious sites, and civilian homes in Rakhine have been targeted in attacks and damaged by heavy artillery and by Myanmar military patrols.

In February, at least 17 schoolchildren ranging in age from five to 12 were wounded when a mortar shell hit their primary school in Khamwe Chaung village in Buthidaung township, the report said.

The following month, soldiers set houses and a school ablaze and destroyed a local monastery with a rocket-propelled grenade in Minbya township’s Pha Bro village, it noted.

Save the Children called the injuries “senseless” and pointed out that they occurred on the same day that the U.N. expressed concern over the continuing humanitarian impact of conflict in western Myanmar and urged parties to respect international humanitarian law and to protect civilians.

“Many children are among these victims, and the actual number of casualties is likely to be higher due to limited monitoring and reporting in the conflict-affected areas,” the statement by Save the Children said.

UNICEF said the children of Rakhine face long-term repercussions because “their education is being hampered by attacks against schools and the use of schools by parties to the conflict.”

Myanmar has ratified the U.N. Convention on the Rights of the Child, which states that “governments must do everything they can to protect and care for children affected by war and armed conflicts.”

In 2019, the country also ratified the Optional Protocol on Children and Armed Conflict, whereby states agree to protect children from military recruitment and use in hostilities.

New Attacks and Village Burnings Swell Refugee Ranks in Myanmar’s Rakhine (Radio Free Asia)
September 19, 2020

Artillery fire from Myanmar military patrol boats and fresh burnings of villages along a river in Rakhine state this month have added at least 17,000 refugees to the ranks of internally displaced civilians, aid workers in the western state said.

Armed conflict that erupted in late 2018 between Myanmar forces and the Arakan Army (AA) in parts of Rakhine and neighboring Chin state has now displaced more than 220,000 civilians, according to an estimate by the Rakhine Ethnic Congress (REC), a local NGO.

The conflict, exacerbated by the coronavirus pandemic that has resurged in Rakhine, has killed nearly 300 civilians, and injured more than 640 injured in northern Rakhine state and in Paletwa township of Chin state, according to an RFA tally.

This month’s surge of internally displaced persons (IDPs) who abandoned their homes to escape fighting came from a half-dozen villages along the Kaladan River in Rakhine’s Kyauktaw township, which endured shelling and “clearance operations” from Myanmar navy patrol boats, volunteers and villagers said.

“They arrested and beat the villagers. They burned our houses. We don’t have reasons to return to our villages,” said Maung Mae Sein, a villager who had fled his home and taken shelter with more than 2,000 people at the Maha Muni pagoda compound and other makeshift relief stations.

“Whenever they are in the area, they ravage our village. They robbed our house. They gathered the villagers for interrogations.

If they are not satisfied, they beat us. People are too scared to live there,” he added.

Volunteers said the villagers came from Alae Kyun, Kyauk Gu Su, Myauk Taung, Thar Si, Shwe Pyi Old village, and Shwe Pyi New village.

“There are more than 900 people at the Maha Muni pagoda alone. There are more people who had to stay in Sapar Sekik village north of the pagoda,” Buddhist Abbot Pyinnya Thiri from the Maha Muni pagoda IDP camp told RFA.

Tallying some 800 other recent refugee arrivals, he added: “We are preparing to build temporary tents for the refugees tomorrow, depending on the donations we receive.”

The abbot said over 900 people taking shelter in rest houses in the pagoda compound are relying on government aid of rice rations for two weeks as well as other private donations.

In a repeat of a military tactic seen in Rakhine in recent months, two villages in Kyauktaw township were burned on Sept. 3, sending more than 1,000 people fleeing for shelter.

“In Kyauktaw, civilians from two villages, Phaya Paung and Taungpauk, have fled their homes as the military burned down the houses,” said Zaw Zaw Tun of the REC relief group.

“Villages located along the Kaladan River are now constantly attacked by the navy vessels patrolling the river. The attacks have killed and injured several local civilians, so the people from these villages are fleeing their homes,” he said.

“The same thing is happening in Rathedaung. All in all, I estimate there are between 17,000 and 20,000 new IDPs from these townships this month alone,” added Zaw Zaw Tun.

Military rejects witness accounts

Myanmar military spokesman Major General Zaw Min Tun denied that the military was responsible for the burning of Taung Pauk and Phaya Paung villages in Kyauktaw township.

He also rejected the witness accounts that military vessels on the Kaladan River had fired artillery at the villages.

Rakhine state government spokesman Win Myint said the state administration in Sittwe was negotiating the provision of assistance to the IDPs.

“It is true these people have fled their homes. We need to make accommodations for their stay. We also need to provide food for their well-being,” he added.

On Monday, as the U.N.’s human rights chief issued a report in Geneva saying that the army’s actions against civilians — airstrikes by fighter jets, helicopter and heavy artillery attacks, and ground battles in more densely populated areas — could constitute war crimes.

“Tatmadaw tactics have shifted, with periodic reliance on airpower against the Arakan Army, but in some instances it appears that civilians may have been directly targeted,” the report said, using the Burmese name for the military, Myanmar’s most powerful institution.

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AMERICAS

North & Central America

The U.S. Government Should Be Supporting International Law—Not Undermining It (Counter Punch) By

Bob Flax

September 21, 2020

It's a sad day when the U.S. government openly assails the international law it helped to create. But that day came on September 2, 2020 when the U.S. government announced economic sanctions against top officials of the International Criminal Court (ICC). The reason? The officials were engaged in an ICC investigation of possible war crimes committed during the long war in Afghanistan by representatives of all sides of the conflict, including U.S. military personnel and agencies.

The ICC was established by the United Nations in 1998. It has become the international community's recognized legal authority on the defense of human rights and is tasked with investigating and trying individuals accused of the gravest of crimes, including genocide, war crimes, and crimes against humanity.

Unfortunately, after first signing the Rome Statute that established the Court, the United States has become one of just four signatories to subsequently withdraw under the George W. Bush administration in 2002. The reason offered was that the US troops would be subject to international law—even though the ability of any country to prosecute foreign nationals who commit crimes on their sovereign soil is a well-established legal practice and the ICC treaty merely allows the ICC to carry out that prosecution.

