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

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## **AFRICA**

# NORTH AFRICA

## Libya

**Video of child refugee in Libya sheds light on rampant abuse (ABC News)** By Sam Magdy  
September 7, 2022

**Cowering in a bare corner, the 15-year-old boy begs for mercy and holds up his arms, trying to fend off the rifle pointed at his face. "Where is the money? Where is the money?" the holder of the rifle barks, over and over.**

The unseen man pulls the trigger. "Click-click-click!" The magazine is empty, it seems. The man wants to scare him, and it works. The boy flinches with each click.

"Where is the money? Where is the money?" the man keeps shouting, swatting the boy on the head with the rifle muzzle. "I swear, I don't have," the boy cries.

The boy, Mazen Adam, a refugee in Libya from Sudan's conflict-torn Darfur region, was kidnapped last week by unknown gunmen demanding ransom. Hours after the video depicting this scene spread on social media, the boy's father was taken by gunmen from his home in western Libya.

Their saga is all too common in the chaotic, war-torn Mediterranean country, where powerful militias and traffickers have for years taken advantage of the desperation of migrants fleeing wars and poverty and trying to reach Europe. But the abuse is rarely caught on-camera, and the story of the boy and his father has raised concerns among regular Libyans and rights workers.

Seattle teachers approve new contract following strike The video has underscored how abuses, torture, sexual violence and killings of migrants are rampant in Libya, where the European Union is using fragments of the broken-down state as an out-sourced policeman to block migrants from reaching its shores, trapping them there.

Libya has been in chaos since a NATO-backed uprising toppled and killed longtime dictator Moammar Gadhafi in 2011. The country has split into many factions, each supported by rogue militias and foreign governments.

Without a functioning government for most of the past decade, the country became a hub for migrants, with thousands coming in every year from Arab nations or sub-Saharan Africa, aiming to cross the Mediterranean to Europe.

A lucrative trafficking business has flourished and militias, most of which are on the government payroll, are involved at every stage. They sometimes receive payments from the smugglers who arrange the migrants' journeys. Militias often kidnap migrants and torture them to extort money from them.

Militias are part of the official state forces tasked with intercepting migrants at sea, including in the coast guard. They also run state detention centers, where abuses of migrants are common. As a result, militias — some of them led by warlords the U.N. has sanctioned for abuses — benefit from millions in funds the European Union gives to Libya to stop the migrant flow to Europe.

U.N.-commissioned investigators said last year such practices may amount to crimes against humanity. The U.N.'s refugee agency has warned that Libya "isn't a country of asylum, nor a place of safety."

Fleeing Sudan's Darfur, Mohamed Adam arrived in Libya with his four children in December 2017. A few months earlier, his wife died when their house was set on fire during a bout of tribal violence in Darfur.

Adam settled in Tripoli, waiting for the opportunity to reach Europe. He and his children were registered with the U.N. refugee agency, UNHCR, as asylum-seekers, according to a registration document shared with The Associated Press. Adam found work as a day laborer.

The AP spoke to Adam by phone. A few hours later, he was abducted by armed men in uniform, according to his 20-year-old daughter, Rehab Adam.

He described how in January, despite their recognized asylum-seeker status, the whole family was rounded up in a crackdown on migrants by Libyan authorities. They were held for over three months in a detention center in the town of Ain Zara, where guards abused them and burned their few belongings, he said.

They were released on April 25 after intervention by the UNHCR, he said. They then moved to Warshefana, a town on Tripoli's southwestern outskirts where living expenses were cheaper.

The town is also home to militias that have been implicated in human trafficking, said Tarik Lamloum, a Libyan activist working with the Belaady Organization for Human Rights.

Mazen, the second oldest of the four siblings, worked also as a day laborer in farms and workshops to help the family survive. On Aug. 30, he left home in the morning for work as usual. But he did not return.

That afternoon, Adam received a call from another Sudanese woman in Libya, telling him that his son was likely kidnapped. The woman sent him the video of Mazen being abused, which she had seen on a WhatsApp group of Sudanese migrants. How the video made it there is unclear, but it's highly likely that Mazen's captors wanted it to reach his family to pressure them to send money. Migrants are regularly held for ransom inside Libya's formal and informal detention centers, although they are usually told to contact family in a phone call.

In the video, Mazen's captor demands 5,000 Libyan dinars, around \$1,000, and tells the boy to call friends or family to get it.

Africa leader warns of pressure to choose sides in Ukraine "Is he still alive or dead?" his father, Adam said, speaking hours after the video emerged. "I don't have the money to free him."

In response to a request for comment, UNHCR said it was aware of the "distressing video ... and is following up on it and in direct contact with the family."

Lamloum, the activist, says the U.N. agency should have been able to do more to protect the family, whether providing them shelter or hurrying their resettlement abroad, arguing that Libyan authorities in practice don't recognize the agency's papers for asylum seekers.

The video was shared on social media by activists in Sudan and by other Libyans worried for the boy's safety. A day after it appeared, three vehicles pulled in front of Adam's house in Warshefana. Rehab said armed men got out and took her father away.

No group claimed responsibility for the child's abduction nor his father's detention. A spokesman for the Tripoli-based government did not answer phone calls or a message seeking comment.

Now Rehab and her younger sister and brother, 11-year-old Manasek and 9-year-old Mustafa, are at a U.N. refugee agency facility in Tripoli, waiting for news.

"We don't know where our father and brother are," she said. "God willing, we will reunite soon," she said.

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## CENTRAL AFRICA

### Central African Republic

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

**Rise in mercenary forces trigger 'rampant' human rights violations (United Nations News)**  
September 20, 2022

## **Human rights violations committed by mercenaries and private security companies create grave challenges for victims seeking justice and redress, UN-appointed independent human rights experts warned on Tuesday.**

Presenting its new report to the Human Rights Council 51st session, the Working Group on the use of mercenaries said that this was due to the particularity of the perpetrators and the way they operate.

They also noted that the proliferation of mercenaries, contractors operating as soldiers for hire and private security companies in conflict, post-conflict and peacetime settings, has increased the number of violations of human rights and international humanitarian law.

“Deplorable gaps in accountability, access to justice, and remedies for victims of violations perpetrated by such actors are rampant,” said Sorcha MacLeod, Chair-Rapporteur of the Working Group, who presented the report to the Council.

‘Victim-centred approach’

The experts explained that, in the contexts in which they operate, the impacts of their actions are of grave concern.

Persons in vulnerable situations, women, children, migrants and refugees, people with disabilities, LGBTI+ persons, older persons, minorities, human rights defenders and journalists, are experiencing particularly negative impacts, the experts highlighted.

“Given this bleak situation, a holistic and victim-centred approach is imperative to ensure victims’ effective access to justice and remedy,” Ms. MacLeod said.

Investigate and punish offenders The report highlights a lack of accountability and the common challenges faced by victims in accessing justice and effective remedies to overcome the damage mercenaries leave in their wake.

It drew specific attention to the secrecy and opacity surrounding the activities of mercenaries, military contractors hired to kill, and private security companies; their complex business and corporate structures, issues related to jurisdiction; and gaps in national and international regulation.

“States have obligations under international human rights law to prevent, investigate, and punish violations of human rights and international humanitarian law, and to provide effective remedies and reparation to victims of mercenaries, mercenary-related actors, and private military and security companies,” the experts said. They concluded by urging States to adopt national legislation to “regulate the activities of these actors, punish perpetrators, and provide redress for victims are part of these implementation efforts”.

The experts

Special Rapporteurs and independent experts are appointed by the Geneva-based UN Human Rights Council to examine and report back on a specific human rights theme or a country situation. The positions are honorary and the experts are not paid for their work.

The Working Group is composed of five independent experts, of balanced geographical representation, who are elected by the Human Rights Council for a one-time renewable three-year term.

Ms. MacLeod was appointed as Chair-Rapporteur in November 2021.

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## **Sudan & South Sudan**

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

**How Sudan's coup generals are obstructing justice for war crimes in Darfur (Al Araby)** By Max Nashed

September 8, 2022

## **Sudan's junta is obstructing the International Criminal Court's (ICC) investigation into crimes committed in Darfur out of fear that justice could embolden calls for incumbent generals to face trial, say activists and human rights experts.**

In August 2021, ICC Chief Prosecutor Karim Khan signed a Memorandum of Understanding with the then civilian-military transitional government of Sudan to enhance mutual cooperation. But during a recent visit to Sudan, Khan said that cooperation has taken a “backwards step” under the current authorities, which came to power through a coup on 25 October 2021.

Khan added that Sudan's authorities need to allow the court to access key witnesses, establish a larger field presence, and extradite wanted suspects.

However, Sudan's coup leaders are unlikely to aid Khan's efforts. Army Commander Abdel Fattah al-Burhan and the powerful paramilitary leader Mohamad Hamdan Dagalo, who heads the notorious Rapid Support Forces (RSF), are both implicated in the mass deaths of more than 300,000 people in Darfur, which took place mostly between 2003-2010.

While tens of thousands of people were discriminately and indiscriminately killed, most died from diseases that were caused by living in unsanitary internally displaced camps after fleeing the violence and malnutrition. As a form of collective punishment, former president Omar al-Bashir's regime systematically denied aid access to targeted communities.

During the atrocities, al-Burhan served as the head of military intelligence in Central Darfur and was tasked with arming recruits to fight in tribal militias. Dagalo, better known as Hemeti, was one of the young recruits that eventually became al-Bashir's most trusted figure to coup-proof his regime. In April 2019, they both turned on al-Bashir as he faced down a popular uprising.

“[Al-Burhan and Hemeti] both have killed people in Darfur. And if the court is ever able to complete its investigation, then there will be a lot of evidence and [calls] for justice aimed at people in the [coup] military government,” Nahla Yousef, an activist who has been documenting human rights abuses in South Darfur since 2005, told The New Arab.

### Obstacles to justice

In March of 2005, the UN Security Council adopted resolution 1593, which referred the situation in Darfur to the ICC. Still haunted by the genocide that took place in Rwanda in 1994, the global community saw Darfur as a conflict that needed urgent diplomatic, humanitarian, and political intervention.

Despite good intentions, the root causes of the violence in Darfur were not well understood. For instance, al-Bashir stands accused of committing war crimes and conspiring to commit genocide, yet many experts criticise the second charge for mischaracterising the conflict.

Rather than genocide, which requires proof of intent to destroy a specific group of people “in whole or in part,” a UN report in 2005 concluded that the conflict may be better described as a brutal counter-insurgency where war crimes and crimes against humanity were committed on a systematic scale. Human Rights Watch and Amnesty also avoided the term genocide.

In January, Khan himself told the UN Security Council that the case against al-Bashir and other suspects needed to be strengthened. He also stressed that the global community needs to show a greater commitment to pursuing justice today.

Mohamad Osman, who researches Sudan for Human Rights Watch (HRW), added that the lack of accountability or transitional justice could lead to more grave crimes in Darfur and elsewhere in the country.

“We have already seen fresh abuses happen as the region continues to fall off the grid of international priorities,” Osman told TNA.

In April, around 168 people were killed in what the government and many observers described as “intercommunal” violence between Arabs and non-Arabs.

In Darfur, these labels are hollow since each category is historically constructed based on livelihoods and lifestyle rather than on religion or race. Sedentary farmers are traditionally considered African while camel herders self-identify as Arab. Both communities are black and Muslim and have inter-married for centuries.

Describing the fighting as ‘intercommunal’ also conceals the political character of the violence, which centres around disputes over land, a lack of security, and wealth extraction by government-backed armed groups and their foreign patrons.

