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War Crimes Prosecution
Watch

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

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Contents

AFRICA

NORTH AFRICA

Libya

CENTRAL AFRICA

Central African Republic

Sudan & South Sudan

Democratic Republic of the Congo

- **Five Killed in Rebel Attack in Restive DR Congo Province (The Defense Post)**
- **Katanga Rebels Stage Incursion Into DR Congo Mining Centre (Barron's)**
- **WHO to investigate allegations of sexual exploitation and abuse in Ebola response in the Democratic Republic of the Congo (World Health Organization)**
- **UNICEF statement on allegations of sexual exploitation and abuse in the Democratic Republic of the Congo (UNICEF)**
- **DR Congo: Take Concrete Steps to End Impunity (Human Rights Watch)**

WEST AFRICA

Côte d'Ivoire (Ivory Coast)

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

- Nigeria's Boko Haram crisis: 'Bomb on donkey' used to ambush Borno governor (BBC News)
- Nigeria: Boko Haram - Military Approaches Cameroon for Support (AllAfrica)

Mali

- Families await freed hostages' return in Mali's capital (AP News)

Liberia

- Liberia: Another Lost Opportunity, President Weah Fails to Request UN Assistance for War Crimes Court (Liberian Observer)

EAST AFRICA

Uganda

- Kony war victims seek compensation (New Vision)
- Court directs on MP Zaake's torture case (New Vision)

Kenya

- Kenya: Legal action taken over cops' lockdown brutality (AA)
- Suspected extremists abduct 3 non-Muslims in Kenya's North (Star Tribune)

Rwanda

- Belgium Arrests 3 Men Suspected of Involvement in Rwandan Genocide (New York Times)
- Rwandan genocide suspect seeks transfer to The Hague (ABC News)
- Félicien Kabuga: French court backs extradition of Rwanda genocide suspect (BBC News)
- UN Court Selects Judges For Félicien Kabuga Case (KT Press)
- Kabuga's Attorney Battles Transfer, As UN Court Publishes Official Criminal Counts (KT Press)
- Will Judge Agius' decision reverse predecessor's legacy of minimising genocide? (The New Times)

Somalia

- Roadside bomb blast kills 6 soldiers in Somalia (Andalou Agency)

EUROPE

Court of Bosnia & Herzegovina, War Crimes Chamber

- Bosnian Serb Wartime Camp Guards Convicted of Abusing Prisoners (Balkan Transnational Justice)
- Bosnia Adopts Long-Delayed National War Crimes Strategy (Balkan Transitional Justice)
- Three Persons charged for War Crimes against Civilians during War in Bosnia and Herzegovina (Sarajevo Times)

International Criminal Tribunal for the Former Yugoslavia

- **Bosnian Serb War Criminal Asks for Review of Life Sentence (Balkan Transntional Justice)**

Domestic Prosecutions In The Former Yugoslavia

- **1st Kosovar Albanian arrested on war crimes charges (AP News)**

Turkey

- **Fresh allegations about mistreatment of Kurds in Turkey (Arab News)**

MIDDLE-EAST

Iraq

- **British ex-soldier Major Robert Campbell cleared over Iraqi teenager's death (BBC)**
- **Five civilians killed in Baghdad rocket attack (Al Jazeera)**
- **KRG To Present Evidence About Anfal, Feyli Kurds During Un Meeting On Enforced Disappearances (NRT)**

Syria

Yemen

- **UN report finds 'immeasurable' atrocities against children in Yemen (TRT World)**
- **CWRU law student organization publishes white paper documenting war crimes in Yemen conflict (CWRU Law)**

Special Tribunal for Lebanon

Israel & Palestine

- **Israel's 'silent transfer' of Palestinians out of Palestine (Al Jazeera)**
- **Investigating Israel will 'undermine entire infrastructure on which ICC is based' (Israel Hayom)**

Gulf Region

ASIA

Afghanistan

- **US: Lawsuit Challenges ICC Sanctions (Human Rights Watch)**
- **Australia needs a permanent war crimes investigation unit (The Age)**

Extraordinary Chambers in the Courts of Cambodia

Bangladesh International Crimes Tribunal

- **Democracy Is Dying in Bangladesh. Targeted Sanctions Could Save It. (The Diplomat)**
- **Bangladesh outraged by Myanmar's falsehood, fabrication of facts at UNGA (Dhaka Tribune)**

War Crimes Investigations in Myanmar

- **Rakhine Civilians Tell of Beatings During Overnight Detention by Myanmar Army (Radio Free Asia)**
- **KNU Denies Burma Army Accusation Its Troops Killed Two Soldiers on the Kawkaik-Myawaddy Old Road and Booby Trapped Corpse Killing Three and Wounding Five More Soldiers (Karen News)**
- **Five Rohingya Killed in Shooting Incidents in Myanmar's Rakhine State (Radio Free Asia)**

AMERICAS

North & Central America

- **Human rights lawyers sue Trump administration over 'unconstitutional' ICC sanctions (Dhaka Tribune)**

South America

- **Rodrigo Tovar Pupo: Colombia arrests deported AUC ex-leader 'Jorge 40' (BBC)**

Venezuela

- **Venezuela's Maduro Rails Against U.S. In Address To The UN (OAN)**

TOPICS

Truth and Reconciliation Commission

- **Former Security Branch clerk's claim that apartheid perpetrators received a pardon from President Mbeki is 'absolute hogwash' (Daily Maverick)**

Terrorism

Piracy

- **Somali Piracy: Last Three Hostages Freed Although Threat Still Exists (Homeland Security Today.com)**
- **Navy, Air Force foil pirate attack (Graphic Online)**
- **Surge of Piracy amid Coronavirus Outbreak (Global Risk Insights)**

Gender-Based Violence

- **Nobel laureate Nadia Murad denounces lack of will to end sexual violence as a war tactic (UN News)**
- **Iraq urged to investigate attacks on women human rights defenders (UN News)**

Commentary and Perspectives

WORTH READING

- **Abdul Mahir Hazimn: A Critical Analysis of the Rome Statute Implementation in Afghanistan**

AFRICA

NORTH AFRICA

Libya

[\[back to contents\]](#)

CENTRAL AFRICA

Central African Republic

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

[\[back to contents\]](#)

Sudan & South Sudan

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

[\[back to contents\]](#)

Democratic Republic of the Congo

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

Five Killed in Rebel Attack in Restive DR Congo Province (The Defense Post)

September 25, 2020

Five people were killed overnight in the eastern DR Congo region of Beni by rebels from the Allied Democratic Forces (ADF), a notorious militia blamed for hundreds of deaths,

local sources said Thursday.

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"In the morning, five bodies were found in Mutuanga after an ADF attack at night. This afternoon the death toll rose to 11," Donat Kibwana, the top official in Beni, in North Kivu province, told AFP.

But the Kivu Security Tracker and a local civil society official put the toll at five.

The civil society official, Paluku Batoleni, said the attack in Kibuana — about 60 kilometers (40 miles) from the Ugandan border — took place at 8:00 pm (1800 GMT) on Wednesday.

Twelve civilians and a soldier were killed in a weekend attack also blamed on the ADF rebels also in an area of North Kivu near neighboring Uganda dubbed the "Triangle of Death."

The ADF has killed 570 civilians since the army launched a crackdown against them in November last year, according to experts.

The militia, which originated in the 1990s as a Ugandan Muslim rebel group, is one of more than 100 armed groups that trouble the eastern provinces of the vast Democratic Republic of Congo.

The attacks are apparently reprisals for the army operation or designed to warn locals against collaborating with the army.

But since April last year, some of the attacks have been claimed by the Islamic State.

Katanga Rebels Stage Incursion Into DR Congo Mining Centre (Barron's)

September 26, 2020

Hundreds of separatist rebels staged an incursion into the Democratic Republic of Congo's major mining town of Lubumbashi during the night leaving two policemen and a soldier dead, officials said Saturday.

"The toll is 16 attackers neutralised, several wounded and captured," provincial interior minister Philbert Kunda Milundu announced.

"Two policemen were decapitated and one soldier shot dead," he told reporters, saying no civilians had been hurt.

The situation was now "under control", his statement added.

"Bakata Katanga insurgents entered the town from 1am," (2300 GMT Friday) firing live bullets and "managed to reach the town centre", the minister had earlier told AFP.

Several witnesses told AFP the rebels had raised the flag of the short-lived republic of copper and cobalt-rich Katanga in a main square of Lubumbashi, in the DRC's southeast.

They attacked the regional headquarters of the national broadcaster RTNC, the interior minister said.

State television and radio went off the air in Lubumbashi.

Kunda said the rebels, armed with AK-47 assault rifles, other firearms, machetes and bows, had split into two groups of 300 and 100.

"Accompanied by women and children, they shouted slogans about the autonomy and independence of Katanga," as they made their way through the town, the minister said.

However with soldiers and police deploying in large numbers, the gunfire became only sporadic and the town's biggest shop opened for business during the morning at the request of the mayor, an AFP correspondent at the scene said.

"The situation is under control. It's time to clean up," Upper Katanga province's information minister and spokesman Harce Kayumba told AFP.

"The shooting you can hear now is more of a deterrent than confrontational, at least for now," the minister explained during the morning, saying security forces had been ordered to fire in the air.

"Our forces have been told not to shoot at them but to follow them on their way through," Kayumba said. There was an attempted breakout from the town's Kassapa jail on Friday night before the incursion with the help of heavily-armed outsiders, but it was

stopped, the authorities said.

"Four detainees who made a hole in the prison wall to escape have been shot dead," said prison director Pelar Llunga, adding the facility had been badly damaged.

Officials had previously reported no deaths.

WHO to investigate allegations of sexual exploitation and abuse in Ebola response in the Democratic Republic of the Congo (World Health Organization)

September 29, 2020

The World Health Organization, leadership and staff, are outraged by recent reports of alleged sexual exploitation and abuse in the context of the Ebola response in the Democratic Republic of the Congo (DRC).

The actions allegedly perpetrated by individuals identifying themselves as working for WHO are unacceptable and will be robustly investigated.

The betrayal of people in the communities we serve is reprehensible. We do not tolerate such behaviour in any of our staff, contractors or partners.

Anyone identified as being involved will be held to account and face serious consequences, including immediate dismissal.

The Director-General has initiated a thorough review of the specific allegations, as well as broader protection issues in health emergency response settings.

WHO has a zero tolerance policy with regard to sexual exploitation and abuse.

UNICEF statement on allegations of sexual exploitation and abuse in the Democratic Republic of the Congo (UNICEF)

September 30, 2020

"UNICEF is appalled that people who identify as UNICEF workers have reportedly committed abuse against vulnerable women in the Democratic Republic of the Congo./p>

"Our team on the ground is doing a thorough assessment of the facts and will be joined by additional colleagues to seek further detailed information about what has happened. We will coordinate with other UN agencies and NGO partners. We have no tolerance for sexual exploitation and abuse and take all allegations of misconduct seriously and there will be serious consequences for any staff who have been found to have sexually abused people. Exploiting vulnerable women is reprehensible and those who perpetrate such acts must be held accountable.

"We encourage all victims to come forward and we ask anyone with knowledge of misconduct involving UNICEF operations to report it.

"Over the past two years, we have strengthened our efforts to prevent, and respond to, sexual exploitation and abuse by putting victims first. Our top priorities are to provide victims with assistance, ensure swift and victim-centered investigations; vet and train personnel and partners; and establish safe and accessible reporting channels. In DRC, UNICEF has established reporting mechanisms that are safe, accessible and sensitive to children and women. In addition, UNICEF provided mandatory training in the prevention of sexual exploitation and abuse for its partners.

"It is clear that this is not enough. We need to do more, especially at the community level. We are committed to working closely with communities across DRC to end such abuses and to establish a safe environment for victims to come forward."

DR Congo: Take Concrete Steps to End Impunity (Human Rights Watch)

October 1, 2020

The Congolese authorities and the United Nations have not done enough to hold human rights violators to account and deliver justice to victims a decade after the landmark UN Congo Mapping Exercise Report was published in October 2010, Amnesty International and Human Rights Watch said today.

The mapping report documented more than 600 incidents of serious violations of international human rights and humanitarian law committed in the Democratic Republic of Congo between March 1993 and June 2003.

“The failure to identify and put in place adequate mechanisms to provide justice and reparations has left thousands of victims and their families helpless,” said Deprose Muchena, Amnesty International’s regional director for East and Southern Africa. “As a consequence, widespread impunity continues to reign in Congo and the wider region, contributing to the recurrence of killings and other serious crimes.”

President Felix Tshisekedi should make the fight against impunity a priority for his administration and take meaningful steps to hold those responsible for past and present human rights violations accountable, the organizations said.

The UN commissioned the Congo mapping project following the discovery of three mass graves in North Kivu province, eastern Congo, in 2005 and published its findings on October 1, 2010.

The Congo Mapping Exercise Report describes serious violations of international human rights and humanitarian law, concluding that a majority of the documented abuses qualified as war crimes and crimes against humanity.

With reference to particular events between 1996 and 1997, the report raised the question of whether certain crimes committed by Rwandan troops and their Congolese ally, the Alliance des forces démocratiques pour la libération du Congo-Zaïre (Democratic Forces Alliance for the Liberation of Congo-Zaïre) rebel group, against Rwandan Hutu refugees and Congolese Hutu citizens could be classified as “crimes of genocide.” It specified that a competent court should make this determination.

All violations and abuses documented in the report were committed by a range of actors, including foreign armies, rebel groups, and Congolese government forces, in waves of violence that engulfed the country between 1993 and 2003.

In addition to exposing serious violations and abuses, the researchers assessed the capacity of Congo’s justice system to adequately address the documented crimes, and proposed reforms and alternative judicial mechanisms that could deliver justice and reparation. But none of the mapping report’s recommendations have been carried out, and most of the documented crimes remain unpunished.

Although efforts have been made to investigate and prosecute grave crimes over the last 10 years, mostly through military courts, they have confirmed serious shortcomings in the domestic justice system. While in 2004 the International Criminal Court (ICC) opened investigations over serious crimes committed in Congo after July 1, 2002, many of the events described in the mapping report occurred before that date.

The ICC has convicted three former rebel leaders for atrocities committed in Ituri in 2002-2003, but the Congo cases brought before the ICC have failed to address accountability by senior political and military officials.

“The UN Mapping Report remains a powerful reminder of the crimes committed in Congo, the shocking absence of justice, and the consequences of impunity,” said Thomas Fessy, senior Congo researcher at Human Rights Watch. “Ten years on, the Congolese authorities and international partners should take serious steps to strengthen the domestic justice system and establish an internationalized mechanism that will ensure credible and independent justice for past and present crimes.”

[\[back to contents\]](#)

WEST AFRICA

Côte d'Ivoire (Ivory Coast)

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

[\[back to contents\]](#)

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

Nigeria's Boko Haram crisis: 'Bomb on donkey' used to ambush Borno governor (BBC News)

September 28, 2020

Militants linked to the Islamic State group (IS) have used a donkey strapped with explosives to ambush the convoy of the governor of Nigeria's north-eastern Borno state.

Governor Babagana Zulum was returning to the state capital, Maiduguri, from Baga town when they were ambushed.

Sunday's attack came two days after he had survived another attack while travelling to an area near Lake Chad.

At least 18 people were killed in that ambush.

Among them were 14 police officers and soldiers and four civilians.

Islamic State West Africa Province (Iswap) militants, who were behind the attack, split from Boko Haram, an Islamist group that launched its insurgency in north-eastern Nigeria a decade ago.

The group's campaign of violence has spread to neighbouring countries, killing more than 30,000 people and forcing two million from their homes, according to the UN.

What happened in Sunday's attack?

Governor Zulum was returning from Baga where he had accompanied hundreds of residents who returned to the town they fled in 2014 following deadly jihadist attacks.

When soldiers saw the donkey on the road, they shot at it. Explosives then went off and the militants immediately came out from their hide-out to open fire on the convoy, an official who was in one of the vehicles in Governor Zulum's convoy told the BBC.

A number of insurgents were killed in the ensuing shoot-out. No-one in the convoy - including the governor - was injured but some vehicles were damaged by bullets, the official said.

Governor Zulum said last week that feeding people displaced by violence in the state was not financially sustainable, insisting that the only option was for them to return and rebuild their homes in order to live a "dignified" life, news agency AFP reports.

Aid agencies have, however, expressed worry about the people's security.

Despite regional efforts to end Boko Haram's campaign of violence, the group has stepped up its attacks in recent months.

Nigeria: Boko Haram - Military Approaches Cameroon for Support (AllAfrica) By Michael Olugbode

October 4, 2020

The Multinational Joint Task Force (MNJTF), a combined military formation of West and Central African countries, at the weekend, approached the Cameroonian forces for assistance, especially in terms of reinforcement, to enable them turn the tide against the Boko Haram terrorist group in the troubled Chad Basin. The request followed a spate of attacks by the insurgents lately, which involved several military fatalities.

The terrorist group has continued to pose a serious threat along the Chad Basin, launching three attacks on the convoy of the Borno State Governor, Professor Babagana Zulum. The second attack claimed the lives of about 30 persons, mostly security personnel on the convoy. A third attack followed just days after. Just before the attacks on the governor's convoy, the insurgents had killed a Nigerian army commander and some of his soldiers in an ambush also in Borno State.

It was against this backdrop that MNJTF, which comprises units from Nigeria, Benin, Cameroon, Chad, and Niger, contacted the Cameroonian military for support.

A press release yesterday by the Chief of Military Public Information of the N'Djamena-headquartered formation, Colonel Muhammad Dole, revealed that the MNJTF Force Commander (FC), Major General Ibrahim Manu Yusuf, made the appeal during a three-day operational visit to Cameroonian formations/units in Maroua, in the Far North Region of the Republic of Cameroon.

Dole stated, "It is pertinent to note that the operations of Sector 1 MNJTF (Cameroon) are closely linked with the operations of

other formations of the Cameroonian Defence Forces. These include Operation EMERGENCE by the 4th Joint Military Region and the 4th Gendarmerie Region as well as Operation ALPHA by the Rapid Intervention Battalion (BIR), all located in Maroua."

According to the statement, Yusuf, in his response, appreciated the political support and public goodwill extended to Sector 1 of MNJTF. He added that the support had facilitated the smooth execution of non-kinetic operations, leading to the surrender of several insurgents in Sector 1 Area of Operation.

Dole stated that the FC was emphatic on the unalloyed commitment of the MNJTF to creating conducive environment for the return of Internally Displaced Persons (IDPs) and refugees to their homes to pursue their legitimate economic activities.

Yusuf also visited the Headquarters of Fourth Joint Military Region, where the Commander, Major General Saly Mohamadou, extolled the existing synergy among Operations EMERGENCE, ALFA and troops of Sector 1 of MNJTF. Mohamadou, however, urged the Force Commander to explore additional areas in which the two operations could further consolidate on the operational successes recorded. He expressed the willingness to continue with joint operations between the national and MNJTF forces in the region.

Yusuf acknowledged the need for sensitisation of national forces on the imperative of non-kinetic measures as complementary efforts to kinetic operation to ensure continuous insurgents defection, the statement said. He added that winning public support was a tested veritable strategy for successful counter-insurgency operations in the region. The FC urged commanders of both the national and MNJTF forces to sustain regular operational visits for better understanding and mutual benefits.