An executive order earlier this year essentially declares anyone who works with the ICC a criminal, opening the way for lawyers, judges, researchers, and staff to have their bank accounts frozen, U.S. visas revoked, and travel to the U.S. denied. Even U.S. citizens risk sanctions if they “materially support” the ICC.

ICC chief prosecutor Fatou Bensouda — who has been investigating possible war crimes by all parties in the Afghanistan conflict—is now the first to face such sanctions, with the U.S. accusing her and the ICC of attempting “to subject Americans to its jurisdiction”—that is, for expecting the world's most powerful democracy to follow international law.

Human rights attorney Katherine Gallagher declared that the U.S. government's action against Bensouda was an “unprecedented” deployment of “sanctions against an international prosecutor seeking to enforce international law.” Balkees Jarrah of Human Rights Watch called the move a “stunning perversion of U.S. sanctions, devised to penalize rights abusers and kleptocrats, to target those prosecuting war crimes.”

What the ICC is looking at in Afghanistan is holding the Taliban accountable for many crimes and the US to account for its violations of international law that the US signed and ratified, including “serious abuses, particularly against people in custody.”

The U.S. government has championed ICC investigations into abuses in Burma and Syria, and even recently used human rights as a cudgel against China, Iran, and North Korea. But when the investigators' eyes turned towards America, cooperation ends.

The United States can and should do better.

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South America

Spain sentences El Salvador ex-colonel to 133 years in jail for priests' murder (BBC)

September 11, 2020

Inocente Orlando Montano, 77, was found guilty of "terrorist murder".

The killings happened during El Salvador's civil war, when Catholic priests were often accused by the government of

collaborating with left-wing rebels.

Montano - who was extradited from the US - had denied wrongdoing.

Spain's top criminal court found him responsible for eight murders. But it could not convict him for the killings of three Salvadorans - the priests' housekeeper and her teenage daughter, and a sixth Jesuit priest - because his extradition to Spain did not cover these cases.

Montano listened from a wheelchair as he was sentenced to 26 years, eight months and one day in prison for each of the five Spanish priests' deaths, the Associated Press news agency reports.

Outside the court, lawyer Manuel Olle told reporters the victims' relatives were "very satisfied" with the verdict.

"The truth is what this sentence says today and it says it with absolute clarity, that the crimes were planned, plotted and decided from the Salvadoran military high command," he said.

The verdict can be appealed against.

What do we know about the case?

The murders took place during El Salvador's 1979 to 1992 civil war between the military-led government and the left-wing Farabundo Marti National Liberation Front (FMLN).

One of the murdered priests, Ignacio Ellacuria, was rector of the Central American University (UCA) in the capital San Salvador and a leading figure in the liberation theology movement, which reached out to the poor of Latin America.

The priests and the two women were dragged from their beds early on 16 November, 1989, and murdered on the university campus.

Prosecutors said Montano, a former deputy defence minister, was part of a far-right group in the military responsible for atrocities and opposed to any peace deal with the FMLN.

They said Montano gave "the direct order to assassinate the Jesuits".

A man suspected of shooting the priests, ex-Lt René Yussly Mendoza, was a witness for the prosecution.

How did he end up in Spain?

Montano had moved to the US in 2002 and was in jail there for immigration fraud and perjury when the Spanish extradition request was made.

He was extradited from the US in November 2017, having been charged, along with other Salvadoran officers, by a Spanish judge in 2011.

El Salvador refused to hand over to Spain other officers accused over the 1989 murder plot.

Bolivia: ICC referral reflects country's ongoing 'polarisation' (Al Jazeera) By Mia Swart
September 12, 2020

The International Criminal Court (ICC) has been asked for the first time to decide whether deaths linked to the coronavirus pandemic may constitute a crime against humanity after Bolivia asked the court to investigate former President Evo Morales and his supporters.

Led by interim President Jeanine Anez, the Bolivian government last week accused Morales and his Movement for Socialism (MAS) party of causing people's death by blocking their access to medical supplies and oxygen.

But some experts say the ICC referral is a politicised exercise since it comes amid continuing tensions spurred by Bolivian election delays, which have drawn criticism and raised concerns the interim government is trying to hold onto power.

"Unsurprisingly, the referral has particular targets in mind – in this case, an opposition movement – and this will undoubtedly be seen as a political referral," said Otilia Maunganidze, head of special projects at the Institute for Security Studies, a think-tank that works on governance and justice issues in Africa.

In its written submission to the ICC, Bolivia's interim leadership argued that roadblocks set up by supporters of Morales in

August led to “the death of several people and anxiety in the rest of the population”.

The roadblocks – erected amid protests against the decision to delay elections – “intentionally [caused] great suffering” to the civilian population, the filing alleges.

Morales, Bolivia’s longest-serving leader and its first Indigenous president, resigned in November 2019 after weeks of demonstrations sparked by a dispute over election results. The ex-president, who is now living in exile, accused his opponents of conspiring against his government.

The case “gives the court the opportunity to think about whether the systematic denial of healthcare provision is a crime against humanity”, Mark Kersten, a consultant at the Wayamo Foundation, a Berlin-based nonprofit that works on the rule of law, told Al Jazeera.

Political polarisation Bolivia’s Supreme Electoral Tribunal postponed elections from September 6 to October 18 following warnings from medical experts that it would be unsafe to hold the election during the pandemic, which has hit the country hard.

The pandemic struck as political tensions continue to divide people in Bolivia. An Amnesty International report issued last month accused the country’s interim government of harassing and threatening perceived political opponents.

Human Rights Watch also said on Friday that terrorism charges levelled against Morales stemming from the November violence were politically motivated. Morales had been accused of encouraging protests and roadblocks during the nationwide unrest.

Ramiro Orias, programme officer at the Due Process of Law Foundation (DPLF) in La Paz, said the referral should be understood in the context of the current political polarisation in Bolivia.