Witnesses also said that some of the attackers in April wore RSF uniforms. They added that the RSF doesn't appear to have full control over some senior commanders who may be more loyal to other tribal figures, thereby undermining Hemeti's authority. If true, Hemeti's ability to ensure security in Darfur is significantly compromised if his commanders don't always listen to him. To rehabilitate his image as a peacemaker, Hemeti has tried to broker a number of reconciliation deals across Darfur. However, at least 197 people – activists, tribal leaders and teachers – were arrested last month in west Darfur for refusing to agree to Hemeti's terms, according to the Darfur Bar Association which monitors abuses across the province.

Those arrested feared that Hemeti was not a neutral mediator due to his old tribal alliances, according to Bedour Zakaria, who lives in an internally displaced camp and documents rights abuses for the Darfur Network for Monitoring and Documentation (DNMD). She added that many of the arrested tribal leaders suspected that Hemeti wanted to exploit their land through a superficial reconciliation agreement.

"Many of the Native Administration leaders believed that Hemeti was making a peace initiative as a pretext to exploit their land for resources, especially uranium," Zakaria told The New Arab. Ending impunity

As violence continues to flare up across Darfur, targeted communities believe that the only recourse against human rights violations in the future is accountability. However, al-Burhan and Hemeti have no incentive to extradite wanted suspects to the ICC, possibly out of fear that they could be implicated in the testimonies of the accused.

Both men may also fear that cooperating with the ICC could strengthen civil society calls for an international investigation into the infamous sit-in dispersal on 3 June 2019, which saw more than 120 people murdered.

Human rights groups and open-source experts have revealed that the dispersal was a closely coordinated operation between all branches of the state, including the RSF and army. The former executed most of the killing, while the latter left them to die.

An alternative to extradition could see the ICC establish a hybrid tribunal in Sudan with the coup authorities. Although the ICC has never established a joint tribunal before, Khan has alluded that this could be a possibility.

But Emma DiNapoli, a legal expert with Sudan for Redress, a non-profit advocating for transitional justice and an end to torture worldwide, told TNA that a joint tribunal may not be legally viable under the Rome Statute, the treaty that underpins the ICC.

"In theory, if there was a hybrid court created, there would be a lot of wrangling over selection of judges and rules of procedures," she said.

"Like in many hybrid courts, you have a mix of international and national judges. If that were the case, who would the Sudanese judges be? Would Sudanese rules of procedure be used? These are all sticky areas, because the rules of procedure are flawed."

Activists also raised concern that security forces could pursue high-profile witnesses who are asked to testify in Sudan's capital of Khartoum. Osman from HRW agrees and stresses that the global community can only help victims obtain justice through pressuring the coup authorities to relinquish power and submit to full civilian rule.

"The ongoing violence in Darfur should be a wake-up call to the international community that the coup is a threat to any process of accountability or transitional justice. And with these military leaders, there will continue to be a lack of cooperation with the ICC," he said.

**Sudan hunger: 'Children are facing the threat of death' (The New Humanitarian)** By Mohammed Amin  
September 9, 2022

**Almost 12 million people – a quarter of Sudan's population – are currently estimated to be facing acute hunger. That number could reach up to 18 million as the "lean season" ends this month, according to aid agencies – double the figure recorded in 2021.**

Economic and political disorder worsened by an October 2021 coup are contributing to the high levels of need. But conflict, climate shocks, and an exploitative political economy that has long generated hunger are also driving the crisis.

"We have no basic services, and children are dying because of malnutrition," said Ahmed Adam, from eastern Kassala state, which has some of the highest malnutrition rates in Sudan. "We want the government and international organisations to help us."

Adam, who is 48, spoke from a health clinic in Kassala, which The New Humanitarian visited last month to better understand

how hunger is affecting people. His wife was suffering from anaemia, a blood disorder commonly caused by nutritional deficiencies.

Aid agency reports suggest crisis levels of food insecurity will remain high in the months ahead: The next harvest season could be compromised by late planting due to delayed rainfall and surging input costs, while recent flash floods have damaged cropland.

### Growing urban needs

The deteriorating humanitarian situation comes three years after protests led to the downfall of former president Omar al-Bashir. The autocrat had struggled to retain power after South Sudan broke away in 2011, taking 75 percent of national oil wealth with it.

Al-Bashir was replaced by a transitional civilian-military government, which sought debt relief and new funding streams. But appeasing international creditors required painful adjustments that drove severe inflation, including subsidy cuts for fuel and wheat.

The situation worsened when army generals ousted their civilian counterparts last year – a takeover that protesters are still risking their lives to overturn. International assistance programmes were frozen, and living standards fell further.

“Living in dignity for the lower class, even the middle class, is nearly impossible.”

In the past, hunger in Sudan has mainly affected rural populations and war victims who relocated to city fringes. But the current economic crunch – compounded by the Ukraine war – has deepened food insecurity in urban areas too.

“Sudan has faced hunger before, but in the last century it has never faced levels of hunger as widespread, persistent and acute as today,” stated a recent report by the World Peace Foundation at Tufts University.

Abdul Rahman Mohamed, a resident of the capital city, Khartoum, is one of many struggling to get by. “Life is impossible with the current living conditions,” he told The New Humanitarian. “There is a lack of fuel, cooking gas, and flour.”

Hassan Mahmoud, a 44-year-old Khartoum plumber, added that incomes can’t keep up with rising prices at local markets. “Living in dignity for the lower class, even the middle class, is nearly impossible,” Mahmoud said in an interview in April.

### Flooding and fighting

Conflicts around the country have contributed to the food insecurity. Livelihoods have been eroded and farms damaged as hundreds of thousands of people have fled their homes – most notably in the western Darfur region and in southern Blue Nile state.

Meanwhile, lengthy dry spells and pest and disease outbreaks have reduced harvests across the country. National cereal production from the 2021/22 agricultural season was 35 percent lower than the previous period.

The consequences of these converging issues were plain to see at the health clinic in Kassala’s Talkook locality. The state, which borders Eritrea, has suffered from recent flooding, drought, and conflicts exacerbated by a 2020 nationwide peace deal.

Though Kassala has long had poor social indicators, children in the region are now “facing the threat of death due to severe malnutrition”, said Rasha Ali, a UNICEF worker based in Khartoum.

“The lack of food because of drought and the very high prices of food recently is the main problem that we are suffering from in this area.”

Among those at the health centre was 31-year-old Aisha Ibrahim, who had recently lost two newborn children to hunger-related deaths. “All this suffering is because of malnutrition,” said Ibrahim, who had brought a third child to the clinic for a check-up.

Also at the health centre was 55-year-old Mariam Ahmed. She said her daughter was suffering from anaemia and her grandson from weak bones and stunting – a growth and development condition caused by malnutrition.

“The lack of food because of drought and the very high prices of food recently is the main problem that we are suffering from in this area,” Ahmed told The New Humanitarian.

UNICEF’s Ali said these problems exist across the country. “Around 12 percent [of children] are suffering because of malnutrition, while one in three children are suffering from stunting,” she said.

## Structural injustice

Despite the rising needs, aid groups have been cutting back on assistance because they are short on funds. In June, the UN's World Food Programme announced it had halved rations for refugees – among the groups most vulnerable to hunger.

Still, several leading Sudan researchers argue that humanitarian aid won't solve food insecurity. They say change requires structural reforms to a political system that has long seen rulers place their survival above the needs of rural populations.

Sudan's foreign exchange, for example, mostly comes from exports earned from rural production. Yet the cash generated has historically funded bread imports for urban dwellers – a more valued constituency for Khartoum than rural sorghum eaters.

Military and political elites have also maintained their rule by waging vicious counterinsurgency campaigns in rebellious peripheries. These wars have led to starvation crimes and the destruction of rural livelihoods.

Decades of displacement have created a pipeline of landless workers who labour on commercial farms around the country. They often don't have enough money to buy the very food they are producing.

"The deeper crisis is that Sudan's political economy is structured in an unequal and exploitative manner that generates both widespread chronic hunger and intermittent humanitarian emergency and famine," stated the Tufts University report.

Back in Kassala, 55-year-old Ahmed said her immediate concern was that doctors help her stunted grandchild become "a normal and healthy boy" – one able to play with other children in his village.

"He is very short and cannot walk well, which means he cannot play with the other children that are his age," Ahmed said at the health clinic. "This is very painful for me and for our family."

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## **Democratic Republic of the Congo**

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ICC Public Documents - Situation in the Democratic Republic of the Congo**

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## **WEST AFRICA**

### **Côte d'Ivoire (Ivory Coast)**

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

**NAF's bombing of civilians may translate to war crimes, says HURIWA (The Guardian)** By Bertram Nwannekanma  
September 14, 2022

**Civil rights advocacy group, Human Rights Writers Association of Nigeria, (HURIWA), yesterday, cautioned the Nigerian Air Force to be wary of committing 'war crimes' through accidental and sporadic bombardment of civilians during its aerial attacks on terrorist hideouts in Northern Nigeria.**

HURIWA's National Coordinator, Comrade Emmanuel Onwubiko, in a statement, demanded a probe of airstrikes of the Air Force on civilian settlements, which have allegedly killed and injured countless persons.

The group referred to NAF's recent bombardment of a hospital and other healthcare facilities in the Sambisa forest, where wounded and sick terrorists and their family members are treated.

The bombing, according to news report, was conducted by air component of the Operation Hadin Kai on September 9, 2022.

Onwubiko said: "These apparent excesses of the Nigerian Air Force and sister military agencies must not be swept under the carpet. There are many other undocumented cases like the ones stated above where NAF airstrikes against terrorists killed innocent civilians, but these cases did not make it to the media.

"The recent bombing of a so-called terrorist health centre in Sambisa forest in Borno State may have added to the growing list of the military's excesses, especially if it emerges that civilian hostages kept by the terrorists were affected.

"HURIWA demands that the government investigate if truly the hospital was bombed as mentioned in several stories by credible national dailies were actually hospital and government to offer reasons why that isn't a war crime, so it is clear that Nigeria is waging a just war.

"Whilst HURIWA does not advocate any form of soft treatment for terrorists and enemies of the State, it is important that the Nigerian Air Force and its sister agencies operate within acceptable global statutes, which forbid war crimes and attack on innocent civilians that terrorists use as human shields.

"We further advocate massive support by all and sundry in Nigeria to the law based counter terror war of the Federal Government and wish that Nigeria is quickly returned to the path of lasting peace and tranquility in the shortest possible time this year."

**NIGERIA NEWS**Borno: **Boko Haram Chief Executioner 'Behind 1000 Killings' Surrenders To Nigerian Army (Naija News)** By Enioluwa Adeniyi  
September 16, 2022

**A top member of Boko Haram identified as Bashir Bulabuduwaye has reportedly surrendered to troops of the Nigerian army.**

Zagazola Makama, a publication focused on the Lake Chad region revealed that Bulabuduwaye surrendered alongside his family members on Monday in Banki, Bama LGA of Borno state.

The publication noted that Bulabuduwaye was Boko Haram's chief executioner who has "killed at least 1,000 people who were captured and sentenced to death by the terrorist group".

A source that spoke with the publication said Bulabuduwaye was "known to be an official who carried out the sentence of death on condemned persons, captured military men and civilians when Abubakar Shekau was the leader of the group."

A further report revealed that Bulabuduwaye had a camp in Kote village of Banki, where he was hiding with other fighters.

Naija News learnt that Bulabuduwaye surrendered due to the sustained offensives launched by troops of operation Hadin Kai.

The source said, "It was difficult for him to access food and other logistics, coupled with the flooding which already ravaged most of their settlements. He also feared battlefield elimination by ISWAP."

Scores Killed As ISWAP, Boko Haram Clash In Borno

The late Abubakar Shekau's Boko Haram faction and Islamic State West Africa Province (ISWAP) clashed on Thursday leading to the death of a commander simply identified as "Kundu" and other fighters.

A security source said that Kundu and his team were on a robbery mission when the ISWAP intercepted them on six motorcycles between Dikwa and Bama local government areas.