[\[back to contents\]](#)

Mali

Families await freed hostages' return in Mali's capital (AP News) By Baba Ahmed

October 7, 2020

Relatives and supporters on Wednesday anxiously awaited the return of a prominent Malian politician and a French aid worker released by Islamic extremists, after families were notified of their release.

Family members of Soumaila Cisse and Sophie Petronin still were awaiting details of a reunion in the capital, Bamako, nearly 24 hours after first hearing word of their freedom. The reason for the delay was not immediately known, though French government spokesperson Gabriel Attal told reporters it was an "extremely sensitive" situation.

Petronin's nephew told France's BFM-TV he had received no new information since Tuesday evening but remained upbeat: "We're not worried, we're calm. The latest news was that the embassy was preparing her arrival, but we don't know the timing."

Cisse was seized earlier this year, and Petronin in 2016.

News of their release came just days after the Malian government freed nearly 200 jailed jihadists and flew them to the northern town of Tessalit, fueling speculation of a prisoner exchange.

Even as relatives and supporters cheered news of their release, concerns began mounting about the long-term impact of such a deal.

Laith Alkhouri, an intelligence specialist who researches extremism in West Africa, said the reported prisoner exchange could prove costly in Mali, where jihadists already launch frequent attacks on soldiers and U.N. peacekeepers.

"The likelihood is that these very jihadists will ultimately engage in militant activities," Alkhouri said. "It will look good for the hostages to be released, but in the end the release of dozens and dozens of jihadists back into the battleground will negatively impact the security structure." There was no immediate confirmation on whether a ransom was paid. Extremist groups in the Sahel have long funded their organizations through kidnappings. A total of nine Western hostages seized from Mali, Niger and Burkina Faso are believed to remain in the hands of various jihadist groups.

The al-Qaida-linked JNIM group, believed to have held Petronin and Cisse, is led by Iyad Ag Ghali, a Tuareg rebel leader once considered a key mediator in the negotiations to free European hostages held for ransom.

JNIM was officially formed in 2017 when four extremist groups joined forces: al-Qaida's North Africa branch, Al Mourabitoun, Ansar Dine and the Macina Liberation Front.

JNIM-linked militants are believed to be holding at least seven of the remaining foreign hostages: Italians Pierluigi Maccalli and Nicola Ciacco, Australian doctor Ken Elliott, Colombian nun Gloria Cecilia Narváez Argoti, South African national Christo Bothma, Swiss national Beatrice Stockly and Romanian citizen Julian Ghergut.

The other two, American Jeffery Woodke and German Jorg Lange, are believed to be held by extremists linked to the rival Islamic State group.

Petronin was seized in December 2016. She appeared 18 months later in a video released on Telegram by JNIM alongside the Colombian nun.

In March, extremists ambushed Cisse's vehicle while he and his entourage were campaigning in northern Mali. The three-time presidential candidate was later re-elected to his parliament seat while in captivity.

The only proof that he was still alive was a handwritten letter delivered in August. Negotiations for his release had appeared to stall after a military coup overthrew democratically elected President Ibrahim Boubacar Keita, who beat Cisse in the 2013 and 2018 elections.

While a transitional civilian government has been chosen, new elections are being organized with a 2022 deadline, providing a possible new political avenue for Cisse.

"We are here today to wait for our president (Cisse), the hope of the new Mali, Soumaila Cisse," said Ousmane Doumbia in Bamako. "All us here, we want Soumaila Cisse to come. We are sure he is alive."

[\[back to contents\]](#)

Liberia

Liberia: Another Lost Opportunity, President Weah Fails to Request UN Assistance for War Crimes Court (Liberian Observer)

September 28, 2020

Once again, President Weah's address to the United Nations General Assembly currently convening in New York, where he was expected to provide an update on ongoing developments in the country, as well as to make a case for continued development assistance to Liberia, has fallen short of expectation.

For the past few years since his ascendancy to office, human rights groups have been hoping that President Weah would keep his promise to implement the recommendations of the Truth and Reconciliation Commission (TRC) contained in its official Final Report submitted to the Government of Liberia in 2010.

Those recommendations were/are intended to foster reconciliation by having perpetrators of economic crimes and crimes against humanity account for their actions. Former President Sirleaf, during whose tenure the report was submitted, failed to act on its recommendations or did so in half-hearted measures that amounted to wasted efforts.

It is for this reason that the public and the international community welcomed the idea of a George Weah Presidency with hopes that he would have struck a blow against impunity by ensuring that the recommendations were implemented. Those hopes were premised on the popular perception that President Weah did not come to office with excess baggage of Liberia's 14-year conflict, meaning he was not known to have links to any of the warring factions.

In its report the TRC documented tens of thousands of violations, which is more violations recorded than any previous truth commission anywhere in the world. These documented violations, to which officials of the past and present government have turned a blind eye, represent the experiences of about twenty thousand Liberians who reported to the TRC although the universe of victims is much larger.

The 17,160 statements analyzed by the TRC contain information about 86,647 victims and 163,615 total violations. Total violations include 124,225 violations suffered by individual victims, 39,376 suffered by groups, and 14 by institutions. The violations were grouped into 23 categories including forced displacement, cannibalism, rape and murder.

Additionally, the information generated by the TRC which is disaggregated by sex shows 46,188 female victims which account for 37.2 percent of total violations reported, while the figure for male victims stands at 76,905 males, accounting for 61.9 percent of total violations and the figure for unknown victims by sex stands at 1132, accounting for 0.9 percent.

Accordingly, twenty-three types of violations (crimes) were identified as having been committed during the period of conflict. The type and percent accounting for each violation is also clearly identified in the report.

Amongst these violations, "Force Displacement" stands out as the highest, accounting for one-third (1/3) -- 36 percent of total violations -- while 28,000 killing violations were recorded, accounting for 17.1 percent of total violations and ranking as the second highest recorded violation. Ranking third in order is "Assault" standing at 13,222 victims and accounting for 8.1 percent.

Next and ranking 4th in order at 8 percent is "Abduction" accounting for 13,045 victims; fifth in ranked order at 4.7 percent is "Looting", accounting for 7,619 victims followed by "Forced Labor" accounting for 7,560 victims and ranking at 4.6 percent of total violations.

According to analysts, the quantitative analytical account presented to the TRC can, "identify patterns and trends of violations experienced or perpetrated by the statement givers collectively and together, the aggregate group of statements can magnify the voices of victims and provide a body of empirical data that can help in processes of acknowledgement, accountability, understanding and closure."

But closure appears a long way off because, after nearly three years, victims of the Liberian civil war are still awaiting a response from the government of Liberia to their plight. Aside from the physical wounds and scars that many people bear, the shock and trauma of those events that may appear to lie buried deep within the subconsciousness could very well be deceptive.

Victims long for at least some recognition of their status as victims of a war which they did not invite upon themselves. It can be recalled that the Disarmament, Demobilization Rehabilitation and Reintegration (DDRR) program for ex-combatants served to create a widespread perception among local people that those who wrought so much havoc on their lives were being rewarded through the provision of educational opportunities and even cash while the victims of the conflict were left to their own devices.

The TRC recommended the implementation of a Reparations program to address the needs of victims. Even a formal apology by the sitting President to the Liberian people for the state not having defended and protected their rights, though recommended, has not been forthcoming. And in all this, the Liberian people have received absolutely no guarantees that the egregious abuse of human rights experienced during the civil conflict will never be repeated.

Today impunity looms large in the land. This can be seen in the ostentatious lifestyles of officials of this government which is made possible by corruption of the runaway kind. Even notorious criminals including convicted armed robbers are routinely released from prison believably on the instruction of higher-ups

Additionally, the Liberian people are bearing witness to the recruitment of former rebels and ex-rebel generals into the ranks of the national security forces. A number of these unsavory elements have been seen actively engaged with the Liberia National Police(LNP) in putting civil demonstrations around the country especially in Monrovia.

What officials of this government appear not to be mindful of is the power and destructive force of pent-up emotions and frustrations of a people which can be unleashed as a result of a loss of faith in their leaders and institutions. The current wave of fraud including voter trucking in the ongoing Voters Roll Update (VRU) process is provocative and is already inciting violence.

The fact that these acts of violence, which have gone with impunity, tend to suggest that President Weah may not even be mulling a request to the UN for assistance in establishing a war and economic crimes court for Liberia. His address to the UN General Assembly, which should have provided him a perfect opportunity to make Liberia's case for Criminal Accountability, has turned out to be another lost opportunity.

[\[back to contents\]](#)

EAST AFRICA

Uganda

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

Kony war victims seek compensation (New Vision) By Robert Adiga

October 1, 2020

Over 750 victims and relatives of people who lost property and lives during the 20-year-long insurgency in northern Uganda are threatening to drag the Government to court over delayed compensation.

A total of 759 victims of the attacks by Joseph Kony's Lord's Resistance Army (LRA) rebels from Arua city, Terego, Madi Okollo and Maracha districts, have, in a letter dated September 21, 2020, served the Attorney General, on behalf of the Government, with a notice of intention to sue.

Under their umbrella organisation, the Arua District Kony War Victims Association, the victims say the Government failed to provide them security and safety from LRA and to compensate them for the lives and properties lost.

The victims are seeking sh99b in compensation.

Alex Matua, 55, the chairperson of the association, said the decision to seek court redress comes after 12 years of attempts to seek justice without success.

Matua is demanding over sh600m for the loss of his merchandise.

"When Simon Ejua, the Vurra MP and state minister for transport, promised to help us, I gave him all the documents.

He took me to Prof. Tarsis Kabwegyere, the general duties minister in the Office of the Prime Minister at the time.

He promised to assess our payment. However, up to now, nothing has been done," he said.

"When President Yoweri Museveni was campaigning in Arua, he also asked Aridru Ajedra, the state minister for finance, about the issue. But, that too, did not yield any results."

On April 19, 2017, the office of the Arua district chairperson wrote to the President, asking for compensation, but they have not received anything yet.

Victims' testimonies Some of the victims and their relatives who spoke to New Vision narrated how they lost capital and ran out of business during the insurgency.

James Adoroti, 58, a businessman, who escaped from Kony rebels twice, said he can hardly pay school fees for his children.

He added that one of his brothers, only identified as Adia, is still missing.

Agnes Adakuru, a victim, who met the rebels on November 26, 1996, on her way from Kampala, said she lost all her money in the attack on the bus.

She wants over sh200m as compensation from the Government so she can start rebuilding her life.

Harriet Opisias, 31, a resident of Aoro village in Maracha and a daughter of a victim, is demanding sh40m.

She said she was forced to drop out of school in Senior One after her father passed away and she had to take up the responsibility of looking after her eight siblings.

"My mother has cancer and she cannot be helped. I have many siblings to look after, but it is difficult as I have no source of income. I also depend on my husband for support," she said.

Taibo Chelina, whose husband and son were shot dead during the war, said she is still paying loans that she acquired before the incident.

"My 12-year-old son was shot twice on the chest. When my husband tried to save him, they ordered him to hand over the boy to them and go home. When he refused, they shot him in the arm. He was put onto a bus that was set ablaze," she said.

Court directs on MP Zaake's torture case (New Vision) By Michael Odeng and Barbra Kabahumuza
September 29, 2020

On June 5, 2020, Zaake sued the respondents in the Civil Division of the High Court, seeking orders staying all criminal proceedings against him in connection with his impugned arrest and torture.

Court has directed Mityana Municipality Member of Parliament, Francis Butebi Zaake to file written submissions in a case in which he accuses government of torture.

When the case came up for hearing on Tuesday, Justice Esta Nambayo ordered the lawyers representing Zaake and Government to file written submissions before she sets a ruling date.

"The parties should ensure all submissions are in court record before January 13, 2021, when the case is coming up for mention," Nambayo directed.

Counsels Eron Kizza and Paul Keishari represents Zaake while Mark Muwonge the respondents.

The respondents are Attorney General (AG), Bob Kagarura, the Wamala Regional Police Commander, Alex Mwiine, the Mityana district police commander, and Elly Womanya, the commandant, Special Investigations Division (SID).

Others are Musa Walugembe, the officer in charge SID, Hamdani Twesigye, Haruna Mulungi Nsamba and Abel Kandiiho, the head, Chieftaincy of Military Investigations.

On June 5, 2020, Zaake sued the respondents in the Civil Division of the High Court, seeking orders staying all criminal proceedings against him in connection with his impugned arrest and torture.

Through Kiiza and Mugisha Advocates, Zaake seeks a declaration that intentionally inflicting pain and suffering on him during detention by the respondents and their subordinates infringes on his rights to dignity and freedom of torture, cruel, inhuman and degrading treatment.

"I was punched, kicked, pepper-sprayed in the eyes and tied in a fixed and stressful body position," he claims. The legislator also contends that he was detained incommunicado for 10 days in several places not authorised by the law without allowing him access to medical treatment of his choice.

Zaake also seeks a declaration that the respondents infringed on his right to privacy by unlawfully entering into his home in Mityana district and conducting a search without a warrant.

Court documents indicate that on April 19, security operatives led by police commander Alex Mwine arrested Zaake from his home in Mityana district for distributing food to his constituents in contravention to President Museveni's directive on COVID-19.

The legislator was then produced before the Chief Magistrate's Court at Mityana and charged with a negligent act likely to spread coronavirus infection.

He appeared before Chief Magistrate Elias Kakooza and denied the charges. The offence attracts a maximum sentence of five-year imprisonment, on conviction.

Prosecution alleges that MP Zaake on April 19 flouted lawful guidelines in relation to public gatherings and presidential directives on coronavirus and that he negligently distributed food to communities without putting in place necessary measures to stop the spread of COVID-19.

Defence

In his affidavit, ASP Musa Walugembe, attached to Special Investigations Division (SID) in Kireka said he received Zaake when he had bruises on his wrists, face, and referred him to Iran-Uganda Hospital in Naguru for treatment. Haruna Nsamba Mulungi, a detective attached to Uganda Police Force, denied torturing Zaake.

"While Zaake was talking to his cheering supporters, I handcuffed him peacefully because he was not violent," he said.

The policemen say the allegations of torture levelled against them by Zaake are in bad faith and meant to curtail their official duties.

They say their role is to keep law and order in the society and that AG is vicariously liable for any actions done during the official

duties of government.

[\[back to contents\]](#)

Kenya

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

Kenya: Legal action taken over cops' lockdown brutality (AA) By Andrew Wasike

September 23, 2020

Human rights groups in Kenya on Wednesday filed a case against government officials over the "brutal, disproportionate" use of force by authorities enforcing COVID-19 lockdown.

The rights groups – Amnesty International, Haki Africa, Kituo cha Sheria, and the International Justice Mission – filed the case “on behalf of victims of police brutality” and are seeking compensation from the state.

Dozens of people, including a 13-year-old boy, have been killed and hundreds more injured by police officials tasked to implement curfews and other safety measures.

The rights groups have cited Kenya's police chief, interior minister, and attorney general as the main respondents in the case, accusing them of “failing to uphold their mandate while enforcing the curfew order.”

“There have been several instances of brutal, disproportionate and unnecessary use of force while enforcing the curfew order.

Members of the public have been beaten, shot at, teargassed leading to serious injuries and deaths,” the groups said in a joint statement.

“Moreover, there have been reports of homes and businesses being broken into, looting and extortion.”

In the petition, the rights bodies also pointed out “the intentional failure by the state to operationalize the National Coroners Service Act, the Prevention of Torture Act and the Victims Protection Act.”

“These enacted Acts have not been operationalized, yet they were meant to remedy human rights violations, unlawful killings, degrading treatment and placate the situation of victims of brutality,” read a part of the petition.

Kenya's Independent Policing Oversight Authority (IPOA), the only authority that can hold the police force accountable, has received 87 complaints since the end of March documenting 21 cases where people have been killed.

IPOA said five police officers are to be charged over deaths, shootings, and assault while enforcing the nationwide coronavirus curfew.

An officer implicated in the fatal shooting of 13-year-old Yassin Moyo was indicted in July.

The latest death was of a homeless man from the Mathare slums in the capital Nairobi, who was killed by police officials for allegedly violating the dusk-to-dawn curfew.

Suspected extremists abduct 3 non-Muslims in Kenya's North (Star Tribune) By Tom Odula

September 24, 2020

Officials in Kenya say three non-Muslim bus passengers were abducted by suspected Islamic extremists in Kenya's northern Mandera county that borders Somalia.

Armed gunmen, believed to be Somalia's al-Shabab rebels, stopped a bus about 30 kilometers (18 miles) from Lafey town and ordered everyone out. The attackers picked three passengers from 54 on the bus and ordered the rest to leave, regional police chief Rono Bunei told The Associated Press Thursday.

"We are still pursuing them in an effort to rescue them alive. We are wondering how they (the attackers) knew the three were on board the bus," he said.

He said it's not clear why the bus did not have a police escort, a requirement for commercial transport traveling in Mandera county which has been hard hit by violence from Somalia's extremists.

Al-Shabab has vowed retribution on Kenya for sending troops to Somalia to fight the rebels. Since 2011 Somalia's rebels, who are linked to al-Qaida, have launched scores of deadly attacks in Kenya.

The government repeatedly said since 2014 that it is mandatory for public buses traveling through Mandera county to have armed police escorts.

Al-Shabab rebels have often attacked buses and have singled out and killed non-Muslim passengers. In November 2014, 28 non-Muslims were killed in an attack after they were pulled off a Nairobi-bound bus near Mandera.

In December last year al-Shabab killed 11 police officers who were pulled from a bus that was taking them back to duty in Mandera county.

Since December, al-Shabab has increased the frequency of its attacks in five Kenyan counties along the Somali border that have been named as hotspots for extremist violence. They are Lamu, Garissa, Wajir, Tana River and Mandera counties.

In January the extremists overran Manda Bay Airfield in Lamu county, a key military base used by U.S. counterterrorism forces in Kenya, killing three American Department of Defense personnel and destroying several U.S. aircraft and vehicles.

The frequency of attacks slowed in the months of April, May and June as the coronavirus started spreading in many African towns, including al-Shabab's base in Somalia. Since July Kenya's security forces have experienced an increase in their vehicles being hit by roadside bombs.

[\[back to contents\]](#)

Rwanda (International Criminal Tribunal for Rwanda)

Official Website of the ICTR

Belgium Arrests 3 Men Suspected of Involvement in Rwandan Genocide (New York Times) By Elian Peltier and Abdi Latif Dahir
October 3, 2020

Three men suspected of involvement in the 1994 Rwanda genocide were arrested in Belgium this week, according to the Belgian authorities, the latest in a series of captures linked to the 100-day blood bath in which as many as one million people were killed.

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A spokesman for the Belgian federal prosecutor's office said that the men were arrested on Tuesday and Wednesday, and that two of the suspects remained in detention while the third was put under electronic surveillance.

"The investigation is still ongoing, and the prosecutor's office will determine whether the men should face trial," said the spokesman, Eric Van der Sypt.

He declined to provide details about the identities of the men, who were charged with serious abuse of human rights.

The arrests, which were reported by the Belgian weekly magazine *Le Vif* on Friday, are the latest attempts to bring justice over the genocide, in which as many as one million ethnic Tutsis and Hutus were killed.

After more than two decades on the run, Félicien Kabuga, a wealthy tycoon who was accused of financing the genocide, was arrested by the French authorities in May outside his home in a Paris suburb. Mr. Kabuga, 84, was accused of importing several

hundred thousand machetes that were used during the killings and was also charged over his funding of Radio-Television Mille Collines, which incited hatred against ethnic Tutsis.