“Bolivia is currently experiencing a moment of intense political and electoral polarisation,” said Orias, adding that this division extends to how citizens feel about the ICC referral itself.

“Whereas some citizens are supporting the referral since they think that the harm and deaths caused by actions promoted by Morales should not go without punishment, social sectors that support the previous Morales government [do] not think that there should be accountability and they say the process is political,” Orias told Al Jazeera.

He said under those conditions, an international justice mechanism is needed.

ICC referrals

Still, referrals to the ICC from Latin America have been rare.

A group of six states – Argentina, Canada, Colombia, Chile, Paraguay and Peru – made one in 2018 over the situation in Venezuela, and Caracas filed its own referral in 2020.

Mark Drumbl, a law professor at Washington and Lee University in the US state of Virginia, said, “Many referrals may be deployed by one side to stigmatise the other side, but international law’s application is always political.”

Drumbl said the ICC in recent years has pushed to expand what constitutes international crimes.

“This referral fits in this band. I anticipate more of these moves in the future, especially in the field of public health,” he said, adding however that it may be difficult to show intent in these cases.

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Venezuela

September 17, 2020

What did the UN team say?

In the report of its findings on Wednesday, the UN team said Venezuela's security services had been engaged in a pattern of systematic violence since 2014, aimed at suppressing political opposition and generally terrorising the population.

Mr Maduro and the ministers of interior and defence were not only aware of the crimes, but gave orders, co-ordinated operations and supplied resources, the report said.

"The mission found the government, state agents, and groups working with them had committed egregious violations," it said.

It called on Venezuela to hold those responsible to account and to prevent further violations from taking place.

"The mission found reasonable grounds to believe that Venezuelan authorities and security forces have since 2014 planned and executed serious human rights violations, some of which - including arbitrary killings and the systematic use of torture - amount to crimes against humanity," the mission's chairperson, Marta Valiñas, said in a statement.

"Far from being isolated acts, these crimes were coordinated and committed pursuant to state policies, with the knowledge or direct support of commanding officers and senior government officials."

A typical operation might involve weapons being planted in an area thought to be loyal to the opposition, with security services then entering the area and shooting people at point blank range, or detaining them, torturing them, and killing them.

The report also looked into the violent response to opposition protests and the torture of people detained at them.

Investigators made their conclusions after looking into 223 cases. They said almost 3,000 others corroborated "patterns of violations and crimes".

The report will be presented to UN Human Rights Council member states next week, when Venezuela will have a chance to respond.

How significant are these findings?

The UN team was not allowed to travel to Venezuela for this report. This is not unusual; Syria has never allowed the UN to investigate alleged war crimes on the ground. Myanmar, China, and many other countries regularly resist the UN's presence. But this is the 21st Century, modern information technology means the evidence, indeed proof, of serious violations can be gathered without entering the actual crime scene.

And the evidence from Venezuela is detailed, and horrifying. Systematic killing, torture, and sexual violence. What's more, clear evidence the orders came from the very top: Nicolás Maduro, his government, and senior security officials.

The UN investigators have a list of 45 names of those believed to have been directly involved. The UN Human Rights Council is designed to investigate violations, to advise on upholding human rights, but not to sanction. That is the job of the UN Security Council, and here Russia and China, who regularly oppose what they see as meddling in the affairs of a sovereign state, may oppose any action.

But that list of 45 names is significant; it suggests the UN investigators believe they may have a role to play building a case for a prosecution for crimes against humanity in an international tribunal.

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TOPICS

Truth and Reconciliation Commission

Liberia: Pressure Mounts for Implementation of TRC Recommendations As Justice for War and Economic Crimes Takes Center Stage at Int'l Confab (Front Page Africa)

September 11, 2020

Major international stakeholders and experts from around the globe are demanding justice for victims of war crimes in Liberia with a call for the full implementation of the recommendations of the Truth and Reconciliation Commission (TRC).

The concerted demand came at a recent international conference sponsored by the European based Global Initiative for Justice (GIJ).

The conference held over the weekend, brought together a high level panel of speakers which included leading experts in the area of international Justice along with members of the Liberian Legislature, and key civil society leaders from Europe, the United States, and Africa. Other participants included major stakeholders from the United Nations (UN), and leaders of various international organizations who emphasized the need for justice on the issue of war and economic crimes in Liberia.

In his official statement at the conference, former U.S. Ambassador at large and UN Chief Special Court Prosecutor Steven Rapp expressed a firm belief that accountability and the rule of law are essential if Liberia is to be peaceful and prosperous. He noted, "if impunity continues to reign, perpetrators will believe that they can violate and impoverish the people of Liberia without consequences." He added, "if there is no accountability, it will be very hard to build the country that Liberia deserves to be."

Other speakers included former UN Special Investigator Dr. Alan White who warned against the perils of impunity in Liberia, and former TRC Chairman Cllr. Jerome Verdier who called on the Liberian government see the crucial need to implement the recommendations of the TRC which has been held up for over a decade. "It is painful that most victims will end up dying without seeing justice and the continuing culture of impunity will embolden perpetrators of war crimes to go back to their old ways threatening the future of lasting peace and stability in Liberia", Verdier noted.

Rep. Rustolyn Dennis, who was joined by Rep. Larry Yanqoui of the Liberian legislature, reiterated her call for urgent action on the issue of justice in Liberia as it relates to war and economic crimes in order to pave the way for genuine progress and development in Liberia.

Liberian Justice advocate Hassan Bility, of the Center for Justice and Accountability (CJA) praised the efforts of various international partners gathered at the conference, adding, "public pressure with the support of the media will ensure the implementation of true justice to avoid impunity in Liberia." In remarks, UNICEF Representative to Yemen Sara Beysolow Nyanti stressed that education of the masses is a key element in moving forward. "People will respond positively if they can understand the benefit of possible results," she noted. Other panelists included former Press Union of Liberia (PUL) leader Isaac Bantu, former TRC Commissioner John Stewart, human rights advocate Adama Dempster, and John F. Lloyd, Chairman of the All Liberian Diaspora Conference.