Confirming the attack, Zagazola Makama, a security analyst and a counter-insurgency in Lake Chad, said, "A heavy fight ensued between the terrorists resulting in dozens of casualties on the side of the Boko Haram terrorists, while few ISWAP terrorists were wounded.

"The Boko Haram terrorists took to their heels leaving their motorcycles to the ISWAP terrorists."

**11 farmers 'executed' by suspected jihadists in Niger (The Sun Daily) September 21, 2022**

**Suspected Boko Haram jihadists have shot dead 11 farmers -- nine from Niger and two Nigerians -- in southeastern Niger, a local official said on Wednesday.**

"Eleven farmers have been executed by shooting yesterday (Tuesday) morning by elements of Boko Haram, seven kilometres (just over four miles) from Toummour," Issa Bonga, mayor of the town which is near the attack site, told AFP.

The town is in the Diffa region close to the Lake Chad basin, a strategic area where the borders of four countries converge -- Cameroon, Chad, Niger and Nigeria.

Boko Haram and its rival, the Islamic State in West Africa Province (ISWAP), have established bases in the many small islands in the vast, swampy Lake Chad basin.

The 11 victims had set off to cut wood in the bush, the mayor said.

The nine from Niger, who came from Bosso, a neighbouring town to Toummour, were due to be buried early Wednesday, the mayor added.

"Thirteen woodcutters left to look for wood, have been intercepted by elements of ISWAP. Eleven have been executed," a local group called Jeunesse Diffa (Diffa Youth), which has closely reported on the security problems in southeast Niger, said on Facebook.

"In addition, the terrorists sent a message through the channel of one of the released woodcutters to warn residents to no longer frequent" the area where they operate, the group's posting said.

Jihadists killed several fishermen from Niger and Nigeria at the start of the month for having disobeyed an order to leave the Lake Chad area.

At the end of August, they had ordered locals to leave the islands and killed some people who did not comply, according to a local official.

Niger, the world's poorest country by the benchmark of the UN's Human Development Index, has been hit hard by the jihadist insurgency that began in northern Mali in 2012.

Niger is also facing an insurgency on its southeastern frontier with Nigeria -- a campaign launched by the notorious Boko Haram.

Niger, Nigeria, Cameroon and Chad revived the Multinational Joint Task Force (MJTF) in 2015 to fight the extremists. - AFP

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## Mali

**Islamic State Affiliate Kills 30 Civilians in Mali Raid, Militia Says (Reuters)** By Tiemoko Diallo, Alessandra Prentice, and Helen Popper  
Sept. 10, 2022

**Members of an Islamic State affiliate in Mali killed about 30 civilians in an attack this**

## **week on a town in a violence-plagued area bordering Burkina Faso and Niger, a coalition of pro-government militia said late on Friday.**

Mali has faced instability since 2012, when Islamists hijacked an ethnic Tuareg rebellion in the north. Since then they have spread across West Africa's Sahel, killing thousands and displacing more than 2 million people in Mali, Burkina Faso and Niger.

The coalition, known as the Platform, said several hundred militants attacked its fighters and forced them to retreat on Tuesday near Talataye in the Gao region - long a hotspot for jihadist and militia violence.

As well as attacking local residents, the militants looted shops and burned food stocks, the Platform said in an online statement, adding that three of its fighters had also been killed.

"Reinforcements dispatched by the Platform reached the town where they discovered the massacre as well as hundreds of women and children who had been wandering the town without food for two days," it said.

There was no immediate claim of responsibility for the alleged attack.

Malian authorities did not respond to a request for comment.

In March, the U.N. peacekeeping force in Mali expressed concern about the deteriorating security situation in the same area of central Mali, decrying the deaths of hundreds of civilians in a surge of attacks by the Islamic State affiliate.

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## **Liberia**

**UK Police Arrest a Man for Alleged Role in Liberia's Wars (Front Page Africa)** By Anthony Stephens  
Sep 8, 2022

### **United Kingdom police have arrested and detained a man in his 40s on war crimes charges for his alleged role in the Liberian civil war in the 1990s and early 2000s.**

The arrest of the man, whose name is being withheld by UK Metropolitan police, "follows a referral made to the Met's War Crimes Team in January 2021 and relates to alleged war crimes committed during the Liberian Civil War in the 1990s and early 2000s," according to a statement on the website of the Metropolitan Police.

A house in the area of Newcastle, a city in England's northeast, was searched by officers from UK Counter Terrorism Policing North East unit as part of the investigation into the man. The arrest followed a referral to the Met Police's war crimes team in January last year.

Justice activist Hassan Billity of the Global Justice Research Group, which has played a key role in the cases against nearly a dozen accused war criminals in Europe and US, declined to comment on the arrest until the police released a name.

The arrest comes two years after the Metropolitan Police charged Jankuba Fofana, a former frontline commander of a rebel group, Liberians United for Reconciliation and Democracy. Now 47, Fofana, was accused by rights activists of ordering the Gbarma Massacre in Gbarpolu County in which 110 people were murdered. He was released by British police shortly after his arrest. The case is still awaiting a trial date. UK courts were slowed by the Covid pandemic.

Like Fofana, the unnamed man is being held "on suspicion of offences contrary to Section 51 of the International Criminal Court Act 2001". The section covers genocide, crimes against humanity and war crimes. It applies to anyone who committed these acts in the UK or a UK national or resident who allegedly commits any of those crimes outside the United Kingdom.

Agnes Reeves Taylor, former wife of Charles Taylor and leader of his National Patriotic Front for Liberia, was charged with torture and conspiracy to commit torture during the Liberian civil wars by UK police in 2017. She was held in detention for two and a half years before the case was dismissed on technical grounds. The UK Home Office found there were serious reasons to consider that she had committed a crime against peace, a war crime, or a crime against humanity and revoked her asylum claim. Taylor returned to Liberia soon after. She has denied all charges against her.

The arrest comes as justice activists await the trial of Kunti K., a former Liberian commander of the United Liberation Movement of Liberia for Democracy, which is set to begin on October 10 in Paris, France where he will be tried for war crimes and crimes against humanity allegedly committed during the First Liberian Civil War between 1989 and 1996.

**A New Bill to Ban Female Genital Cutting Looks Set for Defeat Even as Liberians Abandon the Practice (Front Page Africa) September 20, 2022**

**Liberia is one of just three West African nations where female genital cutting is legal. In this two-part series with New Narratives Evelyn Kpadeh Seagbeh finds strong resistance to the bill from traditional leaders and little political will to challenge them. At the same time Sande's membership is plummeting.**

18-year-old Dearest is one of five girls who made headlines last year when they were abducted and forcefully initiated into the Sande Society here. Nearly a year on she is still angry and traumatized.

What Dearest most wants to see is the women who abducted her prosecuted for their crimes. She is pleased to hear that a new bill before the legislature would do that.

"I will be so glad to hear that they have put stop to FGM finally in Liberia," says Dearest using the acronym for the term widely used by activists to describe the practice of "female genital mutilation". Her real name is being withheld for her protection. "Let that law have a punishment for those who force girls into the Sande because, the lady who forced us into the Sande has been passing around boasting how we were never going to go back to school again, and she goes about boasting and making big mouth."

Liberia currently has no law against female genital cutting unlike all but two other West African countries. Conducted by Liberia's centuries-old traditional societies, FGC is part of an initiation ceremony for girls. Several attempts have been made to ban the act, which causes lifelong pain and health problems for most women who endure it. It is cited in many international human rights conventions to which Liberia has signed including the Convention on the Elimination of All Forms of Discrimination against Women, The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

A new bill before the Liberian Legislature could change that. The draft act, entitled "An Act Prohibiting Female Genital Mutilation 2022" would criminalize the cutting of girls under 18. Submitted by Deputy Speaker of the House of Representatives Fonati Koffa, the has been before the House Committee for review and recommendations since June.

International partners including the United Nations Population Fund have celebrated the government's move. But Liberian activists are far less enthusiastic.

Tamba Johnson, founder and national coordinator of He For She Crusaders Liberia and member of the civil society working group on FGC, says traditional leaders' disdain for the Liberian constitution and any efforts to force them to comply with the laws and functions of a modern Liberian state, casts a cloud on the process.

"Of those 73 lawmakers, very few of them will support our bill," Johnson says. "This is because many of them want to get reelected and they want to buy the sentiment and support of the traditional people. They may say that Fonati Koffa is from the Southeast where the practice is not taking place, so they will be playing games with the traditional people to buy their support and at the same time playing games with the international community to make it appear that they are in the interest of best practice to end FGM."

Lena T. Cummings, a leading women's rights advocate and former executive director of the Women's NGO Secretariat of Liberia (WONGOSOL), shares Johnson's pessimism. Cummings' institution -WONGOSOL was one of the organizations that supported and raised awareness about the country's Domestic Violence bill in 2019 which originally included a ban on FGC. It was eventually stripped from the bill before it was passed.

"We have had lots of campaigns and so many things and yet people still walk with impunity, so for FGM and the strong traditional ties to have it stopped before the 2023 elections, I am not very optimistic," said Cummings.

The actions of the legislators themselves appear to underscore the cynicism of activists. Even those legislators who have backed the bill – Speaker Koffa and Rustolyn Dennis – ignored repeated phone calls and texts requesting comment for this story.

Bong County Representative Moima Briggs Mensah agreed to an interview but then did not pick up calls on the agreed day.

Bong County is a heartland of the powerful traditional societies – Poro, for the men and Sande, for women – which take

children and teenagers to “Bush schools” for six months or up to a year to teach them to be adults. The major groups that practice it are the Mande-speaking peoples of western Liberia such as the Gola and Kissi. It is not practiced by the Kru, Grebo, or Krahn in the southeast, by the Americo-Liberians (Congos), or by Muslim Mandingos.

Women are taught to be wives and mothers and discouraged from taking part in the formal education system which is seen as a western import that runs counter to traditional values.

The Bush schools end in an initiation into the traditional society. For both sexes that means circumcision. During the ceremony, traditional leaders known as “zoes” cut the girl’s exterior genitalia off, usually with a razor blade.

Opposition to the anti-FGC law has been strong. Chief Jimmy Gboyon Kollie, a well-known traditional chief in Bong and head of zoes, raged with anger about efforts by the legislature to ban FGC. Chief Kollie is warning legislators not to pass the law.

“My message to the lawmakers is that we do not agree and we are calling on them not to pass that bill,” Kollie said in a phone interview from an undisclosed location in Bong where he was running a bush school. “We, the country people, respect our tradition and that we that are into it, the women’s society and we, the men, we have our traditions, but we all cannot agree for the women’s society to stop. Every country and every tribe including the civilized people have their societies so why is it that they want us the native people to stop our society?”

President Ellen Johnson Sirleaf placed a one-year ban on FGC as she left office in 2018. Another ban followed and this year a third ban was put in place. But many traditional leaders have just ignored it according to Johnson.

“We have reports that seven communities in Lofa are still engaged in the practice even with the current three-year suspension on FGM now,” Johnson said. “FGM is still happening in Margibi County, Montserrado, Bong, and Grand Cape Mount. This shows to us that the traditional people seem stronger than the government and the Ministry of Internal Affairs (which polices traditional societies) is like a toothless bulldog. It barks without teeth.”

Liberians are deserting the traditional societies in droves. In 2007 83% of women reported being members of the Sande Society. In 2020 just 35% did.

But even as the traditional leaders fight to protect their societies the numbers tell a different story.

Liberians have abandoned the traditional societies over the last 15 years. According to Liberia’s Demographic and Health Survey in 2007 83 percent of women surveyed said they were part of the Sande. The survey did not ask about female genital cutting but it was assumed all women who were part of the society were cut.

The 2020 Survey showed just 35 percent of Liberian women said they were members of the Sande.

Experts attribute the plummeting membership of the Sande to widespread awareness campaigns over the last decade that has persuaded women like Dearest’s mother not to do to their daughters what was done to them.