Mr. Kabuga denied the accusations, and his lawyers said he was too old to stand trial at a United Nations tribunal in Tanzania. But in late September, France's top appeals court ruled that he should be tried at the Mechanism for International Criminal Tribunals in the Tanzanian town of Arusha.

The tribunal took over the duties of the U.N.'s International Criminal Tribunal for Rwanda, which folded in 2015, and which indicted Mr. Kabuga in 1997 on seven charges, including genocide and crimes against humanity.

Rwanda's government has also sought to arrest and extradite those involved in the genocide. In late August, officials in Kigali wrote to the French authorities in an effort to extradite a former top spy chief, Maj. Gen. Aloys Ntwiragabo, who is accused of crimes against humanity. He was found in July while living in the suburbs of Orléans, about 70 miles southwest of Paris.

Rwanda has also cracked down on those it accuses of denying the genocide and distorting how events unfolded in those tragic days. These include Paul Rusesabagina, the famed hotelier depicted in the movie "Hotel Rwanda" who sheltered 1,268 people during the killings.

Last month, the authorities said they had lured Mr. Rusesabagina — whom they previously accused of minimizing the gravity of the genocide — to return from abroad. He now faces 13 charges, including terrorism, complicity in kidnap and murder, and forming a rebel group, all of which he denies.

The U.N.'s Criminal Tribunal for Rwanda indicted over 90 people and tried 80 of them, according to data provided by the tribunal. Six fugitives suspected of involvement in the genocide remain on an international most-wanted list.

Since 2001, Belgium has held five trials of Rwandans accused of involvement in the genocide. In 2009, a court in Brussels sentenced a former executive of the Commercial Bank of Rwanda, Ephrem Nkezabera, to 30 years in prison for war crimes.

In December, a Brussels court for the first time found a former Rwandan official guilty of genocide. The official, Fabien Nretse, was also found guilty of war crimes and sentenced to 25 years in prison.

Rwandan genocide suspect seeks transfer to The Hague (ABC News) By Mike Corder

October 5, 2020

The defense lawyer of an 87-year-old Rwandan genocide suspect arrested in France has appealed to an international court not to send him to Tanzania to face trial, but instead to transfer him to the Netherlands for health reasons, according to a written request filed Monday.

Félicien Kabuga, one of the most wanted fugitives in Rwanda's 1994 genocide, was arrested outside Paris in May after 25 years on the run. He is accused of genocide and crimes against humanity for equipping militias that killed more than 800,000 ethnic Tutsis and moderate Hutus who tried to protect them.

Kabuga has denied involvement in the massacre.

A court Paris last week approved Kabuga's extradition to a special international court in Arusha, Tanzania. Citing health grounds including fears he could contract COVID-19 in Tanzania, his French lawyer says Kabuga should instead be sent to The Hague, Netherlands.

Lawyer Emmanuel Altit put his request in writing to the president of the U.N.'s International Residual Mechanism for Criminal Tribunals, which had sought Kabuga's arrest since 2013.

The mechanism deals with cases remaining from now-closed U.N. tribunals that prosecuted atrocities committed during the Balkan wars of the 1990s and the Rwandan genocide. The mechanism has branches in The Hague and Arusha.

Altit said Kabuga's health could be badly affected by a flight from Paris to Arusha and warned that he could also contract COVID-19 in Tanzania. He added that a transfer to Tanzania also would separate Kabuga from his family.

Tanzania's president, John Magufuli, has claimed his country is free of the coronavirus because of the power of prayer — but his government stopped publicly updating virus data at the end of April, with just 509 confirmed cases.

Altit wrote that if Kabuga is sent to Tanzania and contracts COVID-19, "he could not be adequately treated since the Tanzanian authorities deny the very presence of the virus on their soil."

It wasn't immediately clear how long the mechanism's president would take to issue a ruling.

Félicien Kabuga: French court backs extradition of Rwanda genocide suspect (BBC News)

September 30, 2020

France's top appeals court has agreed to extradite the alleged financier of the Rwandan genocide, Félicien Kabuga, to face trial in Tanzania.

Mr Kabuga, in his 80s, was arrested in May at his home outside Paris after 26 years on the run.

Some 800,000 people were killed in the 1994 genocide.

Mr Kabuga is alleged to have funnelled money to militia groups as chairman of the national defence fund. He denies all the charges.

During a court appearance in May, he described the accusations as "lies".

His lawyers had argued that he was too frail to be sent to face trial at the UN tribunal in the Tanzanian town of Arusha.

Who is Félicien Kabuga? • Considered the richest man in Rwanda before the 1994 genocide • Made his fortune from tea in the 1970s and ventured into many other sectors at home and abroad • Was close to the ruling MRND party - and related by marriage to President Juvénal Habyarimana, whose death triggered the genocide • Accused of being the top sponsor of the genocide plan and using his business and premises to organise and fund the killing • The main owner of the private radio station RTLM that was accused of inciting ethnic Hutus to kill Tutsis • The United States had offered a reward of \$5m (£4.1m) for information leading to his arrest

What is he accused of? Once one of Rwanda's richest men, Mr Kabuga is accused of financing the Rwandan genocide.

He is alleged to have backed and armed ethnic Hutu militias who slaughtered about 800,000 ethnic Tutsis and moderate Hutus in 1994.

He set up the notorious Radio Télévision Libre des Mille Collines (RTLM), a Rwandan broadcaster that actively encouraged people to search out and kill anyone ethnic Tutsis.

In 1997 he was indicted by the International Criminal Tribunal for Rwanda (ICTR) on seven counts including genocide and crimes against humanity.

What happened in court? Mr Kabuga's lawyers argued that their client should not be transferred to Tanzania for health reasons, particularly during the Covid-19 pandemic.

They also said that the appeals court had violated the constitution by failing to provide a thorough examination of international arrest warrants.

But these arguments were dismissed by the court.

The extradition ruling upheld one by a lower court on 3 June that Mr Kabuga's health was not "incompatible" with a transfer to a UN tribunal.

According to the court, Mr Kabuga is really 85 but says he is 87.

How did he evade capture for so long? Police say Mr Kabuga used 28 aliases.

While on the run, he is alleged to have stayed in various countries in East Africa, including Kenya, where he and his family had business interests.

The French public prosecutor's office said he had been living under a false identity with the complicity of his children.

He was finally detained in a dawn raid on 16 May in the Paris suburb of Asnières-sur-Seine.

What is the court in Arusha?

In the months that followed the genocide, the UN Security Council established the International Criminal Tribunal for Rwanda in Arusha, northern Tanzania.

It was set up to judge the ringleaders of the genocide and more than 60 people were sentenced.

That court was formally closed in 2015 and the Mechanism for International Criminal Tribunals (MICT) took over its mission to find the last genocidaires.

It has no police force, nor powers of arrest, instead relying on national governments to act on its behalf.

UN Court Selects Judges For Félicien Kabuga Case (KT Press) By Daniel Sabiiti

October 2, 2020

In preparing for the transfer of Félicien Kabuga to the United Nations International Residual Mechanism for Criminal Tribunals (IRMCT) President Judge Carmel Agius has assigned three judges to the Trial Chamber to take on the case.

The Judges are: Iain Bonomy (Presiding judge), Graciela Susana Gatti Santana, and Judge Elizabeth Ibanda-Nahamya.

The trio was selected based on the Rule 64(A) of the Rules of Procedure and Evidence of the mechanism which provides that the President shall assign the case to a Trial Chamber upon transfer of an accused to the seat of the relevant branch of the tribunal mechanism.

“I hereby assign, effective upon the transfer of Kabuga to the seat of the relevant branch of the Mechanism, the case of Prosecutor verses Félicien Kabuga- Case No. MICT-13-38-I, to a trial chamber composed as follows: Judge Iain Bonomy, Presiding Judge Graciela Susana Gatti Santana, and Judge Elizabeth Ibanda-Nahamya,” the IRMCT statement signed by Judge Agius said.

The 87 year old Félicien Kabuga was, on the request of Rwanda government, first indicted by the International Criminal Tribunal for Rwanda (ICTR) on 26 November 1997 and the operative indictment against him was confirmed on 13 April 2011.

Kabuga was arrested in France on 16 May 2020 and the French Cassation Court on 30 September 2020 upheld the decision to transfer the suspect to stand justice at the international crimes court based in Arusha, Tanzania.

Once Kabuga transferred to the IRMCT chambers in Arusha, the three judges are expected to read charges levied against him and proceed with initial hearings on the suspect’s defense on each of the charges.

Kabuga, who has been on the run in various countries in Africa and Europe, is alleged to be the financier of the 1994 genocide against Tutsi which claimed over one million victims.

Kabuga is accused of assassination as a crime against humanity, extermination as a crime against humanity, rape as a crime against humanity, persecutions on political, racial or religious grounds as crimes against humanity in addition to various war crimes.

Who are the judges?

Judge Elizabeth Ibanda-Nahamya,

A Ugandan who has an impressive legal background both nationally and internationally with contributions made to the United Nations Criminal Tribunal for Rwanda, Arusha, (as a Trial Chamber Coordinator) and the Special Court for Sierra Leone (as a Principal and Deputy Principal Defender).

She has intense knowledge and understanding of Human Rights policies, practices and procedures as well as institutions on a global scale and a key contributor to the development of international human rights, humanitarian, and criminal law.

She has as a freelance Independent International Legal Expert, Judge, and International Crimes Division of the High Court of Uganda.

Graciela Susana Gatti Santana, from Uruguay

Has been a Judge since 1994 and assigned to different Courts in various locations of Uruguay. Between 2006 and 2008, she was assigned to the Criminal Court of the 7th Term in Montevideo (Capital of Uruguay) and in 2009 she was transferred to the Criminal Court Specialized in Organized Crime of the 1st Term, created at that time.

In 2012 she was promoted to the Appeals Court of the 4th Term (competent in civil matters), and finally, on March 2016 she was transferred to the Court of Criminal Appeals of the 1st Term (current position).

She has been a consultant to the Supreme Court of Justice of Uruguay in the process of implementation of a new Code of Criminal Procedure Law.

Lord Iain Bonomy, from United Kingdom (UK)

Previously served as a criminal prosecutor to the Scottish Bar, and was appointed as Senator of the College of Justice (Judge in the Court of Session and the High Court of Justiciary, the highest court in Scotland).

He has served as a Judge of the International Criminal Tribunal for the former Yugoslavia (ICTY), handling high-profile cases and presided over the trial of former Serbian President Milan Milutinović.

From the ICTY, Judge Bonomy was appointed as a Judge of the Court of Appeal in Scotland, and subsequently served as a Surveillance Commissioner for the UK and as Judicial Commissioner in the Office of the Investigatory Powers Commissioner.

He was recently appointed by Secretary-General of the United Nations, António Guterres of the roster of Judges of the IRMCT mechanism following the resignation of Judge Ben Emmerson on 19 July 2019, and will serve the remainder of Judge Emmerson's term of office.

Kabuga's Attorney Battles Transfer, As UN Court Publishes Official Criminal Counts (KT Press) By

Daniel Sabiiti

October 6, 2020

The defense attorney in the international criminal case of genocide suspect Félicien Kabuga has filed an appeal to the United Nations Residual Court to reverse its decision to transfer the suspect.

In his filed request this October 5, 2020 Kabuga's lawyer- Emmanuel Altit presented an argument to this effect on grounds of his client facing challenges of health conditions, separation from family and threat of the coronavirus pandemic in Tanzania where the case is supposed to take place soon.

This comes shortly after several court battles in France in which the French judiciary finally decided on September 30th 2020 to transfer the case of Kabuga, 87, to be tried at the residual UN international criminal court in Arusha, Tanzania.

Kabuga's case status is pending a pre-trial and subsequent physical transfer to the mechanism's custody in Arusha.

However, Kabuga's attorney said that even if the decision has been taken Kabuga has the right to intervene before his physical transfer to the Mechanism.

One of the reasons, Altit said: "considering that in the current state of affairs it is impossible to transfer Kabuga in Arusha because of the considerable risks that such a transfer would pose to his health and even his life,"

In this respect the lawyer said the mechanism President should consider the privileges that his client holds, to modify urgent the arrest warrant of April 29, 2013 and to order that Kabuga be transferred to The Hague.

The lawyer also sighted fears of his client being separated from his family and also claimed potential exposition to the Covid-19 virus in Tanzania and its neighboring countries.

The request however comes at a time when the mechanism has already appointed three specially qualified international crimes judges to preside over the case whose dates are yet to be announced.

In a mechanism file seen by KTPress <https://www.irmct.org/en/cases/mict-13-38> the proposed court clearly outlined, for the first time, the seven counts (charges) that Kabuga will be facing in international justice.

These are: One count of Genocide (Count 1), one count of complicity in Genocide (Count 2), one count of Direct and Public Incitement to Commit Genocide (Count 3), one count of Attempt to Commit Genocide (Count 4), one count of Conspiracy to Commit Genocide (Count 5) and two counts of crimes against humanity- Persecution (Count 6), and Extermination (Count 7).

According to international criminal case procedures, the request will have to be considered by the mechanism president (Judge Carmel Agius) and its registrar (Abubacarr Tambadou).

However basing on the fact that these same requests were made in the Cassation court in France, before the final decision to transfer Kabuga to Arusha, the court could uphold the same decision in which it trashed the arguments as not substantial to prevent the trial from happening at the residual court in Arusha.

Will Judge Agius' decision reverse predecessor's legacy of minimising genocide? (The New Times) By

Albert Rudatsimburwa

October 6, 2020

On the 17th September 2020, the new presiding Judge of the International Residual Mechanism for Criminal Tribunals (IRMCT), Carmel Agius, denied the early release of genocide convict Laurent Semanza.

This welcome decision runs counter to those of the previous IRMCT president Theodor Meron that were not only outrageous, they lacked any sound legal or moral basis to stand on; they were simply unjustifiable.

It was common for Judge Meron to release of genocide convicts simply because the general practice before UN courts provides that convicts are eligible for early release after serving two-thirds of their sentences.

However, in so doing the judge disregarded an equally important principle of rehabilitation or prevention of recurrence.

This was excellently argued by Holo Barborá, a legal scholar, in the article titled, “Early release of ICTR convicts, the practice beyond the outrage.”

Holo argued that the early release of genocide convicts doesn't allow them to reflect on the wrongfulness of their deeds or to acknowledge responsibility, nor to express remorse or to apologise for their crimes.

Neither is early release concerned with considerations of justice and fairness as the gravity of crimes did not temper Meron's inconsiderate interpretation of laws when exercising his discretionary powers.

As noted above, this miscarriage of justice – which characterised Meron's tenure - is neither informed by fairness or the prevention of the recurrence of genocide, which is the basis of “Never Again.”

If Meron is not concerned with Never Again, then the purpose of the courts itself comes into question, including the fact that the judge's dubious interpretation of laws failed to take into account the sensitivity of those affected by the crimes it sought to prosecute.

The decisions to reduce sentences for or grant early release to genocide convicts under Judge Theodor Meron are a stark reminder of the need to ensure that justice serves the purpose of protecting society from harm.

The creation of international courts, such as the International Criminal Tribunal for Rwanda (ICTR) and subsequently the residual mechanism, was based on the assumption that there exists a human society without borders, built around the idea of a shared humanity.

It is an attempt for the international community of nations – representing a united human society – to stand in solidarity with victims and against those who commit the most heinous crimes perpetrated against humanity; in this specific case, the genocide against the Tutsi.

Meron's conduct, the utter disregard for the humanity of survivors, is evidence that such a society is yet to exist. The world we have fails the Never Again test because not only does the value of human lives deserving protection depend on the interests of the most powerful nations but the sensitivity to the crimes committed varies depending on the perspective that is favoured by the courts.

Hence, if justice and prevention of recurrence were the primary concerns of international courts, then focus on the survivors' sensitivity and the Rwandan society's perspective on rendering court decisions regarding convicts would be important prerequisites.

On the contrary, focus on the perpetrators' sensitivity has emboldened proponents of negationism, revisionism and genocide minimization across the world. They are learning from the attitude of the international community in general and the courts in particular.

For instance, Meron's decisions which failed to take into account the gravity of the crimes constituted a minimization of the genocide against Tutsi, and for a presiding Judge of an international court to minimise genocide is not something to take lightly.

Indeed, if international courts disregard the gravity of the crime of genocide, how can they be expected to uphold Rwandan courts' judgements with regard to the minimization of genocide? This is what happened with the African Court on Human and Peoples' Rights in whose ruling it disregarded the context in which Victoire Ingabire promoted her double genocide theory at the Kigali Genocide Memorial; the court erroneously considered that the right to freedom of expression is more important than efforts to preserve the Rwandan society from such harmful ideology.

This attitude has created a context where the likes of Jean Kambanda, the former Prime Minister of the interim government that executed the genocide, write books from their prison cells to deny the very crimes they were convicted for.

In the process, perpetrators are sanitized. Some have gone as far as allying with the remnants of the genocidal forces roaming in eastern DRC to conduct terror attacks in Rwanda and promoting the very ideology that informed the genocide against Tutsi, which is wrongly characterised as mere political dissent. In the same vein, Ingabire's assertions were wrongly referred to as freedom of speech when they were clearly genocide denial.

Similarly, in many instances, national courts in Africa and Europe have failed to enforce arrest warrants issued by the Rwandan government against genocide suspects or to bring them to justice in their host countries.

As the Australian academic, Phil Clark has revealed, Human Rights Watch once argued that in cases where prosecution was not possible in the countries that have given sanctuary to genocide perpetrators it was preferable to let the suspects walk free. "In the first UK extradition cases, when pre-2002 international crimes couldn't be tried under UK law, HRW was confronted with a choice: a prosecution in Rwanda or impunity. HRW's amicus brief supported the latter and the 5 genocide suspects to this day have never been prosecuted" Clark tweeted.

Such toxic advocacy by a corrupt human rights organization can be partly explained by the failure to identify with survivors' grief and to consider their humanity as something to be recognized and defended.

Judge Theodor Meron's decisions were just a reminder of how the international community has failed Rwandans before, during and after the genocide. It has done so by ignoring warnings, concealing facts to evade the responsibility to protect, spending 2 billion US dollars for the ICTR's shoddy work where less than 70 people were tried for a crime that claimed more than a million lives, sheltering genocide suspects from justice and ultimately releasing those who were convicted without any concerns for fairness and prevention of recurrence.

As such, the international community and its courts have done little to win the trust of Rwandans. Whether Judge Carmel Agius's decision to deny early release to Semanza, which takes note of the Rwandan government's position on the matter - a position that reflects survivors' objections to the release - will reverse the trend set by Judge Meron and restore confidence in the courts remains to be seen.

[\[back to contents\]](#)

Somalia

Roadside bomb blast kills 6 soldiers in Somalia (Andalou Agency) By Mohammed Dhaysane

October 7, 2020

At least six Somali government soldiers were killed and four others wounded when a roadside bomb blast struck a military vehicle in the Middle Shabelle region on Wednesday, an official said.

Ibrahim Adan, a police officer in the region told Anadolu Agency over phone that an "improvised explosive blast hit the military vehicle carrying soldiers traveling from Bal'ad district to a military observation post in the area."

Three soldiers escaped the attack and the wounded were transported to Mogadishu for treatment, he added.

Bal'ad is an agricultural town located 30 kilometers (18 miles) north of the capital Mogadishu and it is the second largest town in the Middle Shabelle region.

Somali-based al-Qaeda affiliated group al-Shabaab claimed responsibility for the attack via internet.