In earlier remarks, GIJ Chairman Michael G. Mueller registered concern over the declining state of the justice sector in Liberia and the apparent lack of will on the part of the Liberian Government to implement the full recommendations of the TRC Report. He cited that crucial among TRC recommendations is the establishment of the War and Economic Crimes Court in Liberia to bring final redress to war time atrocities committed during the long period of Liberian civil crises. Mueller, who is also Chairman of the European Federation of Liberian Associations (EFLA) further noted that the issue of justice should no longer be delayed if true progress is desired. "There must be justice in Liberia, and we demand it now!" he concluded.

Multiple speakers emphasized the need for justice in Liberia with repeated references to the adage of "justice delayed is justice denied." Attention was drawn to a culture of impunity rife in Liberia with rape destroying the future of young Liberian girls and babies.

Under the theme "In pursuit of Justice", the virtual conference convened by the GIJ in collaboration with the International Justice Group (IJG) was moderated by Morgan State University Professor Welma Redd. The Global Initiative for Justice, an international nonprofit with operations in Europe is an offshoot of the Conference Resolution of the December 2019 "All Liberian Diaspora Conference" held in the State of Maryland, USA.

The conference comes eleven years since the official submission of the TRC Report and Recommendations of 2009. There is widespread concern that despite multiple efforts involving pressure from the United Nations Human Rights Commission, the previous and current administrations of Liberian Government have both failed to fulfill the recommendations of the report. In the aftermath of the Liberian civil war, scores of Liberian war crimes suspects have been arrested and tried in the United

States and Europe but none of such justice measures have taken place in Liberia.

Disappearance Commission suggests relief packages for conflict victims (Kathmandu Post) By Binod Ghimire
September 13, 2020

Amid criticism that the Commission of Investigation on Enforced Disappeared Persons hasn't done anything concrete towards delivering justice to the victims, the special-purpose panel has urged the government to provide relief for the victim's family.

In its written request to the Ministry of Law and Justice, the commission has said immediate relief is necessary for the families of the victims of forced disappearance to save them from hunger, a potential threat as the pandemic continues. The commission says that most of the victims of enforced disappearance are economically weak and have lost their jobs due to the lockdown triggered by the Covid-19 pandemic.

“Most of the victims’ families relied on daily wages or on foreign employment for their earnings. However, the pandemic left most of them unemployed,” reads the letter addressed to the ministry. “The loss of jobs has pushed them into difficulties even to meet their daily needs. It is the responsibility of the state to support its citizens in the time of crisis.”

The recommendation, according to the commission, was made after an interaction with the families of the victims who have filed complaints at the commission. Among the 3,223 complaints registered with the commission, investigation is going on into 2,506 after a study that other complaints did not fall within its jurisdiction.

Lila Devi Gadtaula, a spokesperson for the ministry, said they have received the request but have not taken any decision on the matter yet. “We will have to study and decide if that is doable,” she said.

Officials at the commission say victims’ families have been suffering economically for years as most of those who were forcibly disappeared were the breadwinner. The pandemic has compounded their problems.

Gangadhar Adhikari, a spokesperson for the commission, said the loss of income opportunities has not just crippled them economically but also left mental and physiological impacts on them.

“The government should immediately provide relief so that the victims can sustain themselves at the time of crisis,” Adhikari told the Post. “The amount should be fixed looking at the state coffers.”

The government provided Rs 1 million each to the families of the deceased and forcibly disappeared persons during the decade-long Maoist insurgency, in different instalments. The Enforced Disappearance Enquiry, Truth and Reconciliation Act-2014 authorises the two transitional justice commissions to recommend reparations worth up to Rs 300,000 to each victim's family.

The victims and human rights defenders, however, say that the amount is too little. They have asked for raising the ceiling for reparation.

Representatives of victims’ organisations say it is a welcome decision from the disappearance commission, which the government needs to address immediately. They want the Truth and Reconciliation Commission to follow suit.

“Everyone is affected by the pandemic. However, the suffering of a victim’s family is even worse,” Suman Adhikari, former chairperson of the Conflict Victim’s Common Platform, told the Post. He said that the relief package, however, shouldn’t be an excuse to delay the justice delivery process.

The Covid-19 pandemic and the lockdown has come as an excuse for the two commissions to further delay investigation into the war-era cases of human rights violations. Five years since their formation, the two commissions have little to show about justice delivery other than receiving complaints from the victims and their families.

The two commissions have received over 67,000 cases in total including 63,718 complaints addressed to the Truth and Reconciliation Commission alone.

Adhikari, the spokesperson for the disappearance commission, said they know that monetary package is just short-term relief and their duty will not be accomplished without recommending action against the perpetrators.

He said the commission has reminded Law Minister Shiva Maya Tumbahangphe to prepare an amendment to the Transitional Justice Act and ensure that it is endorsed by the upcoming winter session of federal parliament. The winter session, also called bill session, normally commences in December.

Bruises of the decade-long civil war in Nepal have not yet been healed. The ignition of the unrest has plummeted, but the dissatisfaction of the conflict-hit people is still like a fire under the ashes which can be stirred and enflamed with any internal and external provocation any time. Key issues and challenges of transitional justice including enforced disappearance, internal displacement, abduction, extra-judicial killing, torture concerning the armed conflict (1996-2006) have not yet withered even a long duration has elapsed after the Comprehensive Peace Accord (CPA) signed between the state and the conflicting party, the then Communist Party of Nepal (Maoist). People's predicament has not seen any end yet.

The CPA signed between the government of Nepal and the CPN (M) on November 21, 2006, ended the decade-long armed conflict and led the country towards a strengthened democracy. The Interim Constitution promulgated in 2007 with wider and strong human rights mandates, provisions and mechanisms gave people hope. Later, the Constitution of Nepal 2015 was promulgated which has adopted the democratic values such as the rule of law, democracy, independence of the judiciary, human rights, devolution of powers, adult franchise and press freedom. But, even after one and a half decades of the CPA, the robbed dreams and aspirations of the people who were the victims of intimidation, extortion, internal displacement, abduction, extra-judicial killing, mental and physical torture, etc have not been restored and brought back to peace in life.