UN agencies have worked hard to help traditional leaders develop other sources of income to replace income derived from the Sande Bush. But it has been difficult to replace the power structures put in place by centuries of tradition, especially in rural Central and Western counties.

“Politicians from rural counties can only get the support of the community unless they adhere to what the traditional people want,” said Johnson. “When the politicians don’t buy into the ideology of the traditional people and when the traditional people rise up against them, they will be bolted out. Politicians don’t have influence over even 25 percent of the voting population.”

Reporting by New Narratives journalists Tete Gebro, Mae Azango, and Front Page Africa newspaper also opened up the conversation about female genital cutting which had once been taboo because of the fear cultivated by the traditional leaders. Azango was forced into hiding because of threats to her and her 9-year-old daughter when Front Page Africa ran her reporting on female genital cutting on the front page on International Women’s Day in 2012.

In another sign of the traditional societies’ waning influence, reporters today can cover the subject without fear of threats or intimidation.

In the run-up to next year’s general elections, politicians have been treading carefully to try to ensure their victory. Experts say that, even with their diminished influence, the traditional leaders still wield enough power to persuade political leaders to defy the will of international partners and reject the law. But whether it’s illegal or not, the number of girls enduring cutting in Liberia is steadily falling.

Tomorrow, part two of this series reports that traditional leaders have responded to plummeting membership by resorting to

kidnapping, extortion, and forced initiation.

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## EAST AFRICA

### Uganda

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

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### Kenya

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

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### Rwanda (International Criminal Tribunal for Rwanda)

**Official Website of the ICTR**

**Rwanda: Survivors Condemn Release of Laurent Bucyibaruta (AllAfrica)** By Aurore Teta Ufitiwabo  
September 16, 2022

**Survivors of the Genocide against the Tutsi have expressed disappointment over a decision by a French court to grant provisional release to genocide convict Laurent Bucyibaruta on medical grounds pending his appeal trial.**

The Cour d'Assises de Paris on July 12 handed a 20 year prison sentence to Bucyibaruta after he was convicted of complicity in Genocide and crimes against humanity during the Genocide in Gikogoro where he served as the prefet. He was immediately put into custody after the ruling on the order of the judge. However, he appealed against the court decision and on September 12, he was granted provisional release on medical grounds. Reacting to the court decision, Egide Nkuranga, the president of Ibuka, an umbrella association of survivors of the 1994 Genocide, said that this was not the justice they expected. He pointed out that releasing him rounds may lead to delay of justice because he may use this excuse to delay the appeal case so that he does not go back to prison until he dies. Nkuranga said that similar tactics were being used by other genocidaires like Felicien Kabuga, who are likely to die before justice is served. Bucyibaruta is currently 78. Furthermore, Nkuranga pointed out that such incidence encourages Genocide deniers and people who are not happy with the ties between the two countries (France and Rwanda). He added that they are currently working closely with Ibuka France to come up with a response to the court decision. Caritas Mukangango, a widowed survivor from Nyamagabe an area where Bucyibaruta led mass killings also condemned the killings. "Initially, we wanted him to be tried in Rwanda and never got that, and now granting him a provisional release is another fail for us as survivors, especially we who witnessed first-hand the atrocities he committed," she said. Mukangango added that such decision also to trivialises the crime of Genocide. Bernard Mutagomwa, another survivor

from Nyamgabe said that already had received a lenient sentence compared to what he did, adding that this latest decision was a thorn in the flesh for survivors. According to the court, Bucyibaruta had been hospitalised since he was committed to prison and in ruling for his release, the judge said that no prison had facilities to take care of him in his current condition. In addition, the court said he is eligible for provisional release arguing that Bucyibaruta was not a flight risk nor a threat to public order given his current condition. Who is Bucyibaruta Born in 1944 in the former Gikongoro prefecture Bucyibaruta became the prefect of his home prefecture on July 4, 1992, and held the position until July 1994. He was a senior official in the MRND genocidal party and was the head of the prefectural committee of the Interahamwe militia, the youth organization that executed the genocide. In December 1993, during a public rally at Gikongoro market, he made a speech in which he encouraged financial contributions from the population to buy arms to fight the "Tutsi enemy". Bucyibaruta further ordered, on several occasions, soldiers and Interahamwe militia in his command to commit several massacres against the Tutsis. Additionally, on April 10, 1994, Bucyibaruta encouraged many Tutsi to go to the Murambi Technical School where they were promised food. However, the Tutsis who gathered in the school were killed on April 20 and April 21, 1994, by gendarmes, policemen, and armed Interahamwe. Over 50,000 were killed at the school. Bucyibaruta fled Rwanda for France in 1997.

### **DR Congo President denounces 'aggression' by Rwanda, calls on UN to support African-led mediation (UN News) September 20, 2022**

**"Peace and security for all, controlling climate change, relaunching the global economy post-COVID economic recovery; combatting poverty and promoting collective well-being" are today's most pressing challenges, he said.**

Overcoming them will require working in greater concert, with more cooperation and solidarity between States and nations, the DRC leader said in his address to the opening of the UN General Assembly's annual high-level debate.

#### Terrorism

Stressing that international peace and security remains the UN's primary objective, he said that "neither indifference nor impetus on its part" are acceptable "in the face of any threats to international peace and security".

At present, this question is "crystalizing around the fight against terrorism as well as calming hotbeds of tension" in Europe and in Africa, he continued.

"Terrorism has spared no continent," said Mr. Tshilombo, adding that having metastasized in Africa, the continent is paying a heavy price.

He noted that in the name of religious fundamentalism terrorists are barbarically killing innocent people in the East, West, Centre and South of the continent.

And while remarkable progress has been made in the Middle East to combat the scourge, it is far from being eliminated.

As a DRC is victim of terrorism, despite its membership in the Global Coalition against the Islamic State, the President called upon the UN to become actively involved in implementing the recommendations of Coalition and the Aqaba process.

"Statements of intention and proclamations of faith without any vigorous collective action on the ground we never be enough to eradicate terrorism," he said.

#### Security crisis

The President argued that the DRC has been a victim of a security crisis that has lasted more than 20 years aggression.

"Despite tireless international efforts a massive UN military presence in the DRC and diplomatic support for 23 years, this security problem continues to aggrieve my country," he said.

To eradicate insecurity once and for all and restore lasting peace, and stability in the country's east, several agreements were signed with armed groups and neighbouring countries along with the creation of national and international mechanisms, but he lamented that a settlement lasted only a few months.

"Very quickly the architecture of those prospects cracked, and the building collapsed," he said.

#### Rwandan 'agression'

The Head of State drew attention to attacks from neighbouring Rwanda along with what he saw as that country's support of armed terrorist groups that are ravaging the Eastern Democratic Republic of the Congo.

In defiance of international law, the UN Charter and the Constitutive Act of the African Union, he said that Rwanda, on 23 March, not only launched a direct military incursion in North Kivu but had also sprovided "massive" support to the M23 armed terrorist group in occupying localities there.

"The M23 with the support of the Rwandan army even shot down a MONUSCO helicopter and killed eight blue helmets... committing a war crime," he said, referring to the UN peace and stabilization mission in the country.

Mr. Tshilombo said that he would continue to "tirelessly denounced" the aggression.

He went on to call for increasing pressure on Rwanda and the M23 so that they respect the positions taken by international organizations. Furthermore, he said there must be broad support for the continuation of the Nairobi peace process, the Luanda DRC-Rwanda talks and the deployment of the East African regional force.

In that context, he also urged the intenational commnity to support and encourage the former President of Kenya, Uhuru Kenyatta, and the current President of Angola, João Lourenço, Mediators of the East African Community ( EAC) and the African Union in the security crisis in the DRC, to continue their good offices.

Question of image

He told the Assembly that that Rwanda's responsibility along with that of its allies, the M23, have been documented in reports by UN-mandated experts and the expanded joint verification mission of the International Conference on the Great Lakes Region, international humanitarian non-governmental organizations and human rights organization.

But, to dispel any doubts and put an end to the denials of Rwandan authorities on the subject, the DRC's most senior official asked the Security Council President to officially distribute to its members, the latest UN report on the subject.

"It is a question of the very image and credibility of our Organization," he said.

To proceed otherwise would encourage Rwanda to continue its aggression, war crimes and crimes against humanity in the DRC, he warned, adding that it would also further fuel the Congolese people's legitimate suspicion surrounding the UN's impartiality as well as the complicity of some of its members in these crimes.

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## **Somalia**

**Somali militia beheads insurgents after battle, witnesses say (Arab News)** September 18, 2022

**A government-allied Somali militia killed at least 45 Al-Shabab fighters and beheaded some of them, three witnesses said on Sunday, as citizens in central regions of the country increasingly take up arms against the insurgents.**

The beheadings followed a battle in the Hiran region of Hirshabelle State, where there has been significant fighting this month between Al-Shabab and newly expanded militias allied with the federal government.

Al-Shabab, an Al-Qaeda-linked militant group, has been fighting Somalia's weak central government since 2006. It wants to implement a strict interpretation of Sharia law.

Al-Shabab has increasingly burned houses, destroyed wells, and beheaded civilians in the Hiran region, residents say; that, combined with its demands for taxes amid the worst drought in 40 years, has pushed more residents to take up arms.

"Al-Shabab is not strong, it just burns people, beheads people and put their heads in the streets just to terrorize," said Ahmed Abdulle, a Hiran elder.

"Now, we are doing the same: We have ordered the beheading of Al-Shabab fighters," he told Reuters.

Videos widely shared on Telegram showed at least two beheaded alleged Al-Shabab fighters and dozens more dead bodies in fatigues and red-and-white checked scarves. Some of the dead appeared to have died in battle.

Three witnesses to the beheadings said they were real. Seven other residents, including Abdulle, said family members had been present and confirmed the deaths to them.

“Al Shabab put us in hell ... So our people decided to liberate themselves ... My daughter is also fighting in the frontline, she has an AK-47 on her shoulder,” resident Halima Ismail said.

Fighters have retaken 10 villages from Al-Shabab in recent weeks, elder Hassaan Farah said.

Residents in nearby Galmudug state are also taking up arms.

“This week, we have recaptured nine villages,” said Ahmed Shire, the Galmudug information minister.

“It is a big revolution by Galmudug state.”

On Saturday, the federal government sent troops to reinforce Galmudug fighters, the Somali National News Agency said.

Earlier this month, Al-Shabab militants killed 18 civilians and destroyed food aid trucks. In August, they killed more than 20 people in a hotel siege.

Somalia has been in civil war since 1991, when clan-based warlords overthrew a dictator then turned on each other.

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## Ethiopia

**10 Killed in Twin Air Strikes on Ethiopia’s Tigray: Hospital (The Defense Post)** September 14, 2022

**Ten people were killed in a second day of air strikes on Ethiopia’s Tigray region Wednesday, hospital officials said, in attacks that came after authorities there expressed readiness for a ceasefire.**

Twin drone attacks hit a neighborhood in Tigray’s capital Mekele at around 7:30 am (0430 GMT), killing 10 and injuring more than a dozen others, two officials from the biggest hospital in the war-torn region said.

The air raids follow an announcement by Tigrayan authorities on Sunday that they were ready for talks led by the African Union (AU) to end almost two years of brutal warfare in northern Ethiopia.

Prime Minister Abiy Ahmed’s government is still yet to officially comment on the overture, as the international community presses the warring sides to seize the opportunity for peace.

“Death toll raised to 10,” Kibrom Gebreselassie, a senior official at Ayder Referral Hospital in Mekele, told AFP via text message. In a later statement, he said 14 people were injured.

Fasika Amdeslasie, a surgeon at the same hospital, confirmed the death toll, adding that the first bombing injured two women followed by a second strike “on the people gathered to help and see the victims.”