Meanwhile, a military base in Jazira, outside Mogadishu came under attack by al-Shabaab on Wednesday.

The group said it had killed several government soldiers and destroyed six military vehicles in the attack.

[\[back to contents\]](#)

The Court of Bosnia and Herzegovina, War Crimes Chamber

Official Court Website [English translation]

Bosnian Serb Wartime Camp Guards Convicted of Abusing Prisoners (Balkan Transnational Justice)

By Albina Sorguc

September 30, 2020

The Bosnian state court in Sarajevo on Wednesday convicted Boris Bosnjak, Miodrag Grubacic and Ilija Djajic of the abuse of non-Serb civilian prisoners at the Mosa Pijade barracks in Bileca during wartime in 1992.

In a first-instance verdict, the court sentenced Bosnjak to ten years in prison, Grubacic to five years and Djajic to six years.

“Bosnjak as a de facto warden, and Grubacic and Djajic as guards, committed physical and psychological abuse and other inhumane acts against detainees,” said presiding judge Jasmina Cosic Dedovic.

Cosic Dedovic said that all three men were members of the Bosnian Serb Army. A fourth defendant in the trial, Milos Mavrak, was acquitted because the court could not determine whether or not he was a guard at the camp and abused detainees.

Cosic Dedovic said that the court had established that the victims were civilians, who had been detained at their homes and taken to the barracks, part of which was used as a detention camp.

She said that Bosnjak, Grubacic and Djajic had intentionally abused the prisoners, and that there was no doubt that they had created and maintained the inhumane conditions in the camp. The verdict stated that the Bosnjak inflicted physical and mental pain on the detainees, beating them and attacking them with an electric baton.

He was also convicted of one case of forcing prisoners to have sexual intercourse with each other.

Grubacic, together with two other unknown soldiers, participated in the abuse of three detainees, and Djajic was convicted of four counts of inflicting physical and mental pain on detainees, the verdict said.

Cosic Dedovic said that the defendants had initially been charged with crimes against humanity, but the basis for the charge was not established so their offences were reclassified. She explained that for a crime against humanity to be proved, it was necessary to establish that the accused were aware of the existence of a widespread and systematic attack, and that their actions were part of that attack.

“The prosecution’s contention that they knew about the attack and that their actions were part of that attack has not been proven, according to the assessment of the chamber,” she said. She said that the court took into account as mitigating circumstances the fact that Bosnjak was 19 at the time of the crime, and that Djajic was 20, that they now have families, and that they have not been convicted before.

As aggravating circumstances, the court took into account the fact that the defendants had shown unnecessary cruelty and that the victims have sustained lasting consequences for their physical and mental health.

Wednesday’s first-instance verdict can be appealed.

Bosnia Adopts Long-Delayed National War Crimes Strategy (Balkan Transitional Justice) By Nermina

Kuloglija and Haris Rovcanin

September 24, 2020

Bosnia and Herzegovina’s revised national War Crimes Processing Strategy, which was drafted back in 2018, was finally adopted on Thursday at an extraordinary session of

the country's Council of Ministers.

“For the past two years I have led the negotiations about [the adoption of] the strategy, which involved reputed experts, and the strategy was given the green light at the Council of Ministers’ session today,” said state-level justice minister Josip Grubesa.

The revised national strategy is intended to clear up the country’s large backlog of war crimes cases.

It says that the state prosecution currently has more than 550 unsolved war crimes cases involving 4,500 known perpetrators and as many cases with unknown perpetrators.

The courts in Bosnia and Herzegovina’s two entities, the Federation and Republika Srpska, and in the Brcko District, have around 200 cases with known war crime perpetrators.

One of the goals of the newly-adopted strategy is to ensure the efficient distribution of cases to lower-level courts, a process which has not been working properly so far.

Milan Tegeltija, president of the High Judicial and Prosecutorial Council, the country’s judicial overseer, welcomed the adoption of the strategy.

“This is an extremely important step to speed up the processing of war crimes and satisfy the interests of justice,” said Tegeltija.

In 2008, the authorities adopted their first national strategy for processing war crimes cases which said that most complex cases would be processed at the state level within the following seven years, while all other cases would be transferred to the entity level and completed in 15 years, by 2023.

As the seven-year deadline expired in late 2015 without the most complex war crime cases having been completed at the state level, the revised strategy was prepared, specifying that a larger number of cases would be transferred to the entity level.

The revised strategy, to which the High Judicial and Prosecutorial Council gave its backing in February 2018, says that all cases should be processed by 2023.

But amid delays caused by elections and post-election political wrangling, the revised strategy did not make it onto the agenda of the Council of Ministers for approval until this week. [Bosnian Army Ex-Officer Appeals Conviction for Croats’ Killings \(Balkan Transitional Justice\)](https://balkaninsight.com/2020/10/02/bosnian-army-ex-officer-appeals-conviction-for-croats-killings/) By Haris Rovcanin October 2, 2020 <https://balkaninsight.com/2020/10/02/bosnian-army-ex-officer-appeals-conviction-for-croats-killings/>

The defence of Enver Buza, the former commander of the Bosnian Army’s Independent Prozor Battalion, who was found guilty of contravening provisions of international humanitarian law on the protection of civilians during wartime, appealed against the verdict at the Bosnian state court on Friday.

Under the first-instance verdict handed down in September 2019, Buza was found guilty of having had real and effective control over a unit that attacked the village of Uzdol in early morning on September 14, 1993 and killed 27 Croat civilians.

The verdict said that Buza was informed about the crime to a sufficient extent, which obliged him to conduct a thorough investigation. According to the judge, this was not done because he wanted to cover up the crime.

Defence lawyer Vasvija Vidovic claimed that the court did not take into account important evidence and wrongly alleged that civilian police involved in the crime acted jointly with the Independent Prozor Battalion.

“The chamber stated that a Ministry of Internal Affairs unit from Prozor was subordinate to the defendant, while in the chain of command, the ministry was neither subordinated to the defendant nor even the Bosnian Army. The court did not determine the identity of the murder perpetrators at all,” Vidovic said.

She said that it was illogical that the court did not accept that Uzdol was a legitimate military target, because witnesses said that all the houses had weapons and that members of the Croatian Defence Council, HVO, the Bosnian Croat wartime force, were staying in them.

She also said that HVO soldiers opened fire from houses in Uzdol, and responded to the Bosnian Army’s attack with a counter-attack and shelling.

Commenting on Buza’s alleged failure to take measures to punish the perpetrators, Vidovic said that the court neglected the fact that the defendant issued an order to carry out an investigation into the Independent Prozor Battalion’s assistant for security.

“It is an inaccurate claim that nobody has ever ordered an investigation about Uzdol,” the defense lawyer said.

Buza said he agreed, and added that “some witnesses were incorrect”.

The prosecution meanwhile called for Buza’s 12-year sentence to be increased to reflect the seriousness of his crime.

Prosecutor Sanja Jukic pointed out that entire families, husbands and wives, were killed in Uzdol.

“According to the prosecution’s evaluation, the sentence is inadequate considering the gravity of the crime,” Jukic said.

Three Persons charged for War Crimes against Civilians during War in Bosnia and Herzegovina (Sarajevo Times) October 2, 2020

The Special Panel of the Court of Bosnia and Herzegovina announced, on 30 September 2020, a judgment in the case of Boris Bošnjak et al.

The accused Boris Bošnjak, Miodrag Grubačić and Ilija Đajić are charged of committing the criminal offense of War Crimes against Civilians under Article 142(1) of the Criminal Code of the Socialist Federative Republic of Yugoslavia, as read with Article 22 of the Code, which was adopted based on the Law on Application of the Criminal Code of the Republic of Bosnia and Herzegovina and the Criminal Code of the Socialist Federative Republic of Yugoslavia. Therefore, pursuant to Article 285 of the Criminal Procedure Code of Bosnia and Herzegovina, with the application of Articles 33, 38 and 41 of the CC SFRY, the Panel sentenced the accused Boris Bošnjak to 10 (ten) years of imprisonment, the accused Miodrag Grubačić to 5 (five) years of imprisonment, and the accused Ilija Đajić to 6 (six) years of imprisonment.

Contrary to the foregoing, pursuant to Article 284a) and c) of the Criminal Procedure Code of Bosnia and Herzegovina, the Panel partly acquitted the accused Boris Bošnjak and Ilija Đajić, and the accused Miodrag Grubačić, pursuant to Article 284 c) of the same Code, of the charges that, by the acts described in certain counts of the Indictment, they would have committed the criminal offense of Crimes against Humanity under Article 172(1)(h), as read with sub-paragraphs (f), (g) and (k), in connection with Article 180(1) and Article 29 of the CC BiH.

Pursuant to Article 284 a) and c) of the CPC BiH, the accused Miloš Mavrak was completely acquitted of the charges that, in the framework of a widespread and systematic attack launched by military, para-military and police forces of Republika Srpska, aimed against Bosniak and Croat civilians of the municipalities of Mostar, Gacko, Nevesinje, Bileća and Stolac, knowing of the attack and that their actions constitute a part thereof, as a co-perpetrator, he committed persecution and inhumane treatment with the intention to inflict great pain on multiple persons.

[[back to contents](#)]

International Criminal Tribunal for the Former Yugoslavia (ICTY)

Official Website of the ICTY

Bosnian Serb War Criminal Asks for Review of Life Sentence (Balkan Transntional Justice) By Emina Dizdarevic
October 1, 2020

The Mechanism for International Criminal Tribunals in The Hague said on Thursday that Milan Lukic, the wartime leader of a Bosnian Serb paramilitary group, filed a motion on September 1 asking for the UN court’s appeals chamber to reconsider the judgment that found him guilty of wartime crimes.

It said that a council of five judges has been set up to consider the application for a review.

Lukic was sentenced to life in prison by the Hague Tribunal in 2012 after being found guilty of crimes against humanity in the eastern Bosnian city of Visegrad while he was the commander of the White Eagles paramilitary unit.

He was convicted of two of the most notorious massacres of the Bosnian war, in which 120 women, children and elderly people were burned alive in Pionirska Street and the Bikavac neighbourhood of Visegrad in June 1992.

Since February 2014, Lukic has been serving a life sentence in Estonia.

In December last year, the Bosnian state prosecution also indicted Lukic for crimes against 20 mainly Bosniak passengers who were abducted by Bosnian Serb fighters from a train at Strpci station near Visegrad in February 1993 and then murdered.

Six months after the indictment, Lukic refused to accept documents about the case that were delivered from the Bosnian state court to the prison in Estonia.

[\[back to contents\]](#)

Domestic Prosecutions In The Former Yugoslavia

1st Kosovar Albanian arrested on war crimes charges (AP News) By Zenel Zhinipotoku and Llazar Semini
September 24, 2020

A special international court said Thursday that a former commander of the separatist fighters in Kosovo's 1998-1999 war has been arrested on charges including torture of detainees and the murder of one prisoner held at a compound in Kosovo during the conflict.

The Kosovo Specialist Chambers, based in The Hague, said former Kosovo Liberation Army commander Salih Mustafa was arrested based on a "warrant, transfer order and confirmed indictment issued by a pre-trial judge."

He is the first ethnic Albanian arrested and sent to the court, which is investigating war crimes and crimes against humanity investigation stemming from Kosovo's conflict with Serbia.

Mustafa is charged with the war crimes of arbitrary detention, cruel treatment, torture of at least six people and the murder of one person at a detention compound in Zllash, Kosovo, in April 1999. The victims were accused by KLA fighters of collaborating with Serbs or not supporting the KLA, according to the indictment.

In one incident alleged in the indictment, Mustafa interrogated a detainee "about his knowledge of the identities of thieves and spies, and beat him with a baseball bat all over his body, causing him severe mental harm and severe physical injuries."

The court said Mustafa was transferred to its detention facilities in The Hague on Thursday and will appear before a pre-trial judge "without undue delay."

The Kosovo Liberation Army was made up of ethnic Albanian rebels who wanted Kosovo's independence from Serbia. Mustafa oversaw fighters in the Llapi area, 35 kilometers (20 miles) north of the capital, Pristina.

He later served as intelligence chief of the Kosovo Security Forces, military troops created in 2009 as a transitional unit before becoming a regular army.

The Kosovo Specialist Chambers and an attached Special Prosecutor's Office, or SPO, was established five years ago to look into allegations that KLA members committed war crimes and crimes against humanity.

The European Union Rule of Law Mission in Kosovo, or EULEX, which is in charge of the court, said it had "provided operational and logistic support to the SPO in line with its mandate and in accordance with the Kosovo legislation."

Hysni Gucati of the war veterans' association said Mustafa's family reported he was arrested early Thursday and taken to The Hague.

"To us, the court and its actions are unacceptable," Gucati said.

The association has said it anonymously received thousands of confidential files during the last two months, which contain names of witnesses and also draft charges against former top KLA commanders. It wasn't clear whether the files were stolen or leaked by someone involved in the investigation.

The war veterans said they would make them public, a move which a court spokesman warned would undermine the proper administration of justice. The Specialist Prosecutor's Office is investigating how the association came into possession of the documents.

Office spokesman Christopher Bennett said authorities were "vigorously investigating and prosecuting individuals who commit any such crimes."

The prosecutors in The Hague also have indicted Kosovar President Hashim Thaci, former parliamentary speaker Kadri Veseli, and others for crimes that include murder, enforced disappearances, persecution and torture. Both men have denied committing any war crimes.

The 1998-1999 war for Kosovo's independence from Serbia left more than 10,000 people dead — most of them ethnic Albanians from Kosovo. More than 1,600 people remain unaccounted for. The fighting ended after a 78-day NATO air campaign against Serbian troops.

Kosovo, which is dominated by ethnic Albanians, declared independence from Serbia in 2008, a move recognized by many Western nations but not Serbia or its allies Russia and China.

[[back to contents](#)]

Turkey

Fresh allegations about mistreatment of Kurds in Turkey (Arab News) September 29, 2020

The mistreatment of Kurds in Turkey is under the spotlight again following allegations of torture and food poisoning.

Three politicians from the pro-Kurdish People's Democratic Party (HDP) who were recently arrested said they were hospitalized with food poisoning during their detention, while Amnesty International has demanded the government investigate allegations that two Kurds were thrown out of a military helicopter.

The government accuses the HDP of ties to the outlawed Kurdistan Workers Party (PKK) and thousands of its members have been prosecuted for the same reason, including its leaders. The HDP denies such links. The PKK is designated a terrorist group by Turkey, the European Union and US.

The HDP politicians, including Ayhan Bilgen who is mayor of Van province, fell ill after eating food served at Ankara police headquarters.

Bilgen was not immediately taken to hospital, nor was he allowed to talk to his legal team until after HDP lawmakers had talked with government officials to have him hospitalized.

The trio are under arrest as part of a probe into violent protests that took place in Kobane in 2014. Their detention period was extended on Monday by another four days.

Amnesty International has urged the government to investigate allegations that two Kurds, aged 55 and 50, were thrown from a military helicopter in Van. The rights group voiced its concerns about the "allegations of torture and mistreatment" which it said were unacceptable under international human rights law and standards that Turkey was obliged to comply with.

The men alleged to have been thrown out of a military helicopter were arrested on Sept. 11 as part of an operation against the PKK. Both were hospitalized and had signs of heavy beatings on their bodies.

One of the men was shown to the media with a bloodied face. He is experiencing memory loss. The other man's condition remains critical. He is suffering from brain trauma, broken ribs, a punctured lung, and has been in intensive care for more than two weeks.

Relatives of the villagers have demanded justice and the uncovering of the truth through a proper investigation. Amnesty International wants Turkey to investigate the case impartially, and the main opposition Republican People's Party (CHP) has submitted a parliamentary question about the allegations of torture.

HDP lawmaker Ali Kenanoglu said his party would follow up the mistreatment allegations at a domestic and international level.

"Kurds have become the scapegoat of the current regime because they are considered as the easiest target that doesn't have any

strong social support behind it,” he told Arab News. “Currently all policies involving war and violence are conducted by targeting Kurds. The mistreatment regarding this segment of society has not received strong backing so far, which opens more room for such efforts.”

Once the Kurdish lawmakers were arrested they were automatically under state protection, he said. “However, state impunity still prevails when it comes to the implementation of the rights of Kurdish community.”

On Monday, HDP deputies and officials were outside the parliament building to protest against the detention of their colleagues, who are accused of inciting violence in Kobane.

Amnesty International’s Turkey campaigner, Milena Buyum, called for a prompt, independent and impartial investigation into the ill-treatment of Kurdish villagers.

“Those found to be responsible should be brought to justice in a fair trial,” she told Arab News. “Turkey is bound by the UN Convention Against Torture and the European Convention for the Prevention of Torture, both of which it is a party to. The Committee for the Prevention of Torture of the Council of Europe is tasked with monitoring places of detention in member states and can ask questions regarding the cases of alleged torture and other ill-treatment. As Amnesty International, we will continue monitoring the developments in this shocking case.”

Buyum said that people in detention must be allowed access to their lawyers once they were deprived of their liberty.

“The delay in speaking to the lawyers is concerning. The HDP representatives have been able to consult their legal representatives after four days. They still don't know the substance of the allegations they face as they have not yet been questioned.”

The rights group said that there was increased concern about detention conditions because of the pandemic, and that authorities should step up their efforts to ensure the health and safety of those in custody.

Separately, a Kurdish singer said on Monday that he had been warned by security and intelligence officials against singing in his mother tongue and to stay away from HDP events.

“You will be in trouble if you sing in Kurdish again,” Cesim Basboga was reportedly told. “You’ve been provoking people with songs.”

Basboga will file a complaint.

[\[back to contents\]](#)

MIDDLE-EAST

Iraq

Grotian Moment: The International War Crimes Trial Blog

British ex-soldier Major Robert Campbell cleared over Iraqi teenager's death (BBC) September 24, 2020

Saeed Shabram's family say he drowned after being forced into a river by UK soldiers in Basra in 2003.

But a report published on Thursday said there was no reliable evidence that soldiers were responsible.

Maj Robert Campbell, one of the accused soldiers, said he had "finally been exonerated" but that the allegations had "destroyed" his career.

None of the soldiers were ever charged over the death, despite a criminal inquiry by military police and further investigations by the now defunct Iraq Historical Allegations Team (IHAT).

But Mr Shabram's death became the subject of a judge-led inquiry by the Iraq Fatalities Investigations team.

'Jumped or fell' into water

Baroness Heather Hallett, who led the Iraq Fatalities Investigations probe, said it was possible Mr Shabram's family had been misled by false witnesses who claimed he had been pushed into the water.

She said it was "most likely" that Mr Shabram "jumped or fell" into the water, in the process of trying to escape what he believed would be "dire punishment for looting".

She added there was no need for her to further explore the training and instructions given to British soldiers on dealing with looters or alleged looters, and that she had no recommendations to make.

"I am relieved that after eight investigations we have finally been exonerated," Maj Campbell told BBC defence correspondent Jonathan Beale.

"But I am angry that it took eight investigations, 17 years and destroyed my career," he said.

"I'm angry that the Army and MoD [Ministry of Defence] abandoned us. Angry that despite the two key Iraqi 'witnesses' being exposed as liars in 2006, the MoD and IHAT chose to believe them anyway and ground us into the dust.

"I'm grateful to Baroness Hallett for her findings, but I already knew I was innocent," he said.

Speaking to Radio 4's Today programme in 2018, Maj Campbell said he had not had a good night's sleep for 15 years, as a result of the repeated investigations. Ex-Army chief Lord Richard Dannatt told the same programme the soldier had gone through "a 15-year nightmare".