Genesis and narrative of TRC

The CPA has clearly paved the way for the creation of transitional justice mechanisms under the law. In pursuant to the clause 5.2.5 of the CPA, the high-level Truth and Reconciliation Commission (TRC) was established on February 10, 2015, in accordance with the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act, 2014. The commission was mandated to investigate cases of human rights violations and crimes against humanity, and to create an enabling environment for social reconciliation.

Internationally, such a commission is an official body tasked with discovering and revealing past wrongdoings by a government (or, depending on the circumstances, non-state actors also), in the hope of resolving conflict leftovers from the past. In both their truth-seeking and reconciling functions, truth commissions have political implications. A truth commission is focused on the past, rather than in ongoing events; it investigates a pattern of events that took place over a period of time; it engages directly and broadly with the affected population, gathering information on their experiences, etc.

The operational mandate of Nepal's Truth and Reconciliation Commission (TRC) is due to expire in coming February. It is the subject of shame on the part of the commission that it has neither completed even one investigation into the tens of thousands of complaints filed by victims of human rights violations committed during the country's decade-long conflict. It is virtually inauspicious and tardy to a transitional justice process. Though the pressure from the international community and victims' groups to keep moving the transitional justice process forward compelled the government for the extension of the tenure of the body, there is very less expectation of the achievement of meaningful justice for the victims of conflict-related human rights violations.

Stranded justice crippled with impunity

The limping pace of the commission arouses the suspicion of the frail diagnosis, improper medications and haphazard recommendations. An even more significant challenge is the persistent culture of impunity in Nepal, and the harsh reality is that powerful perpetrators of human rights violations are spared from the action. They keep themselves under the protection of the cocoon of different flags of the power centres.

Till now, the TRC has only completed preliminary investigations of fewer cases. This lack of progress can be attributed both to the extremely high number of complaints the commission has received, limited resources, and inadequate funding. Without the funds, a one-year extension will not be sufficient for the commission to finish its work.

The leadership of the commission is likely to be weak with the rampant intrusion from the backdoors. Although the signatories of the CPA recognised that an amnesty provision would be unacceptable to the international community and it would jeopardise the legitimacy of the agreement, Nepal's long history of failed commissions of inquiry gave them good reasons to think that a TRC would ultimately serve the interests of impunity.

The possibility is that amnesties would be granted for gross violations of human rights. If dillydallying of the commission is to ensure the avoidance of the possibility of granting amnesties for human rights violations which are unconstitutional and contrary to international law, it will be a welcoming step.

By giving the benefit of the doubt, we have to have endurance and patience. The judgments should not be manifestly inadequate and akin to complete or partial impunity. Further entrenchment of the impunity worsens the grave situations and justifies the legal maxim 'Justice delayed is justice denied'.

What next?

The commission has adopted a policy to fulfil the responsibilities by continuous discussions and deliberations with victims and other stakeholders in providing justice and reparations to victims of grave violations of human rights following the fundamental norms of CPA. Considering the reverberations in the meetings and interactions with the stakeholders, the commission will strive hard for prompt justice to conflict victims.

However, it has been high time to put due attention by all concerned stakeholders who are aspirants of transitional justice and sustainable peace and to heed for justifiable, needful, and time-suitable law formation. Only then, the commission can fulfil its responsibility effectively taking them as a base. The commission hopes that the state will not have any reservations regarding amendments of acts to let justice, reparations and reconciliation processes get wider acceptance.

The healing for the atrocious and inhumane forms of crime and human rights violations that happened during the conflict will not be possible through regular judicial mechanisms. Therefore, the Truth and Reconciliation Commission was set up to deal with conflict-related grievances of the victims and their families. The state of impunity is one of the main challenges for the protection and promotion of human rights. The inaction against the perpetrators including the cases of murder, rape and other grave criminal offences reveals the unholy nexus between politics and crime. It is the sheer instance of criminalisation of politics and politicisation of crimes.

Connivance is rampant among Nepali politicians, bureaucrats and security personnel as a cultural practice which is responsible for violations of the value of rule of law, promoting impunity. The state efforts are inadequate in terms of fulfilment of human rights obligations enshrined in the international human rights instruments. The implementation part of the commission is weak due to reluctance on the part of state agents and politicians. Now, all political parties need to play their role to make the transitional justice process a success.

Burundi impunity for abuses continues, says U.N. report, as another mass grave opened (KFGO)
September 17, 2020

Impunity for rape, murder and other abuses is still widespread in Burundi despite a change of government, a U.N. report released on Thursday said.

The report comes days after Burundi's Truth and Reconciliation Commission, which is examining past atrocities and investigating mass graves, issued rare criticism of local leaders in charge during a 1972 massacre.

The U.N. report said there had been numerous rights abuses in Burundi connected to elections held in May. The new president, retired general Evariste Ndayishimiye, took power in June. He formerly served as the interior minister.

Ndayishimiye has promoted high-ranking military officers involved in human rights abuses, appointed some military officers to governorships previously held by civilians, and included two men in his cabinet under sanctions for rights violations, the report noted.

The security forces and youth wing of the ruling party, the Imbonerakure, continue to have almost total impunity for beatings, kidnappings and sexual violence, the report said.

A presidential spokesman referred questions for comment to the foreign ministry, which was not immediately available.

Ndayishimiye's speech at his inauguration had hinted he hoped to make a break from the abuses committed under his predecessor, a former leader of a Hutu militia who took power in 1995 following 12 years of civil war.

Burundi has the same ethnic make-up as neighbouring Rwanda, whose 1994 genocide by Hutu militias killed around 800,000 Tutsis and moderate Hutus.

Burundi has also suffered periodic bouts of ethnic violence, and established the Truth and Reconciliation Commission to recover the remains of victims. But its mandate only covers the period until 2008, ignoring the most recent episodes of political violence.

On Tuesday, the commission's president gave a rare speech that singled out local officials he said were responsible for a 1972 massacre, and said the group would question them.

Although the commission has opened dozens of mass graves, it rarely names those responsible for the violence.