“Among the victims, a father was dead and his son is taken to surgery,” he said on Twitter.

AFP was not able to independently verify the claims. Access to northern Ethiopia is severely restricted and Tigray has been under a communications blackout for over a year.

Renewed Combat

The reported attack followed another drone strike on Tuesday on Mekele University, which Tigrayan authorities said caused injuries and property damage.

Dimtsi Weyane, a TV network run by Tigrayan authorities, said its station was also hit on Tuesday, forcing it off air and “causing heavy human and material damage.”

“The regime in #Addis continues to defy any possibility for peaceful solution through show of force & air raids,” Kindeya Gebrehiwot, a spokesman for the Tigray People’s Liberation Front (TPLF), said on Twitter following Wednesday’s attacks.

Abiy’s government has not commented on this week’s reported bombings, and AFP requests to officials were not answered.

Tigray has been bombed several times since fighting resumed in late August between government forces and their allies, and rebels led by the TPLF, which ruled Ethiopia for decades before Abiy took office in 2018.

The return to combat shattered a March truce and dashed hopes of peacefully resolving the war, which has killed untold numbers of civilians and triggered a humanitarian crisis in northern Ethiopia.

Both sides have accused the other of firing first, and fighting has spread from around southern Tigray to other fronts farther north and west, while also drawing in Eritrean troops who backed Ethiopian forces during the early phase of the war.

TPLF military boss Tadesse Worede on Tuesday said “Eritrean forces are in Sheraro,” a town in northwestern Tigray, where the rebels said they were resisting a major offensive by Ethiopia and Eritrean troops launched earlier this month.

#### Diplomatic Push

Frantic diplomatic efforts are underway to end the war, with the new US envoy to the Horn of Africa, Mike Hammer, extending his visit to Ethiopia this month.

The offer by Tigrayan authorities to participate in AU-led talks removed an obstacle to negotiations with Abiy’s government, which had insisted the pan-Africa bloc based in Addis Ababa mediate any potential talks.

UN Secretary-General Antonio Guterres, AU Commission chief Moussa Faki Mahamat, the East African bloc IGAD, and the European Union welcomed the offer by “the regional government of Tigray.”

Abiy’s government has declared the TPLF a terrorist group, and considers its claim to authority in Tigray illegitimate.

The UN human rights office has documented hundreds of civilian deaths from air strikes and drone attacks including on refugee camps, a hotel, and a market.

It has warned that disproportionate attacks against non-military targets could amount to war crimes.

The government has accused the TPLF of staging civilian deaths from air strikes to manufacture outrage, and insists it only targets military sites.

Abiy, a Nobel Peace laureate, sent troops into Tigray in November 2020 to topple the TPLF in response to what he said were attacks on federal army camps.

But the TPLF recaptured most of Tigray in a surprise comeback in June 2021.

It then expanded into the neighboring regions of Afar and Amhara before the fighting reached a stalemate.

#### **UN: Warring sides committing atrocities in Ethiopia’s Tigray (Aljazeera)** September 19, 2022

**UN experts on Monday said that there are reasonable grounds to believe that “war crimes and crimes against humanity” have been committed by the Ethiopian government in the Tigray region, warning that renewed conflict there increased the risk of “further atrocity crimes”.**

In its first report, the International Commission of Human Rights Experts on Ethiopia said it found that violations, such as extrajudicial killings and rape, have been committed by warring sides in Ethiopia since fighting erupted in the northern Tigray region in November 2020.

The commission, created by the UN Human Rights Council last year and made up of three independent rights experts, said it had “reasonable grounds to believe that, in several instances, these violations amount to war crimes and crimes against humanity”.

The report was issued as fighting resumed between the Ethiopian government and its allies, and forces backing the Tigray authorities following a tense five-month cessation of hostilities.

The commission said that Ethiopia’s beleaguered civilian population now faces renewed risks after enduring nearly two years

of conflict, which has now expanded beyond Tigray to other areas of the country and risks spreading beyond Ethiopia's borders, with consequences for peace in the entire Horn of Africa.

The experts highlighted the horrifying situation in Tigray, where the government and its allies have denied people access to basic services, including the internet, banking and electricity, for over a year.

This, combined with shortages of food, medicine and fuel as well as severe restrictions on humanitarian access have left some 20 million people in need of assistance and protection, nearly three-quarters of them women and children.

"The combined effect of these measures, which remain in effect more than a year later, has forced much of the population in Tigray to eat less and sell harvest and reproductive livestock. Sources also reported an increase in desperate means to survive, such as child marriage and child labour, human trafficking, and transactional sex," the report said.

In a statement, Commission Chair Kaari Betty Murungi described the humanitarian crisis in Tigray as "shocking, both in terms of scale and duration".

"The widespread denial and obstruction of access to basic services, food, healthcare, and humanitarian assistance is having a devastating impact on the civilian population, and we have reasonable grounds to believe it amounts to a crime against humanity," she said.

"We also have reasonable grounds to believe that the Federal Government is using starvation as a method of warfare," she added, calling on the government to "immediately restore basic services and ensure full and unfettered humanitarian access".

In response to the report, Tigrayan authorities said they "have always maintained" that Ethiopia's government was responsible for crimes against humanity in Tigray, according to a rebel spokesman.

"We have always maintained that," Getachew Reda, a spokesman for the Tigray People's Liberation Front (TPLF), told AFP in response to the commission's accusation that Addis Ababa was committing atrocities in the conflict-torn region.

But Murungi also called on Tigrayan forces to "ensure that humanitarian agencies are able to operate without impediment." The commission had received information indicating that Tigrayan forces have looted or otherwise misappropriated humanitarian aid.

After four years of anti-government protests and rising ethno-nationalist sentiment, the country's ruling Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) chose Abiy Ahmed as its new prime minister in 2018.

The federal government alleges that rebels led by the TPLF were behind a series of violent attempts to undermine the government, accusations the group denies. However, others say that anti-Tigrayan sentiment and hate speech in government statements contributed to an environment where dehumanising ethnic groups became the norm.

Tigray has been bombed several times since fighting resumed in late August between government forces and their allies, and rebels led by the TPLF, shattering a March truce and dashing hopes of peacefully resolving the conflict.

"The international community should not turn a blind eye, and instead increase efforts to secure a cessation of hostilities and the restoration of humanitarian aid and services to Tigray," Murungi said.

"Failure to do so would be catastrophic for the Ethiopian people, and has wider implications for peace and stability in the region."

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## EUROPE

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

**Momcilo Tesic was sentenced to 20 Years in Prison for participating in the Genocide (Sarajevo Times)** September 8, 2022

**The Court of Bosnia and Herzegovina (BiH) issued a first-instance verdict in which Momcilo Tesic was sentenced to 20 years in prison for his participation in the shooting of 17 men from the Srebrenica area in Mрсici, Vlasenica municipality, on July 13th-14th, 1995.**

Tesic was accused of assisting in genocide as a member of the Military Police Platoon of the Vlasenica Brigade, but the Court of BiH sentenced him for a crime against humanity.

Mile Kosoric was tried together with Tesic for aiding in the genocide in Srebrenica, but the proceedings against him were separated due to illness. Borislav Stojisic and Rajko Drakulic were also accused in this case at the end of 2017, but they are not available to the judicial authorities of BiH.

According to the indictment, on July 12th, 1995, members of the Vlasenica Brigade demined the road in the place Luke so that buses and trucks carrying civilians could pass, and since that day they have set up a checkpoint. There, as stated in the indictment, Tesic, together with other members of the brigade, they stopped vehicles, took money and gold from civilians, and then directed them towards Kladanj.

It was pointed out that a certain number of women were taken, who were then raped, while the men's hands were tied and they were imprisoned in the elementary school, where they were abused.

According to the indictment, Tesic, together with the others, took 22 captured men to the place Mрсici, after which they were shot, and then their bodies were searched and their money was taken. On that occasion, the protected witness MK-1 managed to escape by jumping out of the truck, after which, according to the indictment, Tesic ran after him. The remains of those killed were found and identified.

Tesic's trial began in 2018. At yesterday's hearing, the defense presented its closing arguments, while the Prosecutor's Office of BiH requested the maximum sentence at the hearing held on August 26th. By the decision of the Court of BiH, Tesic was ordered into custody. There is a possibility of an appeal against this verdict.

**Bosnian Army Ex-Soldier Convicted of Abusing Serb Civilians (Balkan Transitional Justice)** By Jasmin Begic  
September 14, 2022

**Ibrahim Ceco was sentenced to one-and-a-half years in prison for committing a war crime against the civilian population in Sarajevo in September 1992.**

The Cantonal Court in Sarajevo found former Bosnian Army soldier Ibrahim Ceco guilty on Wednesday of physically abusing Serb civilians while they were digging trenches in the Dobrinja neighbourhood of Sarajevo on September 18, 1992.

He was found guilty of committing a war crime against the civilian population and sentenced to one-and-a-half years in prison.

Presiding judge Melika Murtezic said the verdict was delivered on the basis of a testimony by victim Slobodan Vucicevic, who gave a detailed description of the incident 30 years ago, and is not seeking any sort of compensation for what happened.

"When deciding on the sentence for this criminal offence, the court took into consideration all mitigating circumstances, including the fact that defendant Ceco has no prior convictions, as well as his age and medical condition," said Murtezic.

In 2012, Ceco was sentenced to two years in prison for the same crime, but the Supreme Court of the Federation of Bosnia and Herzegovina quashed the verdict and referred the case back to the Sarajevo Cantonal Court for a retrial.

Wednesday's verdict can be appealed within 15 days.

**Bosnian Court Urged to Jail Serb Ex-Soldier for Rape (Balkan Transitional Justice)** By Marija Tausan  
September 19, 2022

**The prosecution asked the court to convict Radovan Veljovic of committing a crime**

## **against humanity for raping a woman during a campaign of violence by Bosnian Serb forces in the Foca area in 1992.**

Prosecutor Behajja Krnjic told the Bosnian state court in Sarajevo on Monday that it had been proved without doubt that Radovan Veljovic, a wartime soldier with the Bosnian Serb Army raped a woman in May 1992 and should be convicted of committing a crime against humanity.

Krnjic said Veljovic should receive a longer prison term than the prescribed one due to his determination and persistence in the commission of the crime, as well as severe mental consequences for the victim.

“It is completely clear that there is not a single mitigating circumstance to reduce the sentence,” Krnjic said.

He recalled the testimony by the victim, who said that the defendant took her to the house where she was raped and afterwards threatened to kill her if she spoke about what had happened.

The prosecutor said that on the following day, she confided in some people that she had been raped.

The prosecutor also mentioned that another witness, in whose house the victim was living with her minor son and mother-in-law, confirmed that two young soldiers came and that Veljovic wanted to question the victim.

Krnjic said that this witness and three others said they heard that Veljovic had raped the woman.

He added that the defence attempted to prove that the defendant was not guilty based on minor discrepancies.

“They have not managed to deny a single decisive fact,” the prosecutor insisted, arguing that defence witnesses presented their subjective beliefs as fact.

The prosecutor also said that Veljovic was aware of the widespread and systematic attack against the Bosniak population in the Foca area from April to July 1992, which involved arrests, murders and detentions, as well as the destruction of property and religious facilities and organised resettlement.

He noted that witnesses also spoke about an attack on their home on April 20, 1992, when around 15 men were killed, including the rape victim’s husband and father-in-law, while others were put in detention.

The defence is due to present its closing statement on October 17.