Veterans Minister Johnny Mercer said in a statement that he hoped Thursday's findings "will bring some closure and reassurance to the family and veterans involved in this process".

He added: "Nobody wants to see service personnel or veterans facing extensive reinvestigations into the same incident, and our Overseas Operations Bill will help provide greater certainty and protections in the future."

The government says the new law will protect the armed forces from "vexatious prosecutions" but critics argue it could decriminalise torture.

The Iraq Fatality Investigations (IFI) team was set up after the High Court ruled that investigations conducted by the Iraq Historical Allegations Team (IHAT) should be followed up in the form of an inquest.

IHAT had been looking into allegations made against Iraq war veterans but was shut down after the human rights lawyer Phil Shiner, involved in many of the abuse allegation cases, was struck off for misconduct.

The £34m IHAT probe did not lead to any prosecutions and was branded as an "unmitigated failure" by MPs on the House of Commons Defence Committee.

Five civilians killed in Baghdad rocket attack (Al Jazeera)

September 28, 2020

Iraqi armed groups fired two Katyusha rockets at a house in Baghdad, killing two women and three children while severely wounding two other children, the Iraqi military said on Monday. It was the first time in months an attack led to civilian casualties.

The three Iraqi children and two women were from the same family and were killed when a rocket targeting Baghdad airport, where US troops are stationed, fell on their home instead, the army said in a statement.

The rockets were launched from the al-Jihad neighbourhood of Baghdad. The home was completely destroyed.

The military accused "cowardly criminal gangs and groups of outlaws" of seeking to "create chaos and terrorise people".

It said Prime Minister Mustafa al-Kadhimi had ordered the arrest of the perpetrators and said "these gangs will not be allowed to

go around and tamper with security” with impunity.

The deaths were the first among Iraqi civilians in the latest outbreak of violence, during which Iran-backed Iraqi Shia fighters have been blamed for targeting US interests in the country.

A string of attacks has targeted Americans after Washington threatened to close its embassy and withdraw its 3,000 troops from the country unless rocket fire stops.

Between October 2019 and July 2020, at least 39 rocket attacks targeted American interests in Iraq. A similar number again has taken place in recent months.

Rockets often target the US embassy in Baghdad, within the heavily fortified Green Zone, and US troops present in Iraqi bases as well as the Baghdad airport. Roadside bombs have also frequently targeted convoys carrying equipment destined for US-led coalition forces.

The frequency of the rocket fire has strained Iraq-US relations, prompting the Trump administration last week to threaten to close its diplomatic mission in Baghdad if those believed to be behind it are not reigned in.

The attacks, which started about a year ago, have caused few casualties. Monday’s incident was the first to claim so many civilian lives.

Twitter accounts supporting US arch-enemy Iran regularly praise the attacks, but that was not the case on Monday, and no group immediately claimed responsibility.

Previous attacks of the same nature have been claimed by murky groups saying they are acting against the “American occupier”. Analysts say they include former members of pro-Iranian factions of the Hashd al-Shaabi paramilitary alliance.

Iraqi intelligence sources have blamed the attacks on a small group of hardline Iran-backed armed factions. The disparate nature of Shia fighters following the US assassination of Iranian General Qassim Soleimani and Iranian Abu Mahdi al-Muhandis has complicated Iraqi efforts to clamp down on rogue armed elements.

A government raid on the powerful Iran-backed Kataib Hezbollah group, suspected of launching rocket attacks, backfired when those detained were released for want of evidence.

KRG To Present Evidence About Anfal, Feyli Kurds During Un Meeting On Enforced Disappearances (NRT) October 5, 2020

Kurdistan Regional Government (KRG) Coordinator for International Advocacy Dindar Zebari said Sunday (October 4) that the KRG will participate in a meeting related to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and that a delegation will present reports about the former Ba’athist regime’s Anfal campaign and its crimes against Feyli Kurds.

This week’s 19th session of the Committee on Enforced Disappearance will discuss reports about Iraq. The meeting was scheduled for the spring, but postponed because of the coronavirus pandemic.

“The Region’s delegation will address...the woes and disasters to which the people of the Region have been subjected,” Zebari said in a statement.

“[They] have suffered throughout history from [the biggest and most dangerous attacks of genocide and other crimes at the hands of the Ba’athist regime until 2003. One of these crimes was the enforced disappearance and killing of Iraqi victims and the majority [of the victims] were Kurds,” he continued.

He added that the delegation would emphasize that enforced disappearances of people from the Kurdistan Region did not end with the fall of the regime in 2003, but includes the Ezidi genocide perpetrated by Islamic State (ISIS).

[back to contents]

Yemen

UN report finds 'immeasurable' atrocities against children in Yemen (TRT World) October 2, 2020

Recent data shows the war in Yemen has created a catastrophe for children at the hands of the Saudi-led coalition and the Houthis.

As the world continues to struggle with one of the most brutal pandemics in human history, there has been no break in the fighting across the Middle East from Israel to Syria, Iraq and Yemen.

Conflicts in the Middle East have done unthinkable damage to civilians, especially to the elderly and children.

But in Yemen, the Saudi-led Gulf coalition and its enemy, the Houthis, are both guilty of violating the country's children in the continuing civil war, a comprehensive UN report finds.

"A generation of children in Yemen has been immeasurably damaged through child recruitment, abuse and deprivation of the most basic human rights, including education," says the report, which is drafted by the Group of Eminent International and Regional Experts appointed by the UN.

According to the report, during the conflict, which began in 2014, nearly 112,000 people have died while more than 10 percent of the total deaths were civilians. But more shockingly, approximately one-third of the civilian deaths are children.

"These figures do not include the many thousands of people who have died as a result of the worsening socioeconomic, health and humanitarian conditions," the report added.

"These horrific violations show how vulnerable children are during armed conflict. One in three of all casualties is a child – these are horrifying numbers. It must stop and perpetrators should be held accountable," reacted Xavier Joubert, Country Director for Save the Children in Yemen, to the report's findings.

Both sides are guilty

In the UN report, there are numerous examples of how opposing military forces have treated the civilian population, particularly children, for the sake of political interests.

In one specific example, the UN report recounted how the Yemeni government, which is backed by a Saudi-led coalition, acted without any care for children's need for education when it came to its political interests.

"In early January 2020, the Special Security Forces of the Government of Yemen converted a secondary school near Khubar village, Habban District, Shabwah Governorate, into military barracks," the report says.

"On 1 February, dozens of students demonstrated against the requisition of their school. In response, the Special Security Forces, referred to by witnesses as "Al-Islah militants", raided Khubar, searching for the students, and arrested two boys, aged 14 and 16 years, detaining them on the basis of their alleged affiliation with the southern transitional council-affiliated Shabwani Elite Forces," it continues.

The Southern Transitional Council (STC) is a secessionist organisation backed by the UAE, an ally of the Saudi kingdom. While both Gulf states are fiercely opposed to the Iran-backed Houthis in Yemen, they support different political groups.

The tense school disagreement did not end there.

"Later, when a group of civilian men from the village approached the school to negotiate their release, members of the Special Security Forces guarding the facility opened fire with AK-47 assault rifles, killing two of the men," it concludes.

The report carefully crafted how the Saudi-led coalition and its Yemeni allies have created conditions in the poor Arab country to make lives unbearable for civilians.

“Individuals in the Government of Yemen and the coalition (in particular from Saudi Arabia and the United Arab Emirates) and the southern transitional council have committed, as applicable to each party, acts that may amount to war crimes, including murder of civilians, torture, cruel or inhuman treatment, rape and other forms of sexual violence, outrages upon personal dignity, denial of fair trial, and enlisting children under the age of 15 or using them to participate actively in hostilities,” it goes on.

Despite the war crimes of the Saudi-led coalition, whose airstrikes and military actions have appeared to be the main driver behind many atrocities in Yemen, the Houthis, which the report defines as “de facto authorities”, have also carried out various human rights violations across the country, according to the UN experts.

“Between June 2015 and February 2020, in all governorates under their control, the Houthis recruited boys as young as 7 years old. The Group of Eminent Experts verified 11 individual cases and received allegations about the recruitment of a further 163 boys,” the report reads.

“They were recruited from schools, poor urban areas and detention centres through indoctrination, financial incentives, abduction and/or peer recruitment, with very high rates of boys being used in combat resulting in their death or injury.”

‘Cycle of impunity’

Xavier from the Save the Children rights group, thinks that the international community is long overdue in acting against the perpetrators of the Yemen war crimes.

“We must break the cycle of impunity – for too long people who have been targeting children in this terrible conflict have gotten away with it. In particular, we share the concern raised by the Group on the de-listing of parties to conflict from the UN Secretary’s annual ‘list of shame’ whilst this report shows that children continued to be killed or maimed by airstrikes,” says Xavier.

Beyond both sides’ alleged war crimes against children, the Yemen War has also created the world’s worst humanitarian crisis.

“According to the United Nations Office for the Coordination of Humanitarian Affairs, nearly 80 percent of the population remain in need of humanitarian aid and protection,” says the UN report.

“The World Food Programme estimates that over 20 million people are food insecure, with malnutrition disproportionately affecting marginalized and at-risk groups. Over 3.5 million internally displaced persons in Yemen, most of them women and children, face acute vulnerabilities, including 1.5 million in the Ma’rib Governorate alone, who lack access to basic necessities and education.”

CWRU law student organization publishes white paper documenting war crimes in Yemen conflict (CWRU Law) October 7, 2020

In 2018, Case Western Reserve University School of Law launched the Yemen Accountability Project (YAP), a student initiative to document and map war crimes and crimes against humanity in the Yemeni Civil War.

Following two years of research, the YAP recently reached a major milestone, publishing its first white paper, “Aiding and Abetting: Holding States, Corporations, and Individuals Accountable for War Crimes in Yemen.”

The 59-page report explores the question many ask about one of the worst humanitarian crises of our time — how can civilian victims of the war in Yemen seek justice for the grave crimes perpetrated against them?

“Our timing could not have been better,” said Laura Graham, a third-year law student and executive director of YAP. “This week, the United Nations issued a report recommending that the Security Council refer the situation of Yemen to the International Criminal Court (ICC). Our white paper analyzes the legal case for holding a variety of suspected perpetrators accountable before the court.”

The YAP is the first comprehensive effort to document atrocities in the country’s civil war and lay the foundation for successful prosecutions of the responsible parties. The student-run project is supervised by Professor James Johnson, the former chief of prosecutions at the Special Court for Sierra Leone and director of the CWRU War Crimes Research Office.

“When we launched the project two years ago, we were hoping for a handful of volunteers,” said Johnson. “Instead, dozens of law students came on board despite the workloads and pressures of school. These students are volunteering their time because they see this as an opportunity to make a difference.”

By the time Johnson finished recruiting, more than 70 law students joined the effort to help bring justice and accountability to a

conflict that has cost more than 100,000 lives.

Over the next two years, YAP volunteers worked to build a database of potential war crimes in Yemen's civil war, analyze their data and deliver meaningful reports to international organizations and NGOs in a worldwide effort to hold states, corporations and individuals accountable for the atrocities that have been committed in Yemen since the conflict began.

Dozens of students played a role in researching the paper, which was authored by law students Kristina Aiad-Toss, Kristen Connors, Scott Davidson, Ian Davis, Christine DiSabato, Alex Jameson, John Livingstone, Katherine Lynch, Kristin Lyons, Wil Pinkley, Naomi Tellez, Alexandra Raleigh, and John Westminster.

"Because of the protracted nature of the Yemen crisis, our team is working to gather information on different phases of the conflict," said Graham. "With the release of this white paper, we are finishing phase one and will begin our work researching phase two of the conflict with the aim to release a report and white paper on starvation crimes in 2021."

The Yemen Accountability Project is part of the Global Accountability Network, alongside the Syrian Accountability Project and the Venezuelan Accountability Project. It is also affiliated with the Public International Law & Policy Group, a Nobel Peace Prize-nominated NGO that assists in international war crimes prosecutions. YAP is supported by a three-year grant from alumnus Timothy Geisse (JD '84) and the John F. and Mary A. Geisse Foundation. For more information about the Yemen Accountability Project, visit our website.

[\[back to contents\]](#)

Special Tribunal for Lebanon

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

[\[back to contents\]](#)

Israel and Palestine

Israel's 'silent transfer' of Palestinians out of Palestine (Al Jazeera) By Ibrahim Hussein
September 27, 2020

As more Arab countries normalise relations with Israel, it presses on with a policy of "silent transfer" – an intricate system that targets Palestinians in occupied East Jerusalem with residency revocation, displacement through house demolitions, barriers in obtaining building permits, and high taxes.

Palestinian researcher Manosur Manasra notes Israel launched this policy of transfer against Palestinians in East Jerusalem almost immediately after the 1967 war and the subsequent occupation of the eastern part of the city.

The policy continues to this day with the aim to dominate East Jerusalem.

Land expropriation for Jewish settlements has taken place around East Jerusalem and in the heart of Palestinian neighbourhoods such as the Old City's Muslim and the Christian Quarters and beyond in Sheikh Jarrah, Silwan, Ras al-Amoud and Abu Tur since as early as 1968.

Following the June 1967 war, Israel applied Israeli law to East Jerusalem and granted Palestinians "permanent resident" status. However, in effect, it is a fragile one. B'tselem, the Israeli human rights information centre in the occupied Palestinian territories

describes this status as one “accorded to foreign nationals wishing to reside in Israel”, except that Palestinians are indigenous to the land.

Palestinians of East Jerusalem do not have a right to automatic Israeli citizenship nor are issued Palestinian passports by the Palestinian Authority (PA). They are usually able to obtain temporary Jordanian and Israeli travel documents.

By allotting a fragile residency status to Palestinians in East Jerusalem, Israel has succeeded to revoke and subsequently uproot more than 14,200 Palestinians from East Jerusalem since 1967. These measures coincide with an aggressive house demolition practice.

Home demolitions in the West Bank did not stop despite the coronavirus pandemic.

According to the United Nations, there was a nearly fourfold increase in the number of people displaced from January-August 2020, and a 55 percent rise of structures targeted with demolitions or confiscations compared with a year earlier.

In East Jerusalem, 24 structures were demolished last month, half of them by their owners following the issuance of demolition orders by the Jerusalem municipality.

The “permanent residency” status is maintained as long as Palestinians keep a physical presence in the city. However, in some cases, the Israeli authorities move to withdraw the residency status of Palestinians in East Jerusalem as a retribution measure because they are political dissidents. Israel’s pursuit of Palestinian activists is extensive and does not exclude any faction.

The most recent case is that of 35-year-old Salah Hammouri, a lawyer and activist. Arye Deri, Israel’s interior minister, says Salah is a member of the Palestine Front for the Liberation of Palestine (PFLP). Israel outlawed the group and wants him out of the country.

In some cases, Israeli authorities cancel the residency permits of spouses of political activists as a punishment. Shadi Mtoor, a Fatah member from East Jerusalem, is currently fighting a case in the Israeli courts to keep his wife’s residence in East Jerusalem. She is originally from the West Bank.

In 2010, Israel revoked the Jerusalem residency of four senior Hamas members – three of whom were elected to the Palestinian Parliament in 2006 and one who served as a cabinet minister – on the grounds they pose a danger to the state. Three live in Ramallah now and one is under administrative detention. A hearing at the Israeli High Court is scheduled for October 26.

In some cases, Israel does not issue a residency ID for a child whose father is from Jerusalem and mother from the West Bank.

International law explicitly condemns the forcible transfer of civilians.

“Ultimately our decision is to remain in this city,” says Hammouri.

In early September, he was summoned by the Israeli police and informed of the Israeli interior minister’s intent to revoke his Jerusalem residency.

“I was told I constitute a danger to the state and that I belong to the Popular Front for the Liberation of Palestine,” said Hammouri.

A French citizen, Hammouri was born in Jerusalem to a Palestinian father and a French mother. In 2017, the family was split when Israel barred his wife, Elsa, who is also a French national and at the time pregnant, from entering the country. The reason was said to be based on a secret file that Israel had.

Hammouri expects Israel to expel him to France after his residency is formally revoked. The French government, in response, issued a statement calling on Israel to allow Hammouri to continue to reside in Jerusalem.

“Mr Salah Hammouri must be able to lead a normal life in Jerusalem where he was born and where he resides,” it said.

The Israeli foreign ministry alleges Hammouri is a “senior operative” of a terrorist organisation and continues to engage in “hostile activity” against the state of Israel.

A solidarity campaign calling for Hammouri’s right to retain his Jerusalem residency is now under way in France, and French diplomats in Jerusalem are currently negotiating with Israeli officials in order to get it to reverse its decision. He intends to challenge the case to withdraw his residency in court.

Hammouri spent more than eight years in Israeli prisons over different periods. In 2011, at the end of a seven-year jail sentence, he was freed in a prisoner exchange deal between Hamas and Israel (known as the Shalit deal).

Sahar Francis, director of the Prisoner Support and Human Rights Association known as Addameer, told Al Jazeera “the cancellation of residency is illegal according to international law”.

“The occupation state has no right to cancel the residency of protected people under the Fourth Geneva Convention. This is called forcible transfer and forcible transfer is forbidden,” Francis said.

The PFLP first opposed the 1993 Oslo Accords but then came to accept the two-state solution. However, in 2010 it beckoned the PLO to end negotiations with Israel and asserted that only a one-state solution for Palestinians and Jews is possible.

“I see a very dark horizon,” says Khaled Abu Arafah, 59, a former PA minister.

“Israel will invest the recent local and regional developments of normalisation and the result will be the expulsion of the inhabitants of the West Bank and the reformulation of the position of Palestinians of 1948,” he adds.

Abu Arafah served as the minister for Jerusalem affairs between March 2006 and March 2007 in Ismail Haniyeh’s government, which was formed after the Hamas won a majority of seats in the 2006 parliamentary elections.

Two months after the formation of the Palestinian government, the Israeli police notified three Palestinian Legislative Council (PLC) members and cabinet minister Abu Arafah, all from Jerusalem, they had 30 days to quit their posts or their residency status would be revoked.

The Israeli police threat was rejected and the four went to court to contest the interior ministry’s ultimatum.

On June 29, 2006, the Israeli police carried out a broad arrest campaign that targeted 45 newly elected PLC members and 10 cabinet ministers. Jerusalem PLC members Muhammad Abu Teir, Muhammad Totah, Ahmad Atoun and Abu Arafah were among those arrested. Israel charged them with belonging to the “reform and change” list, which was affiliated with the Islamic movement Hamas.

Abu Arafah was sentenced to 27 months in prison and was released in September 2008. Abu Teir and Totah were handed longer sentences and were not released until May 2010.

On June 1, 2010, the Israeli police summoned the men again. This time they were ordered to surrender their Jerusalem IDs and were given one month to leave Israel.

Just as the period was about to expire, the Israeli police arrested Abu Teir.

Abu Arafah, Atoun and Totah, sensing imminent arrest, took refuge in the International Committee of the Red Cross (ICRC) building in Sheikh Jarrah in East Jerusalem. Their stay lasted for 19 months; living in a tent within the premises. The Israeli police finally stormed the building and arrested the three men.

They were charged with belonging to a “terror group” and holding senior ranks in the Hamas movement, as well as incitement against the state of Israel. They were sentenced to two years in jail. Upon their release, they resided in Ramallah.

“Away from al-Quds, I feel estranged, very estranged,” Abu Arafah lamented about his situation.