Pierre Claver Ndayicariye was speaking as the group opened eight mass graves at Gikizi in the southern province of Bururi.

Most of the victims buried in the grave were Hutus, said Sinabajije Bonaventure, who was 20 at the time of the massacre. He said his younger brother was among the villagers taken to the court house and shot dead by security forces.

"We dug mass graves and buried them here, my little brother was among them," he said.

Struggling War Victim Cries for Help (Liberian Daily Observer) By Joaquin M. Sendolo
September 22, 2020

Mabu Flomo, 65, is one person living with the pains of war in Compound #3 Grand Bassa County. At age 39 in 1993, while the first phase of the Liberian civil war was raging, she encountered her misfortune with rebels loyal to the National Patriotic Front of Liberia (NPFL), who first took her food and ate all of it. Afterward, the next request was to give all the money she had, but responded that "I don't have money; all I have was the food you people ate."

Mabu, a light-skinned and medium size woman with well shaped hips, could not be spared for not having money to give the rebels. "After saying I not get (I don't have) money, I heard a heavy sound in my ears and I fell off to the ground. I was not to myself until the next morning, and all the other people left me there and scattered. When I woke up the next morning without the strength to walk, I saw the big sore on my leg with blood running out, and I came to know that I was not dressed the way I was when they met me. The 20 men that were there used me and up to today my stomach is so, so sore," she said in a quivering voice.

She had been shot, gang raped and left unconscious.

Since she sustained the injury, her leg is yet to move. She drags it to walk slowly, and someone has to help her walk up an incline, including stairs. "Since then my leg can't move and the sore was always on me. As for the sore, I had a dream not too long ago and someone told me to use my spit (saliva) on it, and it is how I was always doing it until it died (cured).

Mabu's husband is blind and unable to work to feed the home. "My blind husband cannot do anything. I drag my leg to go to people's houses to wash their clothes to get food. I am suffering; let the government help me, let people with good heart come and help us," she pleaded in tears.

Mabu Flomo is among thousands of war victims with different experiences and ordeals whose problems are yet to be addressed as prescribed by the Truth and Reconciliation Commission's recommendations.

In the recommendations, people who encountered conditions such as hers should have free health facilities to be treated, but since the recommendations came out in 2009, not much has been done to address the issue of reparations and justice.

In fact, not many victims and Liberians in general know much about the recommendations of the TRC, and it is against this backdrop that the Independent Human Rights Investigators (IHRI) is taking the message to them.

In Buchanan, Grand Bassa County where the second assembly of war victims took place on September 19, 2020, Adama Dempster, head of IHRI and Secretary of the Civil Society and Human Rights Advocacy Platform, told the victims who were for the first time hearing about reparations that the TRC recommendations prescribe for victims of sexual abuse to have free medical facilities to be treated, schools built for children affected by the war to attend freely, and institutional facilities and homes destroyed during the war be rebuilt.

Apart from reparations, Mr. Dempster said the TRC recommended the setting up of an extraordinary court or tribunal to try people who committed grave human rights abuses and crimes against humanity, but the government has failed to heed to this recommendation even as the United Nations and the African Union are persistently calling for the implementation of the recommendations.

"Gun not firing does not mean Liberia's problem is solved," Dempster said. "What caused the war should be addressed, or else the same war will come. People were killed for corruption in 1980 on the poles, but has the corruption finished?"

This question sparked reactions in the hall with victims expressing grief randomly, "They raped us freely in this country, killed our families and relatives, and burned our homes."

A female participant blurted out: "But the same thing they fought and killed other people and raped us for, they are doing it at the highest level today, and when we protest, our own police we buy uniforms for will be sent to beat and wound us."

Dempster added: "True, the police have more strength for protesters than going after criminals. When it is about criminals, they claim to lack fuel, vehicle, and weapons."

The TRC hearing in 2008 with the publication of the recommendations in 2009 has set the basis for many Liberians to believe that everything is over. But Momodu Metzger, a member of the IHRI team, says the hearing was just a minimal portion of the process. According to him, truth and reconciliation takes the perpetrator and the victim to assemble in the presence of elders and other opinion leaders to express his or her contrition over the act done and vowing not to do it again, and the victim forgiving the person and coming together again in friendship.

Metzger said this is not the case with Liberia; rather, some appeared before the TRC and justified their actions without remorse. He added that the Independent National Human Rights Commission has been attempting to conduct palava hut hearings. He, however, differed that bringing victims and perpetrators together should be done by an assembly of elders and opinion leaders; not solely the INHRC as the case is now.

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Terrorism

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Piracy

Pirates kidnap two Russians from refrigerator ship in Gulf of Guinea (TASS)

September 9, 2020

Pirates kidnapped two Russians from the refrigerator ship Water Phoenix, the Russian embassy in Nigeria has confirmed.

"We confirm that two Russians were kidnapped from the ship Water Phoenix as a result of an attack by pirates 30 kilometers away from Lagos on September 8," the embassy said on its official portal. "In cooperation with Nigerian law enforcement agencies we are exerting efforts to establish the hostages' whereabouts and secure their release."

According to the Nigerian portal Nigerian Tribune, the pirates seized the ship's captain and another crewmember. Both are Russians. The other 16 sailors managed to lock themselves in a special compartment. The crew consists of 18 sailors - 7 Russians and 11 Filipinos.

The portal Dryad Global, devoted to maritime security matters, said that pirates had attacked the refrigerator ship Water Phoenix flying the Liberian flag on the way from the Dutch port of Ijmuiden. At the moment of the attack it was southwest of Lagos. According to the information available it belongs to a company registered in Germany.

The Gulf of Guinea stretching from Senegal in the north to Angola in the south is notorious as the worst piracy affected area globally. In the first quarter of this year it accounted for 45% of world piracy cases.