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

**Official Website of the ICTY**

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## **Domestic Prosecutions In The Former Yugoslavia**

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## Russia

**As Ukraine retakes territory from Russia, securing evidence of alleged war crimes is crucial (Amnesty International)** September 12, 2022

**Reacting to new evidence of alleged war crimes committed by Russian forces following military advances by Ukrainian forces retaking control of Russia-occupied territories, Marie Struthers, Amnesty International's Director for Eastern Europe and Central Asia, said:**

“As Ukraine regains control of land occupied by Russian forces, it must prioritize securing evidence of their alleged war crimes. Gathering such evidence is extremely resource-intensive, and so we are calling on the international community to provide resources that will assist Ukraine's efforts. All ongoing and future trials over alleged war crimes must meet fair trial standards.”

“In what appears to be a response to Ukraine's military gains, Russia has launched attacks that caused significant damage to critical civilian infrastructure, including a power plant strike that led to power and water outages and disrupted civilian activities. We remind Russia that deliberate targeting of civilian infrastructure may amount to war crimes. These strikes must be investigated with a view to ensuring that anyone suspected of criminal responsibility is brought to justice.”

### Background

In recent days, Ukrainian forces have reportedly regained control of over 3,000 square kilometres of territory previously occupied by Russia, including Izyum and Kupiansk, two key towns in Kharkiv oblast.

As Russian forces retreat, evidence of alleged war crimes committed by them and Russia-backed armed groups is emerging in the form of testimonies, video footage and photographs.

On 10 September, Ukrainian law enforcement agencies reported that police officers had exhumed the bodies of two men allegedly tortured and killed by Russian forces in Hrakove village, Kharkiv oblast, in March.

On 11 and 12 September, Russian military strikes damaged critical energy infrastructure, resulting in major disruptions to electricity and water supplies as well as train services.

**More than 628,000 Ukrainian children were forcibly taken to Russia or Belarus (Ukraine Crisis Media Center)** September 15, 2022

**According to data from open sources announced by the Russian Federation, 628,000 children have been forcibly removed to the Russian Federation and the Republic of Belarus since February 24, 2022.**

According to the National Information Bureau, Russia forcibly deported 7,716 young Ukrainians. These numbers are not final, as work is ongoing to establish them in places of active hostilities, in temporarily occupied and liberated territories.

“Children of War” is a platform where you can report and find all information about children who suffered as a result of the Russian Federation’s war against Ukraine.

## **EU Calls for War Crime Tribunal Over Mass Graves in Ukraine (Kyiv Post) September 18, 2022**

### **The EU presidency on Saturday, Sep.17, called for the establishment of an international tribunal for war crimes after new mass graves were found in Ukraine.**

“In the 21st century, such attacks against the civilian population are unthinkable and abhorrent,” said Jan Lipavsky, foreign minister of the Czech Republic which holds the European Union’s rotating presidency.

“We must not overlook it. We stand for the punishment of all war criminals,” he added in a message on Twitter.

“I call for the speedy establishment of a special international tribunal that will prosecute the crime of aggression.”

The appeal follows the discovery by Ukrainian authorities of around 450 graves outside the formerly Russian-occupied city of Izyum with some of the exhumed bodies showing signs of torture.

Ukrainian leader Volodymyr Zelensky, in his evening address, said that “new evidence of torture was obtained” from the bodies buried there.

“More than 10 torture chambers have already been found in various cities and towns liberated in Kharkiv region,” he added, describing the discovery of electrical implements for torture.

“That’s what the Nazis did. This is what Ruscists do. And they will be held accountable in the same way – both on the battlefield and in courtrooms,” he promised.

“Among the bodies that were exhumed today, 99 percent showed signs of violent death,” Oleg Syneubov, head of Kharkiv regional administration, said on social media.

“There are several bodies with their hands tied behind their backs, and one person is buried with a rope around his neck,” he added.

– ‘Probably 1,000 tortured and killed’ –

US Secretary of State Antony Blinken said the mass graves likely provided more evidence that Russia is committing war crimes in its pro-Western neighbour. French President Emmanuel Macron described what had happened in Izyum as atrocities.

The Ukrainian parliament’s human rights commissioner, Dmytro Lubinets, said there were “probably more than 1,000 Ukrainian citizens tortured and killed in the liberated territories of the Kharkiv region”.

The United Nations in Geneva has said it hopes to send a team to determine the circumstances of the deaths.

The macabre discoveries came a little more than five months after the Russian army, driven out of Bucha near the capital Kyiv, left behind hundreds of corpses of civilians, many of whom had signs of torture and summary executions.

On Thursday, EU chief Ursula von der Leyen said she wanted Russian President Vladimir Putin to face the International Criminal Court over war crimes in Ukraine.

In Washington, US President Joe Biden warned his Russian counterpart Vladimir Putin against using chemical or tactical nuclear weapons in the wake of serious losses in his war in Ukraine.

“Don’t. Don’t. Don’t,” Biden said, in an excerpt from an interview with CBS’ “60 Minutes” aired Friday evening.

“You would change the face of war unlike anything since World War II,” Biden said.

– ‘Pushing them back’ –

On the ground, Ukrainian forces have recaptured thousands of square kilometres in recent weeks thanks to a counter-offensive in the north-east and now threaten enemy positions in the south, as the fighting and bombings continue.

The Russians “are angry because our army is pushing them back in its counter-offensive,” said Svitlana Shpuk, a 42-year-old worker in Kryvyi Rih, a southern town, and Zelensky’s hometown, which was flooded after a dam was destroyed by Russian missiles.

Syngubov said an 11-year-old girl had been killed by missile fire in the region.

Pavlo Kyrylenko, governor of Donetsk in eastern Ukraine which has been partially controlled by Russian-backed separatists since 2014, said on social media that a thermal power plant was “shelled by Russian invaders” on Saturday morning in Mykolaivka.

Ukrainian firefighters were battling the blaze, he said, adding that the Russian shelling had led to interruptions to drinking water supply.

“The occupiers are deliberately targeting infrastructure in the area to try to inflict as much damage as possible, primarily on the civilian population,” he charged.

He had earlier reported that two civilians had been killed and 11 wounded in the past 24 hours by Russian fire.

– Few residents on the streets –

In its daily briefing in Moscow, the Kremlin said it had carried out “high-precision” strikes against Ukrainian positions in the Mykolaiv and Kharkiv regions.

In the northeastern town of Kupiansk, which was recaptured last week by Ukrainian forces, clashes continued with the Russian army entrenched on the eastern side of the Oskil river.

Few residents ventured out into the streets where Ukrainian soldiers and volunteers were moving about.

A column of smoke rose over the east of the city, where an ammunition depot was burning.

In the centre of the small town, the damaged police station stood deserted, the tattered red flag of the Russian army lying on the ground outside.

The Ukrainian army in a statement said “the enemy carried out four missile strikes and 15 air strikes during the day, as well as more than 20 multiple rocket launcher strikes on civilian and military sites in Ukraine”.

In the relative calm of Kyiv on Saturday, hundreds of Ukrainians took part in a farewell ceremony at the national opera house for former ballet dancer and later teacher Oleksandr Shapoval. He was killed at the age of 47 in the east of the country while fighting the Russians.

Shapoval was hit by mortar fire on September 12, near the town of Mayorsk in the Donetsk region.

Meanwhile Ukraine’s Zaporizhzhia nuclear plant began receiving power from the national grid once again, the UN’s atomic agency (IAEA) said Saturday, after it was cut off from external power, raising the risk of an accident.

The Russian-occupied plant, the largest in Europe, had been cut from the national grid since September due to shelling.

**Ukraine alleges torture at village near Russian border (CTV News)** By Elena Becatoros and Leo Correa  
September 18, 2022

**In a dank basement behind the local supermarket, metal bars cordon off a corner of the room to form a large cell. A dirty sleeping bag and duvets show three sleeping spots on top of sheets of Styrofoam for insulation from the damp earth floor. In the corner, two black buckets served as toilets.**

A few metres outside the barred cell, three dilapidated chairs stand around a table, cigarette butts and pumpkin seed husks littering the floor around them.

Ukrainian authorities say this was a makeshift prison where Russian forces abused detainees before Ukrainian troops swept through the border village of Kozacha Lopan in a major counteroffensive in the Kharkiv region this month. President Volodymyr Zelenskyy has said more than 10 such “torture chambers” have been discovered in the region since the hasty withdrawal of Russian troops last week. The claims of what occurred in the room could not be independently confirmed.

Kozacha Lopan, whose edge lies less than two kilometres (just over a mile) from the Russian border, was retaken by Ukrainian forces Sept. 11.

In a statement posted Saturday on its Telegram channel, the prosecutor’s office of the Kharkiv region, in whose jurisdiction Kozacha Lopan lies, said the room seen by AP journalists was used as a torture cell during the occupation of the area. It said

Russian forces had set up a local police force that ran the prison, adding that documents confirming the functioning of the police department and implements of torture had been seized. The statement said an investigation was being conducted.

Images the prosecutors released showed a Russian military TA-57 telephone with additional wires and alligator clips attached to it. Ukrainian officials have accused Russian forces of using the Soviet-era radio telephones as a power source to shock prisoners during interrogation.

In his nightly address to the nation Saturday, Zelenskyy mentioned another location, at the railway station in Kozacha Lopan, where he said "a room for torture and tools for electric torture was found."

Viacheslav Zadorenko, head of the Derhachi municipality to which Kozacha Lopan belongs, pointed AP journalists on Sunday to a semi-basement of the train station, where he said interrogations had been carried out.

Members of Ukraine's State Emergency Service, or DSNS, checked on Sunday for unexploded devices and booby traps but found none.

A sandbag barrier stood outside the stairs leading down into two small rooms. The first room was furnished with three tables and numerous chairs, a faded icon of the Virgin Mary on one table, two books on another, including a novel by Russian literary critic and philosopher Nikolay Gavrilovich Chernyshevsky.

Jumbles of wires and cables littered the floor, a small fridge stood in the corner. In a narrow adjoining room, a row of wooden cabinets stood open and mostly empty, and a mattress lay on the top bunk of a bunk-bed, a pair of discarded flip-flops and shoes on the floor.

It was impossible to independently confirm what occurred in the rooms.

Zadorenko, who is from Kozacha Lopan himself and whose mother stayed in the village during the fighting, said Russian forces tortured locals, and also limited the communications of those living there and took away their documents, including his own mother.

"She was unable to evacuate and leave, they knew she was my mother so they kept her. Some of the physical tortures were applied to her and she was under psychological pressure," he said.

"People went through hard times, a lot of locals whose fate is unknown until today, lots of locals have died, lots of people were forcibly evacuated to the Russian federation," he added.

Burial sites have been found in some areas where Russian forces were pushed out, most notably in the city of Iziium, where Ukrainian officials say more than 440 graves have been found near the city's cemetery. Zelenskyy has said they contain the bodies of civilian adults and children, as well as soldiers, showing signs of violent deaths, some possibly from torture.

Vitalii, a commander in the National Guard, said his team is hunting for graves of possible victims of abuse at the detention centre in Kozacha Lopan. He asked to be identified by his first name only for security reasons.

The team is also recovering bodies on the battlefield, which are lying where they fell on farm fields or inside burned-out tanks. The Russian army was pushed back across the border into Russia after holding the area for months. But artillery shells still whistle through the air, fired from inside Russia and landing with resonating thumps and billows of black smoke on Ukrainian territory.

Despite the shelling, a small group of soldiers winds its way along a rutted mud track to where a dead Ukrainian combatant lies, spotted by a drone used to search for bodies and shallow graves.

"It's a risk. We are always risking our lives and at any moment there might be some shell flying in from the territory of Russia," Vitalii said.

The dead Ukrainian is lying on his back in body armor and helmet, a cap beneath it to block out the sun. The body has been there for a long time.

They document the scene and lift the remains into a body bag before heading farther along the track to a charred Russian tank. It takes only one of the team to carry away the body bag holding the remains of the Russian found inside.

Autopsies will follow, and the details of the sites recorded and passed on to investigators looking into potential war crimes, Vitalii said.

Throughout this border area, where fierce battles raged, villages bear the devastating scars of war: houses bombed and

burned, roads pitted with bomb craters, smashed cars lying by the roadside.