Abu Arafah’s family continues to reside in East Jerusalem. “I live in Ramallah and they live in al-Quds,” Abu Arafah told Al Jazeera. “They visit every weekend then they go back home.”

Atoun is currently under administrative detention, his fourth since 2014.

In 2018, the Israeli High Court ruled the interior ministry’s decision to withdraw the residency status was illegal as there were no laws to support it. However, it gave the interior ministry six months to go to the Knesset to enact a law. The Knesset passed a law that allows the revocation of residencies for individuals who are deemed not loyal to the state of Israel.

The four Palestinians to this day have no identification papers that would allow them to cross Israeli checkpoints within the West Bank. The only document they were able to obtain was a driver’s licence from the PA, but only after the Israeli army approved.

Because they do not have IDs, they rarely venture outside Ramallah for fear of being stopped and arrested at an Israeli checkpoint.

The four appealed the High Court’s ruling and demanded that Israel provide them with an alternative residency to enable them to live legally in the West Bank. A court hearing is scheduled for October 26, but Abu Arafah does not expect a ruling.

“We do not expect a decision; the occupation authorities are using time against us,” he said.

A Palestinian woman who asked to be identified as JA, 24, was born in the West Bank city of Bethlehem. Her father is from East Jerusalem and holds a Jerusalem ID. But her mother is from Bethlehem and holds a PA-issued ID card.

The Israeli interior ministry has rejected all applications to issue JA an ID card because she was born in the West Bank. The PA also did not provide an ID card because her father holds a Jerusalem ID.

So currently she has no documents whatsoever. This situation has caused JA endless problems registering in schools, finding employment, opening bank accounts, and other usual necessities. She has never travelled.

JA is now suing the Israeli ministry of interior in an attempt to receive a legal residency.

Investigating Israel will 'undermine entire infrastructure on which ICC is based' (Israel Hayom) By Eldad Beck
October 4, 2020

Ahead of the International Criminal Court's impending ruling on a Palestinian Authority lawsuit alleging Israeli war crimes, Knesset Speaker Yariv Levin has appointed Blue and White MK Michal Cotler-Wunsch as the Knesset's official representative to the ICC.

ICC judges are expected to issue their ruling soon on whether the PA has the status of a state and whether on this basis the ICC has the authority to launch legal proceedings against Israel.

Officials in Israel believe the panel of judges will accept the position of chief ICC prosecutor, Fatou Bensouda, whereby the court indeed has the authority to investigate Israelis and indict them. Several countries, including Germany, Australia, Austria and Hungary, have expressed fundamental reservations over Bensouda's opinion.

Cotler-Wunsch, an attorney by profession whose expertise is in international law, has led the legal team working to secure the return of fallen Israeli soldiers and civilians in Hamas captivity.

Speaking with Israel Hayom, Cotler-Wunsch warned that ruling in favor of Bensouda's position would "undermine the entire infrastructure upon which the ICC is based."

Cotler-Wunsch also said such a decision would mean ignoring the positions of other member states, whereby the ICC does not have the authority to launch a war crimes investigation based on a lawsuit filed by the PA.

Such a ruling "would be a very problematic statement, which should trouble those countries," she said. "Within the framework of the position to which I was appointed, I will work to persuade my colleagues in parliaments across the world of the realization that the decision does not only pertain to Israel, and that its ramifications won't pertain to Israel only but to other countries across the world ... Ultimately the ICC's decision shouldn't have any implications on determining whether the PA as a state or not."

[\[back to contents\]](#)

Gulf Region

[\[back to contents\]](#)

ASIA

Afghanistan

US: Lawsuit Challenges ICC Sanctions (Human Rights Watch)

October 2, 2020

A legal challenge to a United States executive order that threatens to undermine the work of the International Criminal Court (ICC) seeks to protect victims' access to justice, Human Rights Watch said today. On October 1, 2020, the Open Society Justice Initiative, together with four law professors, filed a complaint before a US federal court alleging violations of plaintiffs' rights under the US constitution, including to freedom of speech.

A sweeping executive order issued on June 11 by President Donald Trump declared a national emergency and authorized asset freezes and family entry bans that could be imposed against certain ICC officials and others assisting them. On September 2, the Trump administration announced that the US had designated the ICC prosecutor and another senior official within the court's Office of the Prosecutor for sanctions. The Trump administration had repeatedly threatened action to thwart ICC investigations in Afghanistan and Palestine into conduct by US and Israeli nationals.

"The Trump administration's perverse use of sanctions in a bid to frustrate the work of the ICC is an egregious affront to victims of the world's worst crimes," said Richard Dicker, international justice director at Human Rights Watch. "We look forward to a swift ruling by the court to provide much-needed clarity as to the legality of the executive order."

The plaintiffs allege that the threat of civil and criminal penalties associated with enforcement of the executive order or designation for sanctions under the order has caused them to "discontinue, abandon, or reconsider" a range of activities in support of international justice, including advising ICC prosecutors, assisting nongovernmental organizations to engage with the court, filing amicus briefs before the ICC, and speaking at conferences.

The complaint, filed before the Southern District of New York, names President Trump and other senior administration officials. In addition to free speech violations, it alleges due process violations of the US Constitution's Fifth Amendment and other violations of US law. The lawsuit seeks to stop enforcement of the executive order against the plaintiffs while its constitutionality is under court review.

The ICC is the permanent international court created to try people accused of genocide, war crimes, crimes against humanity, and the crime of aggression. Currently, 123 countries have joined the court, nearly two-thirds the membership of the United Nations. The court has opened investigations into alleged atrocities in 12 countries, including Sudan, Myanmar, and Afghanistan.

In response to Trump's executive order in June, 67 ICC member countries, including key US allies, issued a joint cross-regional statement expressing "unwavering support for the court as an independent and impartial judicial institution." Following the September designations, the European Union, the president of the ICC's Assembly of States Parties, and nongovernmental organizations issued statements. ICC member countries have repeatedly affirmed their support for the court.

Australia needs a permanent war crimes investigation unit (The Age) By Rawan Arraf

October 7, 2020

The public has been shocked by revelation after revelation of serious allegations of war crimes committed by Australian special forces in Afghanistan. There's been a steady stream of statements from the Defence Minister and, most recently, the Chief of the Army, preparing us for worse to come.

At the conclusion of Justice Paul Brereton's Afghanistan inquiry we know there will be more referrals to the Australian Federal Police for criminal investigation of war crimes allegations.

We know so far that Brereton's inquiry has investigated more than 55 incidents of alleged unlawful killings and cruel treatment of

Afghan civilians and captured combatants. We know that the AFP is investigating at least three incidents, and it has been put on notice to prepare for more.

Our legal centre was established to push Australia to undertake more investigations and prosecutions into international crimes and to contribute to the global effort to end the impunity enjoyed by perpetrators of these crimes. It has been saying for some time that the AFP needs specialist training, skills, and resources to undertake such investigations. Experience shows that authorities often find the challenges involved in investigating and prosecuting crimes committed extraterritorially daunting, and consequently choose not to prioritise these cases.

Last week, the AFP's commissioner stated it has now set up a taskforce to manage the Afghanistan war crimes investigations. While that's a welcome sign, is it enough? Is the Commonwealth Director of Public Prosecutions prepared?

This renewed focus on these types of crimes makes it clear that what is needed is a dedicated and permanent program ready and responsible for investigating and prosecuting international crimes.

This is not a novel idea. Recently the Australian Law Reform Commission accepted recommendations from human rights organisations and academic experts that the Australian government consider establishing a specialised extraterritorial crimes investigations unit, and to undertake a further inquiry into investigating and prosecuting transnational crimes.

Such a unit has existed before. In 1987, a Specialised Investigations Unit, attached to the Attorney-General's Department, was set up to investigate the presence of alleged Nazi war criminals in Australia. It was disbanded in 1994, and, as is all too common, its Australian experts found a home overseas with many leading investigative teams in international criminal tribunals. One of these recently returned home after leading the team that helped capture the financier of the Rwandan genocide, Felicien Kabuga, who had been on the run for over 25 years.

To develop that same level of expertise, the AFP and the CDPP will require additional resources, and most importantly the specialist training and skills to investigate and prosecute these crimes. The logical home for any permanent unit would be in the AFP.

For many years Australians have stressed the need for such concentrated expertise. Supporters include Professor Tim McCormack, who currently serves as special advisor on IHL to the Prosecutor of the International Criminal Court, Mark Ierace, former international criminal prosecutor, and now a NSW Supreme Court Justice, and John Ralston, former international criminal investigator, who helped establish the Institute for International Criminal Investigations in The Hague, an institute where the most dedicated investigators receive training.

There are serious challenges and barriers to investigating and prosecuting extraterritorial crimes that do not arise in domestic matters and require creative strategies, international co-operation, and sharing of expertise for successful prosecutions. Investigators and prosecutors must overcome jurisdictional constraints, language, cultural and technical barriers, in addition there are issues with access to crime scenes and other relevant evidence.

Specialised units deliver depth of experience and over time the quality of investigations improves and investigation time decreases. In establishing such a body, Australia would be joining many countries, such as the Netherlands, Germany, France, Switzerland, Sweden, Britain and the US, which have long-established war crimes units that are actively investigating atrocities in Syria, Iraq, Myanmar, and the Democratic Republic of the Congo to name just a few.

More specifically, in relation to the Afghanistan allegations, we need to ensure that the AFP and the CDPP will conduct investigations and prosecutions effectively and genuinely. Otherwise, Australian nationals may face the International Criminal Court in The Hague. A parliamentary inquiry could be set up now to examine whether the AFP has the skills, expertise and resources to undertake the referrals to come, and specify the reforms needed to properly investigate and fund these investigations and prosecutions. It should also commit to reviewing performance periodically.

The opportunity is now to consolidate any build-up of Australia's expertise in investigating and prosecuting war crimes by special forces in Afghanistan and establish a permanent investigations unit, while developing a national strategy and program to join the global fight to disrupt the impunity that exists for those who commit atrocities and to assist victims and survivor communities around the world in their struggle for justice and accountability.

[back to contents]

Extraordinary Chambers in the Courts of Cambodia (ECCC)

Official Website of the Extraordinary Chambers [English]

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

Cambodia Tribunal Monitor

[\[back to contents\]](#)

Bangladesh International Crimes Tribunal

Democracy Is Dying in Bangladesh. Targeted Sanctions Could Save It. (The Diplomat) By Toby Cadman

September 25, 2020

Four years ago, my client was disappeared.

Mir Ahmad Bin Quasem, a Bangladeshi lawyer with opposition party ties, was taken in the dead of night by men in plain clothes from his Dhaka home. His wife, sister, and young daughters tried to intervene and run after him, but were helpless to stop them. They watched as he was dragged into an unmarked vehicle and driven away. They never saw him again.

Today, we have little hope he will ever return. Mir Ahmad was one of three men, all the sons of influential opposition political figures, abducted in August 2016 in similar circumstances. One of the men, Hummam Quader Chowdhury, was released after six months. The other two, Mir Ahmad and Abdullahil Amaan Azmi, have not been seen since their abduction.

This is how democracy dies in Bangladesh, how it has been dying for years.

Mir Ahmad's and Azmi's enforced disappearances are part of a widespread and systemic pattern of serious human rights abuses perpetrated by networks of law enforcement and intelligence agencies acting as political tools for the ruling Awami League. They commit extrajudicial killings, enforced disappearances, and torture at chilling rates, often targeting critics of the ruling party, particularly around elections, or marginalized groups such as the Rohingya refugees. The violence and repression instill fear and silence dissenting voices. And day by day, Bangladesh's fragile democracy disappears.

Perhaps no entity has been a more lethal weapon for the Awami League's repression than the Rapid Action Battalion, or RAB. An elite unit of the Bangladesh Police whose officers are seconded from the Armed Forces and Police, the RAB has militarized law enforcement with devastating impacts on human rights. Since 2015, RAB officers are alleged to have carried out more than 400 extrajudicial killings and more than 80 enforced disappearances. As the U.N. Committee Against Torture bluntly put it, the RAB allegedly commits acts of torture "as a matter of routine policy."

The problem is only getting worse. In May 2018, Prime Minister Sheikh Hasina launched a "war on drugs" that many recognized as a thinly veiled attempt to bolster the Awami League's chances of consolidating power in the December 2018 elections. The RAB was heavily involved in the "war on drug" operations, leading to an explosion of state violence.

In just one year, extrajudicial killings by the RAB spiked four-fold, with more than 136 people dead by the end of 2018.

One of those people was Ekramul Haque, a municipal councilor. The RAB claimed Ekramul was a drug dealer and that his death in May 2018 occurred in a "gunfight" — a common phrase used by law enforcement to cover-up extrajudicial killings.

None of it was true. Ekramul's family released an audio recording of his murder by the RAB, caught on his wife's phone. The recording captures Ekramul denying involvement. A gun loaded. A shot fired. A man groaning. A second shot fired. For the next 11 minutes, RAB officers give orders to tamper with the crime scene and stage their "gunfight." Untie his hands and legs. Put drugs and bullets in his hands and pockets. Scatter empty bullet shells. Fire on nearby vehicles.

Two years later, there has been no justice for Ekramul, for Mir Ahmad and Azmi, or the hundreds of RAB victims who are dead,

disappeared, or left to grapple with the physical and psychological scars of torture. There have been no public investigations, no officers suspended or fired, no charges brought. In fact, former RAB leader Benazir Ahmed was recently promoted to Inspector General of Police, despite commanding the RAB as it turned to increasingly brutal violence over the past five years. Bangladesh's leaders simply deny such crimes occur, and the RAB enjoys complete impunity.

None of this is new. The U.S. government, its allies, the United Nations, and human rights organizations have documented these crimes for years.

What is new are the tools we have to take action. The United States should impose targeted sanctions under the Global Magnitsky Human Rights Accountability Act and Executive Order 13818 against senior RAB commanders responsible for these serious human rights abuses. Canada and the United Kingdom, which last month enacted its own Magnitsky-style sanctions law, should join in this effort. Together, we can send the strongest possible message to the Bangladesh regime that we stand with those who call for the respect of fundamental human rights, the protection of democratic values, and an end to denial and impunity.

Sanctions are a critical and powerful tool to spur much-needed reform and stop these abuses by naming and shaming perpetrators, restricting their U.S. visas, and freezing their U.S. assets. The RAB is the tip of the spear for the regime's efforts to quell dissent, most recently leading a campaign of arbitrary arrests and disappearances of people who criticized the Awami League's COVID-19 response on social media. As the violence has continued unchecked for so long, marginalized groups such as the Rohingya refugees and people living in impoverished communities are increasingly falling victim to the RAB's extrajudicial killings. One in three people killed by the RAB so far this year have been Rohingya.

As U.S. Senator Patrick Leahy called it, this is "state-sponsored criminality." It is time to hold the perpetrators accountable, so no other family has to listen to their loved one's murder, or watch them disappear into the night.

Bangladesh outraged by Myanmar's falsehood, fabrication of facts at UNGA (Dhaka Tribune)
September 30, 2020

Bangladesh is "outraged" to witness another "blatant demonstration of falsehood and fabrication of facts" by Myanmar in the ongoing UN General Assembly (UNGA) and shared the situation on the ground before the international community.

"Bangladesh strongly rejects baseless accusations and falsification and misrepresentation of facts that Myanmar made in the UNGA," a senior official in Dhaka told UNB conveying what Bangladesh exactly responded to Myanmar's propaganda.

Bangladesh, through the UN, has urged the Myanmar government to abandon its policy of lies and propaganda and demonstrate genuine political will to take back their own nationals with safety, security and dignity, said the official.

Myanmar at the UNGA claimed that Bangladesh is harbouring terrorists in Cox's Bazar Rohingya camps but it rejected such "baseless" allegations.

Bangladesh, under the leadership of Prime Minister Sheikh Hasina, maintains a zero-tolerance policy to terrorism, terrorists financing and other drivers of terrorism, said another official.

"We don't allow our territory to be used by any terrorist. Myanmar needs to look at its own mirror," the official said, mentioning that this is what Bangladesh's reply to Myanmar during the general debate at the UNGA.

Bangladesh also pointed out "concocted and misleading" statement of Myanmar on the development in Rakhine State, particularly in the repatriation process.

Not a bilateral issue

Myanmar's Minister Kyaw Tint Swe, in his speech at the UNGA, on Tuesday said bilateral cooperation is the only way to effectively resolve the repatriation issue between Bangladesh and Myanmar.

Bangladesh strongly disagreed on such a notion reminding Myanmar that the Rohingya issue is not a bilateral one but it is Myanmar's internal problem.

Bangladesh highlighted Myanmar's track record of inhumane treatment of ethnic minorities, including Rohingyas, saying it is nothing new for Myanmar.

Bangladesh said it is Myanmar's State policy of deliberate exclusion and persecution on their own people that instigated insurgency and turned Myanmar into the breeding ground of organized crimes.

Bangladesh took the floor to reply Myanmar's "propaganda" and said a deadly conflict is going on in Rakhine State ignoring the

UN call for ceasefire simply to implement Myanmar's "genocidal campaign" against its own people, said the official.

Bangladesh provided temporary shelter to over 1.1 million forcibly displaced Myanmar Nationals.

More than three years have elapsed but regrettably, not a single Rohingya could be repatriated.

"The problem was created by Myanmar and its solution must be found in Myanmar. I request the international community to play a more effective role for a solution to the crisis," said Prime Minister Sheikh Hasina in her 75th UNGA speech.

During the general debate, Bangladesh mentioned that the conditions in Rakhine State are so bad that not a single Rohingya wanted to return to Myanmar voluntarily.

Bangladesh called upon Myanmar to open up Rakhine to international organizations, UN and media to observe the situation on the ground.

Officials said Myanmar's "unsubstantiated claims and undue accusations" against Bangladesh are part of their efforts to avoid their obligations for Rohingya repatriation.

Bangladesh made it clear in the general debate that Myanmar has no intention to implement the repatriation deal signed with Bangladesh.

What about 350 Rohingyas?

The Myanmar side acknowledged at the UN that bilateral repatriation had not yet started but claimed that more than 350 Rohingyas from camps in Cox's Bazar district had returned to Myanmar's Rakhine State.

Bangladesh raised questions over Myanmar's such claim and wanted to know the whereabouts of those returnees.

"Who are those 350 people? Where are they now? Are they living at their homes in safety and security?" Bangladesh wanted to know from Myanmar if they returned to Myanmar at all.

Visible action sought

Bangladesh has sought genuine efforts from the Myanmar government and take back their nationals.

"Myanmar should take visible action not just seeking the attention of the international community," said an official.

Bangladesh conveyed the UN that Myanmar must address the real causes and it is not Bangladesh's responsibility to keep bearing Myanmar's burden again and again. "Myanmar needs to have genuine intent and political will to address the problem," said the official.

Bangladesh conveyed it to the UN during general debate that Rohingyas do not want to return to Myanmar because they do not trust the Myanmar government.

Two repatriation attempts were failed in November 2018 and August 2019.

Accountability

Bangladesh highlighted the accountability issue and referred to the recent developments at the International Court of Justice (ICJ).

Bangladesh also mentioned that the whole world watched the horrors and brutality by the Myanmar security forces on Rohingyas.

"We opened the border and saved lives. We acted in good faith," an official quoted a Bangladesh diplomat as saying in the general debate.

Myanmar said they share the concern over allegations of human rights violations in Rakhine and take them seriously.