Capacity Building Must be a Focus as Sea Piracy Expands (Maritime Executive) By Brandon Prins

September 18, 2020

ReCAAP published its half-yearly report in July warning of a dangerous increase in pirate attacks in Asia. The organization reported 51 total incidents from January through June. This represents an 82 percent increase in sea-pirate attacks from the first half of 2019. The International Maritime Bureau (IMB) recorded a similar surge in piracy incidents. Attacks doubled in the first half of 2020 compared to 2019 (see Figure 1). The escalation in pirate activity is not confined only to Asia. Both West Africa and the Americas have witnessed increases in sea-piracy over the past two years as well. Globally, we're on a path to see a 20 percent increase in piracy in 2020

compared to 2019.

To be sure, pirate attacks remain well below their most recent high in 2010. In that year, not only were Somali pirates responsible for more than 200 attacks and attempted attacks against ships in the Red Sea, Gulf of Aden, and Indian Ocean, but these same Somali raiders also hijacked at least 49 vessels. In 2019, the IMB reported only four ship hijackings, none of which occurred off the Somali coast. So far in 2020, the IMB reports only one hijacking; a fishing boat seized in the waters of the Ivory Coast. Despite successes with Somali pirates and an overall decrease in vessel hijackings, recent trends in commerce raiding warrant concern.

Singapore Straits

Piracy in and around the Singapore Straits has visibly increased over the past several years and is at its highest level since 2015. Of the 35 pirate attacks that occurred in Southeast Asia from January through June of 2020, fourteen happened in the Singapore Straits or nearby at anchorages on Pulau Batam. Pirates attacked another two ships proximate to the Singapore Straits in the Natuna Sea and three other ship robberies occurred at Belawan Port on Sumatra (see Figure 2). Most of the ships boarded in the Singapore Straits were steaming at the time of the attack and all but one was a large product tanker or cargo carrier. Currently, the piracy we see in Southeast Asia generally, and the Singapore Straits more specifically, remains mostly opportunistic rather than organized. Only a few years ago Indonesia and Malaysia formed a rapid reaction force to combat a surge in sea-piracy in the Malacca and Singapore Straits. Attacks dropped significantly soon after, going from over 60 incidents in 2015 to fewer than 10 in 2016. Exiting the Singapore Straits near Little Karimun Island was particularly dangerous in 2014 and 2015. The recent rise in sea-piracy in and around the Singapore Straits is attributed by some to complacency in enforcement.

Sulu and Celebes Seas

Pirate attacks in the southern Philippines have recently received considerable attention as Abu Sayyaf, an Islamic separatist group, took advantage of ship traffic across the Sulu and Celebes Seas to fund-raise through maritime kidnappings. In response, Malaysia, Indonesia, and the Philippines established coordinated counter-piracy naval patrols that helped check Abu Sayyaf's activities. The US Navy also stepped up its own patrols, increased information sharing with local maritime security forces, and participated in training exercises all designed to counter illicit activity and protect maritime commerce. Still, ReCAAP once again issued a warning about possible crew abductions by the Abu Sayyaf group in May of this year and there is some concern that ship attacks may increase as Filipino security forces continue their assault on the group. A key leader of Abu Sayyaf was recently captured by local police in Davao City and reprisals are anticipated. The August 24th bombings in Jolo, only 9 days after the arrest, are believed to have been carried out by Abu Sayyaf militants.

West Africa and the Americas

In both the Gulf of Guinea and Latin America pirate attacks have been on the rise, driven by poverty, joblessness, violence, and corruption (see Figure 3). The incidents off West Africa have also been increasingly violent. Armed with assault rifles, shotguns, and knives, the pirates in the Gulf of Guinea kidnapped 49 crewmembers in the first half of 2020, which represents a 50 percent increase from 2019. Recently, in fact, two Russian sailors were kidnapped from a refrigerated cargo ship off Lagos. This is just one of at least 10 incidents in 2020 involving the abduction of crew members and it continues a trend of seafarer kidnappings conspicuous in the Gulf of Guinea. Over 90 percent of crew kidnappings today occur in the waters off of West Africa and the Joint War Committee of Lloyd's of London continues to list the EEZs of Togo, Benin, and Nigeria as areas of enhanced risk.

Pirate attacks against oil platforms and supply vessels in the Bay of Campeche also appear to be increasing. The US government issued a security alert in June of this year warning Americans traveling by boat in the southern Gulf of Mexico to be extra cautious. Armed criminal groups look especially active between the cities of Veracruz and Campeche. Hundreds of oil facilities dot the bay and supply boats constantly shuttle work crews and provisions to and from the Mexican coast. Although the International Maritime Bureau reports only 4 pirate incidents in the Bay of Campeche in the first half of 2020, the US Office of Naval Intelligence reports twice that number and others think attacks are much higher than that.

Local Capacity Key to Reducing Maritime Crime

Criminal actors exploit spaces that lack effective law enforcement and use proximate trade routes to steal cargo and abduct crew members from passing ships. While governments in Southeast Asia and West Africa are enhancing and modernizing their maritime capabilities, most large naval power projection remains an unsuitable and mostly ineffective policy tool for combating illegal maritime activities. Maritime law enforcement capacity, improved regional cooperation, and better local governance can more efficiently target criminal actors and reduce community incentives to engage in maritime crime. The U.S. helps strengthen the capacity of Southeast Asian partners, such as the Philippines, Malaysia, Vietnam, and Indonesia, by providing surveillance equipment, patrol craft, helicopter upgrades, and drones. Through the Obangame Express, a

multinational naval exercise, the U.S. also helps build law enforcement capacity in the Greater Gulf of Guinea focused on maritime domain awareness. France, the U.K. and China have similarly provided ships, equipment, and training to West African governments to help reduce sea-piracy and other maritime crime. The COVID pandemic has exacerbated conditions that drive sea-piracy, such as poverty and joblessness. The WTO expects global trade to drop between 13 and 34 percent in 2020 and the Center for Strategic and International Studies, a think tank in Washington DC, anticipates sizable drops in the GDP of many piracy-prone countries, such as Malaysia, the Philippines, Indonesia, Nigeria, and Mexico. Further, ships will likely become easier targets. Less consumer spending means less trade, which means less revenue for shipping companies to spend on armed guards or other modes of ship protection. Vessel crews are already stretched thin on merchant ships and COVID has only reduced available manpower. On a positive note, both ReCAAP and the International Maritime Bureau report fewer pirate attacks and ship robberies in July and August compared to the same months in 2019. Perhaps the surge in sea-piracy observed during the first half of this year led governments to re-focus and intensify their counter-piracy efforts. Or, possibly we are simply witnessing a short lull in the storm.