Residents who fled during the height of the fighting have been returning to see what became of their homes.

Nothing is left of Alina Orobchenko's home in the nearby village of Prudyanka but four broken, fire-blasted walls. The entire house in which she lived for 30 years was turned into a jumble of burnt, twisted rubble. Nothing was salvageable.

"It's really hard to decide what to do next, it's impossible to plan for the future," the 47-year-old schoolteacher said as she picked her way over the smashed roofing tiles and piles of masonry.

"We've already cried out all our tears," Orobchenko said. "But now we know we need to overcome this, and get on with our lives."

Outside the blackened, smashed front windows, her pink and red roses have bloomed among the weeds and wreckage.

**Ukraine prosecutor says it has documented 34,000 war crimes, including genocide (The Hill)** By Julia Mueller  
September 18, 2022

**Ukraine's top prosecutor on Sunday said his office has documented 34,000 potential war crimes throughout the ongoing conflict with Russia and is mounting a case on genocide.**

"We have a case on genocide in the Office of the Prosecutor General, and we are all the time in communication with International Criminal Court ... We understand that all of these facts put together will lead us to possible a conviction in crime of genocide," Prosecutor General Andriy Kostin told host Margaret Brennan on CBS's "Face the Nation."

Kostin said the Ukraine office is in communication with the International Criminal Court's lead prosecutor, Karim Khan.

The Ukrainian prosecutor acknowledged the challenges of any attempt to prosecute Russian President Vladimir Putin, a sitting leader, for genocide, but said that "we know who is responsible" for "the crime of aggression."

"The crime of aggression is the mother of all of these crimes — of war crimes, genocide — because without aggression, there will be no other war crimes. And for that reason, for the crime of aggression, the highest [political] and military leadership should be prosecuted and should be punished," Kostin said.

Ukrainian President Volodymyr Zelensky accused Russia of genocide after graphic footage and reports of violence in Bucha, a town northwest of Kyiv. Zelensky praised President Biden after the U.S. leader followed suit and called Russia's actions genocide.

No sitting leader has ever been prosecuted for genocide.

The Prosecutor General's office is also sifting through the 34,000 possible war crimes, prioritizing cases in the Kharkiv region, Kostin said Sunday.

He called the "horrible amount of potential war crimes" part of a "a system" of Russian aggression against Moscow-occupied territory.

**The Case for Creating an International Tribunal to Prosecute the Crime of Aggression Against Ukraine (Just Security)** By Oona Hathaway  
September 20, 2022

**The last two weeks have brought promising news that the Ukrainian effort to turn back the Russian army is, miraculously, beginning to succeed. The possible shift in the war brings renewed urgency to a conversation that began shortly after the war started — how to bring accountability for the crime of aggression committed in launching the war in February 2022 and in continuing to pursue the military campaign in clear violation of the prohibition of the use of force in Article 2(4) of the United Nations Charter.**

This article is the first in a series based on a meeting held in the summer of 2022 at the Yale Club in New York City that aimed to generate a detailed and concrete proposal for a tribunal to try the crime of aggression in Ukraine. The Chair's summary provides an overview of the meeting — which was hosted by the Permanent Mission of Liechtenstein to the U.N. and the Permanent Mission of Latvia to the U.N. and attended by representatives of the Government of Ukraine as well as a number of

other U.N. Member States, academics, and members of civil society.

In this series, several of the meeting participants elaborate how the Government of Ukraine and the United Nations could work together to create a tribunal. I begin this series by exploring the case for creating an international tribunal and specifically for doing so through an agreement with the United Nations, acting on the recommendation of the General Assembly. In the next three articles, Astrid Reisinger Coracini, Jennifer Trahan, and former U.S. Ambassador-at-Large for War Crimes Issues David J. Scheffer will discuss the features of a potential tribunal. Together, these articles offer a template that could form the foundation for a new international tribunal. Finally, Claus Kreß, special advisor to the ICC prosecutor on the crime of aggression, writing in his personal capacity, will conclude the series.

### The Importance of Prosecuting the Crime of Aggression

The stakes of the current conflict are extraordinarily high. When Russia launched its war against Ukraine in February 2022, it began the largest cross-border land war in Europe since World War II. This follows on the illegal annexation of Crimea by Russia in 2014, the first conquest of territory in Europe since World War II. These acts stand as a blatant challenge to the global prohibition on the use of force and territorial conquest.

The United Nations Charter that was created at the close of World War II to maintain and sustain international peace places the prohibition on the use of force at its core. Article 2(4) provides: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” While this prohibition on war has certainly not been perfectly observed, it has contributed to an extraordinary reduction of interstate wars in the postwar era and has made the conquest of territory, which was once common, exceedingly rare. It has enabled trade and growth throughout the globe without fear that the gains will simply become spoils in war. And it has allowed small States that would once have had to fear for their existence to instead survive unmolested. This is no small reason that the number of independent sovereign States has grown roughly threefold from the end of the war to today.

Russia’s invasion of Ukraine, aided by Belarus, does not just represent the blatant violation of a rule of international law; it represents a threat to the foundational principle that underpins the modern legal order. This is why the global response to the war has been so robust, with States coalescing together to provide arms and other supplies to Ukraine. And it is why that effort must be followed by the criminal prosecution of those most responsible for the crime of aggression.

The crime of aggression was first prosecuted in an international court in the wake of World War II in what would become known as the International Military Tribunal at Nuremberg. The allies charged 24 German political, military, and economic leaders with advanced planning of an aggressive war “in violation of the terms of the Kellogg-Briand Pact of 1928” — the treaty that first outlawed war and thereby set the stage for Article 2(4) of the U.N. Charter. In its judgment, the Nuremberg court declared, “To initiate a war of aggression . . . is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.”

That powerful sentence captured an essential fact about the crime of aggression — in war, the crime of aggression is the international crime from which all others flow. Were it not for the illegal aggression against Ukraine, there would be no crimes against humanity, no war crimes, and no genocide. It is, moreover, an attack not just on the country that suffers the physical attack, but an attack on the international community as a whole. This is why establishing a forum to punish such crimes is so essential.

And yet there is no international court with jurisdiction over the crime of aggression against Ukraine. Ukraine, Russia, and Belarus are not parties to the Rome Statute, which created the International Criminal Court (ICC) and gives it jurisdiction. Normally that would mean that the ICC would not have jurisdiction over the events taking place in Ukraine. However, Ukraine submitted to the jurisdiction of the court in 2014 and extended that submission indefinitely in 2015. Based on these submissions, the court can hear cases of genocide, crimes against humanity, and war crimes committed in Ukraine and the prosecutor has begun investigations of those crimes. Yet, due to a political compromise, the crime of aggression is different: unlike the other three crimes in the Rome Statute, the crime of aggression may not be prosecuted against nationals of non-state parties — including Russia and Belarus. While there are proposals to amend that provision, any amendment is likely to take at least a year if it happens at all. And even if made, the revision would most likely apply prospectively, not retroactively. Thus, international accountability for the crime of aggression against Ukraine almost certainly requires creating a new international tribunal.

### The Case for Creating the Tribunal through an Agreement Between Ukraine and the United Nations

The Yale Club meeting offered a proposal for creating a tribunal to try the crime of aggression through an agreement between Ukraine and the United Nations, on the recommendation of the General Assembly.

This is far from the only proposal to create a tribunal to try the crime of aggression in Ukraine. One of the earliest, from former U.K. Prime Minister Gordon Brown, called for the creation of a special tribunal that nations could join in a kind of ad hoc legal “coalition of the willing.” Philippe Sands has been working with European lawmakers to create a tribunal in Europe. Just recently, the Council of Europe adopted a decision endorsing accountability for the crime of aggression. The Public International Law & Policy Group (PILPG) has proposed a draft law for a Ukrainian High War Crimes Court, a specialized court within the domestic Ukrainian judicial system, to prosecute atrocity crimes — including the crime of aggression — not prosecuted at the ICC. The Open Society Justice Initiative has drafted a model indictment that could be used in a number of fora. And there is a proposal similar to the Yale Club’s from the Ukraine Task Force of the Global Accountability Network that proposes a U.N. General Assembly resolution and a statute for a special tribunal formed by the U.N. and Ukraine.

There are several essential features of a new tribunal that some, but not all, of these existing proposals share with the Yale Club proposal. Here I review the elements of a tribunal that many of those who took part in the Yale Club discussion consider essential features of a new tribunal.

### Three Essential Features of a New Tribunal

Feature 1: The tribunal should be international.

Most of the proposals mentioned above call for an international tribunal, rather than a domestic one, a key distinction for several reasons. The first is symbolic and expressive: Russia’s war of aggression has harmed not just Ukraine but the international community as a whole. The second is practical: there are immunities that would likely interfere with domestic prosecution of a small number of Russian and Belarusian officials, including President Vladimir Putin, that would not apply in an international court. Hence, even though Ukrainian law (and other States’ domestic law) permits prosecution for the crime of aggression in a domestic court, cases against those most responsible for the war would be difficult, if not impossible, to pursue successfully without violating key international legal rules on immunity. (For more on immunity, see Claus Kreß’s Occasional Paper on ICC Appeals Chamber’s Judgment of 6 May 2019 in the Jordan Referral re Al-Bashir Appeal and Commentary on personal immunity (beginning on page 2626). Jennifer Trahan’s article in this series will address immunity issues more fully).

The third reason, and perhaps the most important though the least understood, is Ukrainian law, specifically the Ukrainian Constitution. As Ukrainian lawyer Alexander Komarov and I wrote several months ago, Article 125 of the Ukrainian Constitution states that, “The establishment of extraordinary and special courts shall not be permitted.” We explained that this prohibition requires that any new tribunal must be international. The tribunal should also be explicitly auxiliary, not complementary, to the domestic courts (to avoid conflict with Article 124 of the Ukrainian Constitution). Indeed, no matter which proposal moves forward, the world must not encourage casual disregard for the constraints of the Ukrainian Constitution, particularly at this moment of extraordinary transformation for Ukraine.

Feature 2: The tribunal should be created through an agreement between Ukraine and the United Nations, on the recommendation of the General Assembly.

Proceeding through the U.N. General Assembly would make good on a promise that 140 States implied when they voted in favor of a Resolution deploring the “aggression” by Russia “in violation of Article 2(4) of the Charter.” Only five States, including Russia, voted against it. Proceeding through the General Assembly, rather than an ad hoc coalition of States or a European institution, would allow States from around the world to participate in and reaffirm the foundational norm that Russia has violated. This would send a powerful message that the crime of aggression is a crime whether committed in Europe or elsewhere. Indeed, a key purpose for prosecuting the crime of aggression is to repair an international system that Russia has now damaged and to signal to all countries that they must not follow in Russia’s footsteps. That repair is limited indeed if it applies to Europe alone.

There are precedents, most notably the Extraordinary Chambers in the Courts of Cambodia (created pursuant to the recommendation of the General Assembly) and the Special Court for Sierra Leone (created pursuant to the recommendation of the Security Council, not acting under its Chapter VII authority to address threats to peace, breaches of the peace, and acts of aggression). While the General Assembly does not have the power to impose a tribunal on Ukraine (because it lacks such enforcement powers, which reside in the Security Council), it can authorize the Secretary General to work with Ukraine to establish a tribunal to which Kyiv voluntarily consents through an international agreement.

There is yet another reason to conclude the tribunal as an agreement between Ukraine and the United Nations: As Komarov and I have explained, the Law of Ukraine on International Treaties provides that a treaty between Ukraine and the U.N. might be made subject to ratification by the Verkhovna Rada (Parliament) of Ukraine and thus become “part of the national legislation of Ukraine.” It would also be possible for the President to seek an ex ante determination by the Constitutional Court of Ukraine that the agreement is consistent with the Constitution, thus putting any constitutional doubts to rest.