Aung San Suu Kyi, the State Counsellor of Myanmar told a public hearing at the ICJ in December 2019 that if war crimes or human rights violations were committed, they will be investigated and prosecuted by Myanmar's criminal justice system.

But there has been no serious efforts by Myanmar on that particular front, the Bangladesh side said.

Bangladesh said still Rohingyas are coming to Bangladesh amid violence in Rakhine State and Myanmar keeps distorting facts to justify its genocidal acts.

Holding perpetrators of the atrocities committed against the Rohingya people in Rakhine state to account would contribute to giving the Rohingyas the confidence to return home, diplomats stationed in Dhaka said.

Bangladesh and Myanmar signed the repatriation deal on November 23, 2017.

On January 16, 2018, Bangladesh and Myanmar signed a document on “Physical Arrangement”, which was supposed to facilitate the return of Rohingyas to their homeland.

[\[back to contents\]](#)

War Crimes Investigation in Myanmar

Rakhine Civilians Tell of Beatings During Overnight Detention by Myanmar Army (Radio Free Asia)

September 24, 2020

Ten Rakhine civilians were released Thursday after being detained and interrogated overnight by Myanmar troops, with several villagers saying they were kicked and beaten by soldiers in what a local lawmaker called a common occurrence in the war-torn state.

The detainees, who ranged from 16 to 40 years old and included a school teacher, were from two villages in Rakhine’s Kyauktaw township, one of the main theaters in the 21-month-long conflict between the Myanmar military and the Arakan Army (AA). They were detained by a column of Light Infantry Battalion No.376, villagers said.

“Yesterday morning, the government troops entered Thayetpin village and questioned 19 villagers. Nine were released in evening and other 10 were taken along with the troops,” said a villager who spoke on condition of anonymity for safety reasons.

He said that many villagers from Thayetpin, home of nine of the 10 detained villagers, fled as soon as government troops entered the villages in fear of beatings during questioning about the AA, a rebel group that champions ethnic Rakhine autonomy in Myanmar’s western-most state.

“There were some physical assaults like punching and kicking but no bloody incidents during interrogation,” said one of the villagers who were released by the troops Thursday but was afraid to give his name. “But we do not want to tell everything for fear of repercussion.”

The father of the detained teacher said, “My son was faultless, and he did not do anything. I was worried the troops would beat or kill him.”

RFA’s Myanmar Service tried to reach military spokesman Major General Gen Zaw Min Tun for comment on the villagers’ claims, but he did not answer telephone calls.

In previous cases in which abuses against civilians have been alleged, Zaw Min Tun has said the army arrests and questions those suspected of having ties to the Arakan Army — a policy he said was based on security reasons and did not target ethnic Rakhines.

But Tun Tun Win, a lower house MP for Kyaukphyu constituency in Rakhine said that mistreatment of civilians was common in northern Rakhine state, where RFA has recorded 30 civilian deaths in army detention and interrogation from the beginning of 2019 to Aug. 8.

“In Rakhine state, many villagers were arrested and tortured during interrogation. We filed complaints, but relevant government departments ignored them,” he told RFA.

“Villagers came to me and filed complaints. We investigated them and found out they were only civilians and have no relation to any troops or organizations,” added Tun Tun Win.

According to a local activist group, Rakhine Human Rights Protection and Promotion, more than 200 villagers in the northern part of the state have been arrested by the army.

The overnight incident in Kyauktaw came 10 days after the U.N. human rights chief told the Human Rights Council in Geneva that the Myanmar military's brutal tactics in Rakhine state, including "widespread arbitrary arrests and detention of civilians," were producing possible war crimes.

"Use of torture and other cruel, inhumane or degrading treatment or punishment against detainees has also been alleged," said a report submitted by Michelle Bachelet, the U.N. high commissioner for human rights, using the Burmese name for the military.

Following Bachelet's statement, Kyaw Moe Tun, Myanmar's permanent representative to the U.N., said in prerecorded remarks that "terrorist attacks" in Rakhine were to blame for the humanitarian crisis there.

The AA has been engaged in hostilities with Myanmar forces since late 2018 as the rebels fight for greater autonomy for ethnic Rakhine people in what they consider to be its historic homeland on the Bay of Bengal coast. The war has killed nearly 300 civilians and injured more than 640 while displacing more than 220,000 civilians.

KNU Denies Burma Army Accusation Its Troops Killed Two Soldiers on the Kawkareik-Myawaddy Old Road and Booby Trapped Corpse Killing Three and Wounding Five More Soldiers (Karen News)

October 4, 2020

On October 1, 2020, the Burma Army's Tatmadaw Information Team reported they had arrested two people involved in the killing of its two soldiers and accused them of also planting booby traps under the corpses that killed another three soldiers and wounded five more.

The Tatmadaw Information Team said initial interrogation had uncovered the two killers are soldiers from the KNU.

Speaking to Karen News, Padoh Saw Ta Doh Moo, general secretary of the KNU said the Burma Army's accusation its soldiers were involved in the killing is groundless.

"First of all, I want to make it clear that it's nothing to do with us. Their [Burma Army] accusation is baseless. If they were our soldiers, they would have had their Personal Numbers (ID). If there is no evidence, they should not make such baseless accusations against us."

A media statement put out by the Tatmadaw Information Team, on October 1, said two people were arrested over their involvement in the killing of its soldiers on September 28. The Tatmadaw Information Team identified one of the two accused as Saw Kyaw Wah Paw and claimed he attended military training at the KNLA at Htee Wah Blaw camp. The Tatmadaw Information Team statement said Saw Kyaw Wah Paw claimed he was ordered to ambush Burma Army soldiers by a local KNLA officer.

The KNU said that Tatmadaw accusation, without any concrete proof, could hurt the trust building during the peace process and the KNU will strongly make its objections clear in an official letter.

Padoh Ta Doh Moo said despite the NCA Joint Monitoring Committee not working the KNU will lodge its complaint.

"We will submit our protest. It's unfortunate we had to learned about this case from media reports. We will make more inquiries into the case and make an official appropriate response after we have completed our investigation.

The suspects were first arrested by Border Guard Force militia and according to an earlier statement made by Colonel Saw Chit Thu, the general secretary of the BGF in Karen State, the suspects had said they didn't belong to any armed group.

On August 30, two Burma army soldiers staffing a OTA post on the Kawkareik-Myawaddy old road were shot and killed and a grenade planted under one of the corpses resulting in three more soldiers killed and five more injured by an explosion when the body was lifted.

The incident area is mixed control areas accessible by armed groups including the KNLA, KNU/KNLA- Peace Council, Democratic Karen Benevolent Army, DKBA breakaway group and BGF.

Five Rohingya Killed in Shooting Incidents in Myanmar's Rakhine State (Radio Free Asia)

October 6, 2020

Two shooting incidents in western Myanmar's Rakhine state have killed five members of the Muslim Rohingya ethnic minority, including two children slain in a firefight between rebels and government troops patrolling behind civilians forced to walk through mined territory, residents said Tuesday.

In an account from Buthidaung township that was disputed by the Myanmar military, an army column had conscripted 15 civilians to guide soldiers through terrain believed to be mined by the rebel Arakan Army (AA). The two young cattle herders were killed Monday when the column was ambushed by AA troops, the villagers said.

Later on Monday in the seat of Rakhine's Minbya township, three Rohingya men were shot dead by government soldiers who fired on their boat from a bridge above a river next to the historic town market, residents said.

The five dead Rohingyas are the latest casualties in a war in the northern half of Rakhine state that has killed nearly 300 civilians and injured 657 others since December 2018, according to an RFA tally.

Another 220,000 civilians have been displaced by the government's conflict with the ethnic Rakhine AA, which erupted a year after a scorched-earth military crackdown drove 740,000 Rohingya Muslims from the same region to Bangladesh in response to militant attacks on Myanmar police and army posts that killed nine.

Monday's killings brought fresh reiterations of a longstanding charge that the Myanmar military conscripts civilians as human shields in its combat with ethnic armies.

"They had taken a total of 15 villagers to use as local guides," said a resident of Pyin Shae village in Rakhine's Buthidaung township, who requested anonymity for safety reasons.

The conscripted group of Rohingya included children who were herding cattle and an elderly man, the resident said.

"The fighting erupted on the way," the resident said. "Two were killed, and one got injured and is in the hospital."

"I heard the military had taken children who were herding cattle and got into the combat on the way," said Aung Thuang Shwe, a lawmaker from Buthidaung township. "The combat left two people dead, and another person was sent to Buthidaung Hospital."

The other dozen villagers escaped during the skirmish and returned to the community at about 8 p.m., residents said.

Military denies clash

Myanmar military spokesman Major General Zaw Min Tun denied that shooting by government soldiers killed the two children and wounded the adult, instead blaming the AA for firing on the civilians.

He said that government soldiers heard light artillery blasts northeast of Pyin Shae village and went there to investigate. They discovered the bodies of two Rohingya villagers and a third person who was still alive but unconscious.

The dead boys were returned to their village, while the injured man was taken to a military hospital in Buthidaung township, the spokesman said.

The villagers said that residents who followed the military column collected the bodies of the two dead children and took the injured 32-year-old man back to their community.

"It is not true that there was any combat with military," Zaw Min Tun told RFA Tuesday.

"Our troops went there after they heard the blast. They [the AA] must have tried to kill all three of them," he said, who added that he was told that AA soldiers fired on the villagers as they were herding cattle in the area.

"We are still investigating," said Zaw Min Tun when asked why the military's account contradicted that of the villagers who said government forces were responsible for the deaths.

"We have arrested three people who are not Bengalis for interrogation," he added, using a derogatory name for the Rohingya that implies they are illegal immigrants from Bangladesh.

AA spokesman Khine Thukha told RFA that soldiers in the area said the shooting erupted as the military troops rounded up Pyin Shae villagers as forced laborers, though he could not confirm whether a clash with Myanmar troops had taken place.

Khine Thukha accused the military of trying to cover up the atrocity by fabricating a story that the civilians had been injured and killed by AA troops.

'This is totally wrong'

Myanmar's government army has long been accused by human rights groups and ethnic armies of using local civilians as forced porters and human shields.

Aung Myo Min, executive director of the human rights group Equality Myanmar, said that Myanmar's Child Rights Law prohibits the violation of children's rights during armed conflict and makes it illegal for soldiers to use minors as forced laborers.

"This is totally wrong, especially as armed groups are supposed to protect children during armed conflict," he told RFA's Myanmar Service. "Instead, they are now using them in combat and getting them killed."

The three Rohingya men shot dead by soldiers on a bridge above them in central Minbya late Monday night were identified by residents as Nu Mahmud, 40; Noru Salam, 50; and Mar Dawlar, 45, from Latma village..

"They fired the guns from the bridge, yelling, 'Shoot them, shoot them,'" said a local senior citizen who requested anonymity for safety reasons. "Three Muslims were killed."

The three Rohingya men were rowing their boat in the morning in a creek near Myo Ma market, when the Myanmar soldiers fired, the resident said.

"We don't know why they shot at them," he added.

Many local residents who live in the area said they heard the gunshots.

Some senior citizens of the town said authorities arrested three people — Maung Gyi, 29; Maung Maung Oo, 41; and Kyaw Min Soe, 25 — after the shooting.

'More and more of these incidents'

A statement issued Tuesday by the Myanmar military said a combined team of soldiers and police officers saw two motorboats traveling along the creek around 10:45 p.m. during a nighttime curfew in northern Rakhine townships — a direct contradiction of the accounts given by residents who said the shooting occurred around 10 a.m.

Those who break the curfew that has been in place since April 2019 in Minbya, Kyauktaw, Rathedaung, Ponnagyun, and Mrauk-U townships are subject to arrest or worse if they are detected by security personnel.

The security forces ordered the men in the boats to stop for questioning, but they tried to flee. Warning shots were fired into the air, but when the vessels continued going, the soldiers and police fired directly at trio, according to the statement.

Authorities seized bodies of the three Rohingya along with two machetes, slingshots, and cell phones from their boats, and are now investigating whether the trio had connections to insurgent groups. Their bodies were taken to the mortuary after they were found, the statement said.

Myat Tun, director of the Arakan Human Rights Defenders and Promoters group, who checked the bodies Tuesday morning, said that the bullets had penetrated the men's backs.

"This is not acceptable," he told RFA. "If they didn't stop their boats as the security forces ordered, then they should have tried other ways to stop them."

"We now are seeing more and more of these incidents," he added. "The security forces are committing war crimes."

Maung Than Hlaing, the administrator of Latma village, told RFA that the three slain men from his community, whose bodies were transferred to their families by Minbya town police, had no connections to any rebel army.

Maung Thein Hlaing, the administrator of Latma village, said the police contacted him at about 7:30 a.m. Tuesday to verify the identities of the men.

"All three villagers were day laborers," he said. "They made a living by doing odd jobs. They were not associated with any armed groups."

[\[back to contents\]](#)

AMERICAS

North & Central America

Human rights lawyers sue Trump administration over 'unconstitutional' ICC sanctions (Dhaka Tribune)

October 1, 2020

Human rights lawyers launched a legal challenge on Thursday to US President Donald Trump's executive order imposing economic sanctions on employees of the world's permanent war crimes tribunal, arguing it breaches the US constitution.

A filing lodged at a district court in New York by the Open Society Justice Initiative, a public interest law centre that specializes in war crimes cases, names Trump, US Secretary of State Mike Pompeo and seven other members of his administration.

It argues that the executive order violates constitutional rights, including freedom of speech, and prevents the plaintiffs from carrying out work in support of international justice.

"By issuing this outrageous order, the Trump administration has betrayed Washington's long-standing support for international justice, snubbed its allies, and violated the US constitution," Open Society Justice Initiative executive director James Goldston said in a statement.

"We are going to court to end this reckless assault on a judicial institution and the victims it serves."

Trump authorised US economic and travel sanctions against employees of the Hague-based International Criminal Court and anyone supporting its work on June 12, citing their involvement in an investigation into whether American forces committed war crimes in Afghanistan.

On September 2, Pompeo said ICC prosecutor Fatou Bensouda had been blacklisted.

The ICC has said the measures are an attack on the court, the system of international criminal justice and the rule of law more generally.

European Union countries and rights groups have rejected the US sanctions as detrimental to efforts to secure international justice for war crimes.

Measures include freezing the US assets of those who help the ICC investigate or prosecute American citizens without US consent, and barring them and their families from the United States.

The main target of the move is Bensouda, who was granted approval in March to investigate possible crimes committed in Afghanistan between 2003 and 2014.

These include alleged mass killings of civilians by the Taliban as well as the alleged torture of prisoners by Afghan authorities and, to a lesser extent, by US forces and the CIA.

Announcing the executive order in June, US Secretary of State Mike Pompeo described the ICC, established in 2002 by the international community to prosecute war crimes, genocide and crimes against humanity, as a "kangaroo court."

Trump administration officials also said it threatened to infringe on US national sovereignty and accused Russia of manipulating it to serve Moscow's ends.

[[back to contents](#)]

South America

Rodrigo Tovar Pupo: Colombia arrests deported AUC ex-leader 'Jorge 40' (BBC)

September 29, 2020

Rodrigo Tovar Pupo had served 12 years of a 16-year prison sentence in the US for drug trafficking.

Using the alias Jorge 40 he commanded the right-wing United Self-Defence Forces of Colombia (AUC).

The AUC is said to have used battles with left-wing rebels to hide crimes such as drug trafficking and extortion.

On arrival in the capital, Pupo was immediately taken into custody on suspicion of involvement in crimes including mass killings, kidnappings and torture.

In a statement, Colombian justice ministry official Javier Sarmiento Olarte said Pupo would be "placed before the criminal justice system" and there would be "guarantees" for the right to the truth, justice and reparation.

Pupo faces almost 1,500 active investigations and 35 arrest warrants, officials said.

The AUC demobilised 14 years ago in a deal with the Colombian government, but Jorge 40 was excluded from a wider deal that limited punishments for its former fighters and commanders.

Pupo was extradited to the US in 2008 along with other leaders of far-right paramilitary groups by the government of then-President Alvaro Uribe.

[\[back to contents\]](#)

Venezuela

Venezuela's Maduro Rails Against U.S. In Address To The UN (OAN)

September 25, 2020

Embattled Venezuelan President Nicolas Maduro railed against the U.S. while claiming America is the most serious threat to world peace.

The South American leader, who stands accused of war crimes, made the remarks while addressing the United Nations Wednesday. He denigrated the U.S. by claiming Washington has committed criminal and inhuman acts of aggression toward his regime.

Maduro also attacked dozens of other countries in his speech, all of which do not recognize him as the legitimate leader of Venezuela. Instead, the nations acknowledge his opponent Interim President Juan Guaido who responded to Maduro's heated remarks by demanding he step down.

"Today, I call on all representatives of UN member states to assume responsibility in assisting the legitimate government of Venezuela in its mission to protect the people of Venezuela, to save Venezuela and to consider a strategy," stated the opposition leader. "After all the steps taken, the time has come for timely and decisive action."

Meanwhile, Maduro also called on other countries to oppose U.S. sanctions on his dwindling list of allies, which includes Syria, Cuba and Iran.

[\[back to contents\]](#)

TOPICS

Truth and Reconciliation Commission

Former Security Branch clerk's claim that apartheid perpetrators received a pardon from President Mbeki is 'absolute hogwash' (Daily Maverick) By Greg Nicolson

October 5, 2020

Former Security Branch clerk Joao Rodrigues, who is charged with the 1972 murder of anti-apartheid activist Ahmed Timol, has claimed that his right to a fair trial has been violated and that if he's guilty of anything, it's lying about seeing Timol on the day he was thrown from the 10th floor of the Johannesburg Central Police Station.

In his application to the Supreme Court of Appeal (SCA), Rodrigues has repeated another defence: that he and other alleged perpetrators of apartheid crimes who were not granted amnesty by the Truth and Reconciliation Commission (TRC) might have been pardoned by the president.

The NPA's decision to charge Rodrigues was hailed as a milestone for relatives of anti-apartheid activists who were killed by state operatives, but if the SCA upholds his claims that the president issued a blanket pardon, those families' hopes of uncovering the truth and holding perpetrators accountable would be dashed.

"We submit that on probability the president indeed granted a pardon to the group of politically motivated perpetrators who did not apply for amnesty," reads Rodrigues's application for a permanent stay of prosecution.

His lawyers argue that there's evidence that the president considered pardoning those who were not granted amnesty by the TRC. The papers don't name the president, but they are clearly referring to Thabo Mbeki.

The NPA has admitted that it succumbed to political pressure and sidelined the investigations referred to it by the TRC.

Rodrigues argues that the president may have issued a secretive pardon, or a legally binding decision to that effect, which would explain why prosecutors failed to act on cases already investigated by the TRC.

"Some decision was taken and/or some agreement and/or arrangement was reached to the effect that certain incidents would not be prosecuted on – this clearly included the incident relevant to this application," reads Rodrigues's appeal application.

Rodrigues did not apply for amnesty at the TRC, but has claimed that his right to a fair and timely trial would be violated if prosecutors proceed with charges against him when they could have acted 20 years ago.

Timol's nephew Imtiaz Cajee, who fought to have the Timol inquest reopened and overturned, said Mbeki attempted to pardon certain individuals, through the special dispensation for political pardons, but the process failed when challenged in court.

"Rodrigues is wrong. What he's talking about was never approved. He has no amnesty. He must stand trial for his crimes," Cajee told Daily Maverick.