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Gender-Based Violence

Central African Republic seeks justice for rural victims of sexual violence (Reuters) By Pacome Pabandji
September 10, 2020

Restoring court operations in rural parts of the war-torn Central African Republic is vital to tackling sexual violence and ensuring victims can seek justice, a top government official said, as the coronavirus pandemic fuels gender-based abuse.

Rape has been widely used as a weapon of war in the country of 4.6 million, which is still largely controlled by armed groups despite the signing of peace deals in 2019 to end a long civil war, according to the United Nations.

Aline Gisèle Pana, minister for women, the family and child protection, said the government's priority was to deploy magistrates outside the capital, Bangui, to re-establish state authority in rural areas ravaged by the seven-year conflict.

"Our first priority is that victims must first obtain justice and to that end there must be a criminal chain," she said, referring to the need to have courts functioning at a local level.

"Until now, medical and psychosocial support is provided in several areas. The big problem now is the legal support," the minister added.

The country is also struggling to contain fallout from the coronavirus outbreak, which has killed 62 people and infected more than 4,700, Pana said.

"Unfortunately, we do not have the necessary means to deal with these two problems," she told the Thomson Reuters Foundation in Bangui.

Sexual violence has increased since lockdown curbs began, keeping women and girls stuck at home with their abusers and limiting access to health and support services, according to a study led by the United Nations Development Programme (UNDP).

Reports of injuries to women and children rose by almost 70% since April and reported rapes increased by 27%, according to a report by crime analysts in partnership with the U.N. peacekeeping mission (MINUSCA).

Few victims have access to help or justice in the country, especially in the vast hinterland where insecurity and the continued threat of armed groups have hindered justice, according to Amnesty International.

Beatrice Epaye, a deputy and president of Fondation Voix du Coeur, a charity that helps survivors of sexual violence, said most victims are too frightened to seek justice and victim services are insufficient.

Government authorities have sought to tackle violence by establishing a special criminal court in an effort to help deliver justice and a joint rapid response unit to combat sexual violence, which has been operational in the capital since 2017.

Campaigners have also hailed the adoption of a new child protection code in 2020 as a breakthrough to addressing violence

against children, but warned that enforcement would be difficult.

“There are (legal) texts that criminalise gender-based violence, the big challenge is to... ensure (they) are enforced and that perpetrators are brought to justice,” said Zihahirwa Nalwage, UNICEF’s chief of child protection in the country.

Specialised courts to deal with gender-based violence welcomed by advocacy groups (Independent Online)

By Thobeka Ngema

September 23, 2020

SPECIALISED courts dealing with cases of femicide and gender-based violence (GBV) have been applauded by advocacy groups that deal with them.

Health MEC Nomagugu Simelane- Zulu said KwaZulu-Natal now had specialised courts established in parts of the province, intended to ensure that where there was a case of femicide or GBV, it does not take two or three years to get to court.

By then, those involved have forgotten or the children have grown up, which then defeats the ends of justice.

Simelane-Zulu on Sunday said Premier Sihle Zikalala had engaged with the national government to ensure that KZN had specialised courts.

“The engagement the premier had with national government really assisted because we then saw a few such specialised courts being implemented in the province.

“They are not enough, but at least we have started.”

Childline KZN acting director Adeshini Naicker said they approved the idea of having more specialised courts.

“A specialised court would mean prompt and swift convictions. The court process would become integrated with the healing process, as opposed to the current situation where a child completes the therapeutic process but is unable to heal because of being called, sometimes years later, to testify.”

She added that many perpetrators re-offend while out on bail, therefore having swift action would also help bring down the statistics.

Commission for Gender Equality spokesperson Javu Baloyi said they have been decrying the slow pace at which cases of femicide and GBV were prosecuted.

Baloyi said it should not only be about specialised courts, but also the sensitisation in gendered matters of those who work in those courts, such as magistrates, judges, court interpreters, police, lawyers, correctional officers, prosecutors and others.

He said this would assist in ensuring that survivors were not subjected to secondary victimisation by the language and line of questioning.

“If these courts function properly, we will see lots of perpetrators of gender-based violence and femicide facing the full might of the law.

“Survivors at times withdraw cases because of long delays. We trust that with these courts there would be justice for both the survivors and perpetrators,” said Baloyi.

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Commentary and Perspectives

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'The Life of the Law Has Not Been Logic; It Has Been Experience:' International Legal Ethnography and the New Legal Realism (Heinz Klug, Elizabeth Mertz, Shauhin Talesh and Frances Tung, eds., Handbook on New Legal Realism. Edward Elgar, Forthcoming)
Jens Meierhenrich and Richard Ashby Wilson

September 14, 2020

Scholars in law and the social sciences are calling into question the conventional doctrinal account of how international law works. We join this chorus by extolling the virtues of a new method for studying the social life of international law: international legal ethnography. Ethnographic approaches advance the project of the New Legal Realism by explaining legal outcomes through a multidisciplinary study of concrete institutional practices and the subjectivity of legal actors in international justice institutions. A full understanding of why international courts produce influential legal precedent as well as incoherent law and failed prosecutions requires a grasp of both international legal doctrine as well as the organizational culture and quotidian practice of international organizations. International justice institutions are neither insulated from the vagaries of global politics, nor simply reducible to them. Because of their unique and structurally-fragile position betwixt and between national legal cultures, international criminal tribunals have of necessity created a socialization process that inculcates distinctive norms, practices and values among its staff, a process that has identifiable consequences for legal process and outcomes. Our ultimate goal is neither naive faith in the probity of international tribunals, nor a reflexively moral dystopianism, but a clear-eyed assessment of both the successes and shortcomings of international justice institutions.

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