Yasmin Sooka from the Foundation for Human Rights, which has pursued a number of apartheid-era cases in court, called the argument "absolute hogwash". She said there had clearly been discussions between Mbeki's executive and apartheid criminals, but they came to naught as any sort of blanket amnesty would violate the Constitution and South Africa's international obligations.

Marjorie Jobson, executive director of the Khulumani Support Group, which assists survivors of apartheid human rights violations, said people accused of apartheid-era crimes had "shamefully" limited families' efforts to seek the truth by delaying the cases against them while, as former government employees, the state pays for their defence.

"This matter needs to be put to rest by the Appeal Court. If not, we will go back to the Constitutional Court to reaffirm the rights of victims to justice as President Mandela put forward in the debate on the TRC's report in 1998," she said.

During his application for leave to appeal, which was dismissed, a full Bench of the Johannesburg High Court rejected Rodrigues's claim that he and others might have been granted a blanket pardon.

“While there were political attempts made to consider pardons post the TRC process, none of them materialised,” said the court.

“The courts took the firm view, particularly in matters relating to pardons, that when such power was exercised, it triggered the duty to hear persons affected and that the exclusion of victims from such a process was irrational,” it continued.

Marjorie Jobson, executive director of the Khulumani Support Group, which assists survivors of apartheid human rights violations, said people accused of apartheid-era crimes had “shamefully” limited families’ efforts to seek the truth by delaying the cases against them while, as former government employees, the state pays for their defence.

“Crimes against humanity do not prescribe. The conditions for amnesty existed only for the duration of the offer of amnesty in exchange for the whole truth. This was a time-limited offer,” said Jobson.

“The pursuit of the charges against Mr Rodrigues are critical to the cause of accountability for past crimes. Too many agents of the apartheid state have taken extraordinary measures to hide the truth from families of those who died in political detention.”

The precedent set in the Rodrigues case will have far-reaching consequences. Four former Security Branch members were due to go on trial on Monday for the 1983 kidnapping, murder and disappearance of MK member Nokuthula Simelane. The case was postponed due to the death of a member of the defence team.

That case, and many like it, could be derailed if Rodrigues gets his way at the SCA. His application for leave to appeal will be heard by the court on 6 November.

[\[back to contents\]](#)

Terrorism

[\[back to contents\]](#)

Piracy

Somali Piracy: Last Three Hostages Freed Although Threat Still Exists (Homeland Security Today.com)

September 23, 2020

Somalia pirates have freed the last three of the 3,639 hostages held in captivity over the past five years.

The three had been working on an Iranian fishing vessel, FV Siraj, when it was hijacked off the coast of Hobyo, Somalia in March 2015. They are now on their way home after completing tests for COVID-19 and undergoing other medical checks.

In a letter dated September 15, the Chair of the Contact Group on Piracy off the Coast of Somalia (CGPCS) expressed relief over the release; made possible due to the intervention of the Hostage Support Partners (HSP).

“Their continuous pro-bono support and negotiations with Somalia pirates and other key stakeholder, over the years led to freeing the remaining crew members,” CGPCS said.

HSP also facilitated the release of the fourth member of the FV Siraj in 2019 for urgent medical care.

CGPCS also commended the role played by charity International Seafarers’ And Assistance Network, which provided assistance through the CGPCS’ Piracy Survivors Fund in supporting the families of hostages during difficult periods of captivity and upon returning home.

International Maritime Bureau (IMB) welcomes the good news but warns that ships still need to be alert and remain vigilant and not get complacent when transiting Somalia waters as the threat of attacks still exists. Navies need to have continued presence in the region to have a stabilizing effect IMB says.

Vessels are urged to continue implementing BMP5 recommended practices while transiting these waters while Somali pirates maintain the capability for carrying out attacks.

No attacks were reported off Somalia in 2019 and up to June 2020. In 2018, three vessels were reported being fired upon in the region.

Navy, Air Force foil pirate attack (Graphic Online) By Della Russel Ocloo
September 28, 2020

The Ghana Navy and Air Force have foiled an attempted pirate attack on an oil tanker off the coast of Takoradi.

The oil tanker vessel, MT Hafnia Phoenix, escaped the pirate attack some 72 nautical miles off the coast of Takoradi last Tuesday after undertaking a manoeuvre to outwit an armed gang of pirates.

The Denmark-flagged vessel, which was sailing from Lomé in Togo to Abidjan in Cote d'Ivoire, was attacked by the group of about 10 and riding in a skiff (river craft) carrying a ladder — known to be an essential tool that enables easy access into hijacking of vessels in sail.

Briefing the Daily Graphic, the Chief of Naval Staff, Rear Admiral Seth Amoama, said the pirates escaped narrowly as the navy and Air Force staged a joint operation to counter them.

He said although the military aircraft used for the exercise was able to locate the tanker vessel, the attackers managed to escape.

There was also another attempted attack last Saturday on a tuna vessel, Agnes 1, within Ghana's Exclusive Economic Zone.

The Chief of Naval Staff said the navy and its stakeholders would step up their operations to ensure that the threat was dealt with within the zone.

He expressed confidence that a retooling project being undertaken by the government — aided by the adoption of technology — would enable the navy and its stakeholders to meet operational requirements of surveillance and detection, particularly when the criminals often changed their modus operandi.

MMCC Report

A report on the incident from the Multinational Maritime Coordination Centre (MMCC) Zone F office indicated that after the failed pirating attempt, the relevant stakeholder agencies intensified beach combing operations along the coast to locate the suspected pirate skiff, while vessels at sea were informed to remain vigilant and look out for suspicious skiff/craft movements.

The Togolese and Ivorian authorities were also informed of the incident since indications were that the attackers could be seen at open sea or anchorages of the two countries.

“The MMCC Zone F wishes to assure the international community and the maritime industry that the Ghana Navy and navies across Zone F and E are closely monitoring the situation at sea and are on high alert, while extra measures have been taken to prevent pirates from gaining a foothold, especially in Zone F,” the report indicated.

Modus operandi

Rear Admiral Amoama said the piracy business had become a lucrative venture where criminal gangs operated very far from land of about 150 to 200 nautical miles with the assistance of mother ships — a large ship from which smaller craft is launched for an operation.

“The suspicion is that the skiff might have been aided by a mother ship as the facilitator to launch the botched attack, considering that they lacked the capacity to travel very long distance from land to the sea to carry out their attack and quickly return back to the vessel to avoid being detected,” Rear Admiral Amoama said.

He said while vessels of 300 tonnes were required by international regulations to have an Automatic Identification System installed on board to help track their movement from any maritime operation centre, persons engaged in the piracy business often switched off their identification systems to avoid being tracked, saying it had become a major concern for stakeholders in the region.

To be able to effectively reduce the attacks, the navy and its collaborators, he said, would require satellite imagery technology which was able to identify and track vessels, as well as patterns of illegal activities on sea and along the coasts.

“This technology is, however, very expensive, and countries within the Gulf of Guinea have not been able to make any investments in them yet it is in use in some developed countries,” the Chief of Naval Staff stated.

Ransom

Rear Admiral Amoama said ransom negotiations had become the norm as kidnapping had become an attractive cooperative venture for pirates.

Pirates, he stressed, often demanded nearly \$50,000 minimum in ransom per crew member kidnapped, and this, he said, was affecting Ghana’s fishing industry which recorded two separate attacks in June and August 2020, with two Koreans presently being held captive in the Niger Delta as the Korean Embassy in Ghana continued to negotiate for their release.

Surge of Piracy amid Coronavirus Outbreak (Global Risk Insights) By Theo Locherer

October 4, 2020

The last quarterly report from the International Maritime Bureau shows the negative effects of the Covid-19 on maritime security. There tend to be significant upswings of piracy during times of economic downturn, and the economic devastation wrought by the Covid-19 pandemic is largely to blame for the resurgence of this global menace.

The surge in piracy attacks in the Gulf of Guinea and the Malacca Straits, as recorded by the United Nations Office on Drugs and Crime (UNODC), can be directly linked to flaws in the security management of the ports and shipping lanes amid the expansion of the virus. To counteract this development, the signatory states of maritime security treaties are implementing new policies in order to provide more resilient security against offshore threats.

A trend correlated to confinement

This trend appears to be on the rise in multiple regions. A comparison with preceding years shows an increase in violence on ships both off and on shore, the latter being something of a novelty. Indeed, according to the International Maritime Bureau (IMB), 2019 had been synonymous with a 25-year low in the number of piracy and armed robbery attacks. But the Covid-19 pandemic appears to have reversed that trend.

The rise in piracy attacks appears to correlate with the spread of the virus in January until the global deconfinement in June. It also correlates with how the ships are stranded due to quarantining.

The peak was in March, as many ships were immobilized at sea and in ports, preventing their crew replacement, and therefore depleting their resistance to piracy. Consistent with this escalation, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery (ReCAAP) announced that attacks have returned to the Gulf of Mexico, a key hub for oil storage.

An increased activity in traditional piracy hotspots

Geographically, Africa sustained most of the attacks, with almost half of the reported incidents of the two last quarters of 2020. These attacks have mostly been reported in the Gulf of Guinea, with the International Maritime Bureau advising to reinforce the security of ships during the pandemic.

According to the UNODC, this increase of attacks is explained by the freeze in activities on the docks due to quarantining, and a sharp decrease in incomes for already fragile shore populations.

98 incidents of piracy were reported in the first half of 2020, compared with 78 in the same period of time in 2019. Mainly this represents 81 vessels boarded, 10 attempted attacks, six vessels fired upon and one hijacked. It also happened that 54 crews were reported kidnapped in 10 different incidents, 90% of which took place in the Gulf of Guinea.

The number of kidnappings decreased by 60% following the partial return to normality after confinement, between the first and the second quarter of 2020. The West African coast has been particularly dangerous due to the lack of both equipment and manpower to reduce the threat, as well as the vast areas to cover in order to effectively deter piracy. Possessing reserves in oil and gas, its waters are endangered by the presence of a relatively well-trained militia that has honed its skills fighting in the Delta’s secessionist movement. They target both ships and human capital. In April, pirates attacked a floating production storage and offloading (FPSO) vessel with a capacity of 50,000 barrels per day off the coast of Nigeria and kidnapped nine crew members, leaving the oil cargo intact.

According to Alex Kimani, the fall in oil price led pirates in the Western Hemisphere and Africa to give up on oil and to focus on ransom and onboard valuables.

« Oil majors such as ExxonMobil, Chevron, ENI, Shell, and Total with operations out of Equatorial Guinea, Nigeria, and Gabon

remain at high risk of experiencing piracy-related disruptions in their West African supply chains. »

A global setback on reducing piracy?

The lack of resilience in the infrastructure of port security and a diminished ability to react to unexpected events like the spread of Covid-19 were identified by the UNODC as factors in this rise in piracy.

According to Professor Brandon Prins, from the University of Tennessee-Knoxville, this trend, if not corrected, might incentivize more people to participate in piracy:

“My fear has always been that Covid-19 would reduce global trade which lowers growth, increases poverty and joblessness (and then) leads to more sea piracy,” he added.

“There is certainly a concern that with trade going down there will be fewer sailors on board ships (and therefore) fewer crew monitoring for potential pirates or armed robbers.”

This situation explains the increase in the boarding of ships; immobile ships are less secure.

However, it is interesting to see that the policies promoted to prevent hijacking and firearm use against commercial ships bore fruit, with no notable increase during the peak of the crisis.

In this matter, the implementation of international treaties such as the Yaoundé Code of Conduct, a comprehensive regional maritime security framework aimed at enhancing cooperation and information-sharing in the wider Gulf of Guinea have been central in preventing a further degradation of the situation, by making it more difficult for criminals to rebuild their networks. Despite piracy and armed robbery at sea being the main reasons the Yaounde Code of Conduct was created, the Code of Conduct also focuses on myriad illicit maritime activities, including illegal, unreported, and unregulated (IUU) fishing, maritime terrorism, narcotics and wildlife trafficking, and maritime pollution, thereby developing the possibility of a brighter long term outlook.

[[back to contents](#)]

Gender-Based Violence

Nobel laureate Nadia Murad denounces lack of will to end sexual violence as a war tactic (UN News)

September 28, 2020

“We have the ability to provide resources to communities destroyed by violence, Ms. Murad, who also serves as a UN Goodwill Ambassador, said. “We simply lack collective political will to do so.”

Speaking during an online event titled #EndSGBV, hosted by the United Arab Emirates, Norway and Somalia on the margins of General Assembly general debate, Ms. Murad – jointly awarded the 2018 Nobel peace prize with Congolese gynecologist Denis Mukwege for their efforts to end the use of sexual violence as a weapon of war - took stock of progress over the last year.

“We must critically look at what we did well, where we can be really proud because we have made a true difference”, she said, “but also, be honest and transparent on where we missed opportunities to stop gender-based violence and truly be there for victims.”

Survivor-centred approach

She described the launch of the Global Survivors Fund as “a major achievement”, along with the Murad Code, a protocol she launched with the United Kingdom for those collecting information from survivors on conflict-related sexual violence.

In a post-conflict region like Iraq, she said survivors must play an active role in the peacebuilding process. “Survivors know best what they need to heal and recover.” Efforts to engage them at every level of their recovery will empower them.

Threat to Yazidis ‘virtually unchanged’

Perhaps nowhere is the international unwillingness to engage more stark, than in the experience of the Yazidis, she said, most of whom live in northern Iraq and who in 2014 became victims of genocide by ISIL/Da’esh terrorists, in the group’s pernicious campaign to wipe out non-Islamic influence.

Stressing that their situation remains “virtually unchanged,” she said it pains her greatly that once again she must convey to the world the seriousness of their plight. Hundreds of thousands of Yazidis are internally displaced in camps, where conditions are dangerous – especially in light of COVID-19.

Their destroyed homeland of Sinjar, lacks critical infrastructure to support their needs. It is ignored, lacking any dedicated effort to build a stable local government and security force committed to equal protection for all citizens. Thus, Yazidis cannot return safely.

2,800 women, children still held by ISIL

Most importantly, she said thousands of Yazidis still face sexual violence daily at the hands of ISIL/Da’esh, with more than 2,800 women and children still missing and in captivity. They have been subjected to sexual violence and slavery for over six years.

“It is incredibly disheartening to understand no collective search and rescue efforts have been made by the Iraqi Government or the United Nations to find these women and children”, she said. “Make no mistake, the global community has abandoned over 2,800 human beings.”

‘Moral imperative’

To be sure, it is the responsibility of Iraq, the United Nations and the international community to take immediate steps to rescue these women and children, she said. “Anything less is unacceptable.” Yazidi families cannot rebuild their lives without knowing the fate of their loved ones. “Let us be clear: It is a moral imperative to respond to the vast needs of fellow human beings”.

She called for a collaborative grass roots approach, with international organizations, the United Nations and Governments working closely with local non-governmental groups to develop contextually specific approaches. Development can only be sustained if local communities are part of every decision that impacts them. “It is vital that we listen to the communities we serve,” she assured.

Call to rebuild Sinjar

Drawing attention to Nadia’s Initiative, which seeks to empower Yazidis to rebuild their lives and advocates for investments that will provide survivors of sexual and gender-based violence with comprehensive support, she said non-governmental organizations cannot rebuild post-conflict communities on their own.

In Iraq, she pressed the Government to rebuild Sinjar, provide survivors with reparations and stabilize local governments. While investigations have begun, evidence has been collected and survivors have recorded their testimonies, justice has yet to be served.

It is up to Iraq and the international community to try ISIL/Da’esh perpetrators for crimes against humanity, war crimes and genocide, she stressed. Yazidis and other communities destroyed by violence deserve international support.

Iraq urged to investigate attacks on women human rights defenders (UN News)

October 2, 2020

In a joint appeal on Friday, the seven experts also called on Baghdad to ensure that it was safe for everyone who stood up for people’s rights in the country.

The development follows the deadly shooting in August of Dr. Riham Yaqoub and the attempted assassination of Lodya Remon Albarti, in Basra.

Both rights defenders had led women’s marches within the protest movement against corruption and unemployment that began in 2018 in the southern city.

Survival, and death On 17 August this year, unidentified gunmen opened fire on a car carrying Ms. Albarti, who had previously been subjected to a long smear campaign that forced her to flee the city for her safety. She survived the shooting, but sustained leg injuries.

Since the attempted killing, the human rights defender has been the target of threats and slander online.

Two days later, Ms. Yaqoub, a doctor and defender who also advocated for the rights of women to exercise in public and use sports facilities, was killed by two unidentified gunmen riding a scooter as she drove through the centre of Basra.

“Clearly the Iraqi government has little regard for the lives of human rights defenders”, the UN experts said. “Both of these attacks were entirely preventable. Both women had received threats in the past and the State had done nothing to keep them safe.”

'Multi-layered threats' Although all human rights defenders in Iraq face serious risks, the experts said women face multi-layered threats.

"Women are a leading force in the human rights community but – as in many countries – they face additional threats simply because they are women," the experts said in a statement.

They added that amid war and insecurity, "women human rights defenders faced "prejudice, exclusion by society and by political leaders, as well as physical attacks, sexual violence, arbitrary detention, enforced disappearance, torture and even death".

End impunity They said that it was an outrage "that women in Iraq have to risk or lose their life to defend human rights", while also calling for an end to impunity "that allows these crimes to continue".

"We also call on the Government to ensure a safe and enabling environment for human rights defenders in Iraq", their statement concluded.

The Special Rapporteurs and Working Groups are part of what is known as the Special Procedures of the Human Rights Council.

The independent experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work.

[\[back to contents\]](#)

Commentary and Perspectives

[\[back to contents\]](#)

WORTH READING

A Critical Analysis of the Rome Statute Implementation in Afghanistan (Florida Journal of International Law Volume 31, Issue 1)

Abdul Mahir Hazim

September 25, 2020

Afghanistan has been a war-torn country for the past forty years. Over this time, countless atrocities have been committed and the lives of thousands of innocents have been taken. For example, according to the most recent report by the UN Assistance Mission in Afghanistan (UNAMA), in 2018 alone 10,993 civilians were killed or injured in the country, one of the highest number of casualties since UNAMA started recording such numbers in 2007. Yet no one has been held accountable for the atrocities, neither in national nor in international courts, and an entrenched culture of impunity continues to flourish to the present day. This lack of accountability is particularly vexing given that Afghanistan has been a state party to the Rome Statute since 2003, and the International Criminal Court (ICC) has jurisdictions over crimes against humanity, war crimes, and genocide committed within the country after May 1, 2003.

The purpose of this Article is to critically examine the situation in Afghanistan after 2003 with regard to international crimes and preliminary ICC investigations, with a close eye on the latest efforts of the ICC and the government of Afghanistan. This Article argues that Afghanistan has not yet fulfilled its basic obligations under the Rome Statute to prosecute grave crimes and cooperate with the ICC; and the ICC has not duly accomplished its mandate in the country by exercising its jurisdiction and prosecuting pertinent crimes. Furthermore, this Article will deconstruct the recent Afghan government's argument against the applicability of the complementarity principle of the Rome Statute, and instead contend that the two-pronged test of unwillingness and inability on the part of the Afghan government has been met and thus ICC intervention is not only legally justified but mandated.

Furthermore, this Article problematizes the recent decision and reasoning of the Pre-Trial Chamber to not allow the Prosecutor to proceed with an actual investigation in Afghanistan. Finally, the Article explores potential impacts of an ICC intervention and benefits of opening an actual investigation in the country.

[\[back to contents\]](#)

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