Feature 3: The tribunal should be limited in scope

Any new international tribunal must be narrowly focused on the key violations that fundamentally challenge the international legal order that will likely otherwise go unpunished. This means that crimes that can be prosecuted in the ICC or in domestic courts should not be within the jurisdiction of a new international tribunal. Rather, the tribunal should be narrowly focused on the crime of aggression alone — and it should focus only on those in leadership positions. To this end, the new tribunal should adopt the definition of the crime of aggression in the Rome Statute, which limits the scope of the prosecutable offenses to “manifest” violations of the United Nations Charter and to crimes committed by those in a leadership role, specifically “the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State.”

Russia’s invasion of Ukraine has put the international legal order in peril. A tribunal with these features would help to repair the damage by reinforcing for the world the foundational importance of the prohibition on use of force.

### **Latvia’s president calls for setting up special tribunal to probe Russian crimes in Ukraine (UkrinForm) September 21, 2022**

**Latvian President Egils Levits, who addressed the United Nations General Assembly on September 21, has called for establishing a special tribunal “to investigate the responsibility of the Russian state in the crime of aggression” and creating a mechanism of reparation payments to Ukraine.**

That’s according to Ukrinform’s own correspondent in New York.

“Impunity means an invitation to further crimes, therefore, the aggressor must be held accountable,” Levits said, adding that the ICC and ICJ have already started considering cases regarding the separate aspects of Russia’s war on Ukraine, and so has the ECHR.

At the same time, the president of Latvia noted that a legal loophole remained as no international court has jurisdiction as to the main question, which is the unleashing of a war of aggression, a serious violation of the UN Charter and international law.

“Special tribunal could be established on the basis of a resolution of the General Assembly by another international organization or a group of like-minded states,” he suggested.

The president added that after the war, Russia “will have to pay reparations to Ukraine for damages. The special tribunal could be part of an international reparations mechanism.”

### **Zelenskiy tells U.N: We demand 'just punishment' for Russian crimes (Reuters) September 21, 2022**

**Ukrainian President Volodymyr Zelenskiy told the United Nations on Wednesday that Ukraine wanted "just punishment" for a crime Russia had committed against his nation.**

Zelenskiy, in an a recorded address to the U.N. General Assembly, said Kyiv had a five-point plan to establish a durable peace - but rejected any suggestion that his ex-Soviet state should adopt neutrality.

And he ruled out any peace proposal other than the plan proposed by Ukraine.

Zelenskiy said his five non-negotiable conditions for peace included punishment for Russian aggression, restoration of Ukraine's security, and territorial integrity and security guarantees.

"...This is the first item of our peace formula. Comprehensive item. Punishment," Zelenskiy, wearing his trademark khaki tee shirt, told the assembly.

"Punishment for the crime of aggression. Punishment for violation of borders and territorial integrity. Punishment that must be in place until the internationally recognized border is restored."

But he added: "What is NOT in our formula? Neutrality. Those who speak of neutrality, when human values and peace are under attack, mean something else."

Many delegations gave Zelenskiy a standing ovation after his speech. The Russian delegation remained seated.

Seeking membership of the Western military alliance NATO and the European Union is enshrined in Ukraine's constitution. Russia said even before starting its invasion in February that NATO membership for Ukraine was a "red line" that could not be

breached.

Zelenskiy ruled out "that the settlement can happen on a different basis than the Ukrainian peace formula. The further the Russian terror reaches, the less likely it is that anyone in the world will agree to sit at one table with them."

Ukraine and its Western allies have accused Russian forces of war crimes in different parts of the country they have occupied. Russia denies the allegations and says it does not target civilians.

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## MIDDLE-EAST

### Iraq

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

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### Syria

**Why is Israel bombing Syrian airports? (Al Jazeera)** By Linah Alsaafin  
September 8, 2022

**Israel's bombing of Syria's Aleppo International Airport on Tuesday was the second time it had been attacked in less than a week.**

The latest aerial attack – which Syria's foreign ministry described as a "war crime" – damaged the runway, taking it out of service.

The Aleppo attacks are not the first time Israel has targeted Syria's airports. Last June, Israeli air raids temporarily put Damascus International Airport out of commission.

Israel has also conducted numerous attacks on targets in Syria over the last few years, although few are officially acknowledged.

Let us take a closer look:

A warning to Iran

According to the UK-based Syrian Observatory for Human Rights, Israel hit a warehouse in the airport compound belonging to Iran-backed fighters, allies of Syrian President Bashar al-Assad. Three people were killed in Tuesday's targeting of the airport, the monitor added.

Sami Hamdi, a political analyst, said the raids must be put within the context of the United States' allies fearing Iran's influence as President Joe Biden "steamrolls" them into pursuing a nuclear deal with Tehran.

"The attack is a warning to Iran insofar that it seeks to demonstrate that Tel Aviv will continue to resist the imposition of the

new political dynamics of the nuclear deal in spite of Washington,” Hamdi told Al Jazeera.

It is also “a warning to al-Assad that there will be consequences to Syria’s infrastructure if it is used to facilitate the anticipated entrenchment of Iran’s reach that the nuclear deal is expected to bring about”, he continued.

Syrian government unable to respond

Syrian state media said the Israeli attacks on Aleppo Airport have caused material damage but did not mention any casualties. It also said that Syrian air defences had intercepted and downed some of Israel’s missiles.

And while Syria’s foreign ministry on Wednesday condemned the raids as a “war crime” and called for Israel to be held accountable, Hamdi said the government lacks any real agency to respond unilaterally due to the government’s heavy military reliance on Russia and Iran. “Russia has no interest in any confrontation with Israel, while Iran is taking great care to avoid being provoked into an open conflict that might jeopardise Biden’s position on a nuclear deal that Tehran considers to be particularly favourable,” he said.

Instead, the Syrian government suffices with a statement of condemnation, and “a PR campaign that insists the strikes are ‘proof’ that Assad belongs to the ‘camps of resistance’ against the occupation of Palestine”, Hamdi said.

Israel sending a message to al-Assad

Since 2011, Israel has carried out hundreds of attacks on targets inside government-controlled parts of Syria in recent years but rarely acknowledges or discusses such operations.

It has, however, previously admitted to targeting bases of Iran-allied armed groups, such as Lebanon’s Hezbollah.

On Wednesday, the chairman of the Israeli parliament’s foreign affairs and defence committee, Ram Ben-Barak, told Ynet radio the strikes had been a signal to al-Assad.

“The attack meant that certain planes would not be able to land, and that a message was relayed to Assad: If planes whose purpose is to encourage terrorism land, Syria’s transport capacity will be harmed,” he said, but stopped short of saying whether Israel carried out the raid.

Iran’s role in Syria

Iran is a close ally of the al-Assad regime, and has been involved in the conflict since the outset. Iran-allied militias, most notably Lebanon’s Hezbollah group, have fought with the Syrian army against opposition armed groups.

Vladimir Sotnikov, a Russian international affairs analyst, said Iran’s position in the Syrian conflict has to do primarily with countering its archenemy Israel and its ally, the United States, as leading actors in the region.

“Geopolitically speaking, I believe that the involvement of Iran is generally explained by its intention to keep and enhance its role as a leading power in the region, fiercely competing with US ally and Syrian opposition supporter Saudi Arabia,” he told Al Jazeera.

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## **Yemen**

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## **Special Tribunal for Lebanon**

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## Israel and Palestine

**Palestinian teenager shot dead by Israeli forces near Ramallah (Middle East Eye) September 8, 2022**

**A Palestinian teenager was shot dead by Israeli forces on Thursday near Baytin, close to the city of Ramallah in the occupied West Bank.**

The Palestinian health ministry said Haitham Mubakar, 17, was killed "by the Israeli occupation army's bullets".

The Israeli army claimed Mubakar had "attacked a soldier with a hammer, injuring him in the face".

It said the soldier responded with live fire killing the teenager.

The Palestinian news agency Wafa reported that six Palestinians had been arrested in overnight raids in Jenin refugee camp, in the north of the West Bank.

The Palestinian Red Crescent said it had treated 12 people for injuries following a separate raid by the Israeli army in Nablus.

The Israeli army has been conducting near-daily raids in the West Bank since the start of the year during which around 100 Palestinians have been killed, according to the Palestinian health ministry.

**Palestinian dies days after being shot during Israeli raid in Jenin camp (Middle East Eye) September 11, 2022**

**A Palestinian died from his wounds on Sunday, five days after being shot by the Israeli army during a home demolition in the city of Jenin, in the occupied West Bank, the Palestinian health ministry said.**

In a statement, the ministry confirmed "the death of the young man, Hamad Mustafa Hussein Abu Jelda, 24, after being shot by the Israeli occupation forces in Jenin camp a few days ago".

Dozens of the city's residents headed to the Jenin Governmental Hospital, where Abu Jelda died, while a day of mourning was declared in the camp and a strike announced across the Jenin governorate.

Israeli forces shot Abu Jelda last Tuesday during a raid on the Jenin camp to demolish the home of Raad Hazem, who killed three Israelis and wounded several others in a shooting attack in Tel Aviv's busy Dizengoff Street on 7 April.

Hazem was shot and killed after a nine-hour manhunt. His father Fathi and brother Hamam are now both wanted by Israel.

Israeli forces killed another Palestinian and wounded 15 others during the raid to destroy Hazem's house.

The supreme court on 30 May rejected a petition by Hazem's family to prevent the demolition, a policy that Israel carries out against the homes of suspected attackers. Rights activists have repeatedly condemned the practice as collective punishment.

Israel has carried out near daily raids on West Bank towns and cities, killing dozens of Palestinians, since a series of deadly attacks on Israeli targets, mostly by Palestinians, early this year.

Separately, Israeli border guards arrested a Palestinian woman for allegedly approaching them with a knife near the Givat Ze'ev settlement in the West Bank.

**Israeli forces kill Palestinian teenager in occupied West Bank (AlJazeera) September 15, 2022**

**Odai Trad Salah, aged 17, was shot in the head by Israeli forces in the village of Kufr Dan near Jenin, the latest Palestinian to be killed during an Israeli raid.**

The Israeli army has killed a Palestinian teenager during a raid near the northern occupied West Bank city of Jenin.

The Palestinian health ministry identified the youth as 17-year-old Odai Trad Salah, and said he was shot in the head on Thursday morning in the village of Kufr Dan on the western outskirts of Jenin.

Confrontations had broken out after the Israeli army raided Kufr Dan at dawn. At least three other Palestinians were injured, including one who is in critical condition.

According to the official Palestinian Wafa news agency, Israeli forces raided the homes of two Palestinians from Kufr Dan who were killed on Wednesday.

The two men, Ahmad Abed, aged 23, and Abdul Rahman Abed, 22, had killed an Israeli soldier in an exchange of fire at the Jalama military checkpoint north of Jenin.

“Armed suspects hurled explosive devices and Molotov cocktails and fired toward the soldiers. In response, the soldiers fired toward the suspects. Hits were identified,” the Israeli army said.

On Thursday, the Israeli army carried out preliminary procedures in preparation for the demolition of the homes of their families. They also subjected the men’s families to field interrogations, before arresting one of the relatives.

Israel regularly demolishes the homes of Palestinians who have carried out attacks against Israeli soldiers or civilians, in a policy human rights groups have called “collective punishment”, which is deemed illegal under international law.

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**Armed settlers assaulted a Palestinian man. Guess who’s in jail? (+972)** By Oren Ziv  
September 19, 2022

**Hafez Hureini had both his arms broken by settlers while he was working on his land. Now he's in detention, while his attackers remain free.**

The Israeli police on Monday reduced the charges against a Palestinian farmer, Hafez Hureini, who had been accused of attempted murder after defending himself against a settler attack while working on his land last week. Hureini, from the village of A-Tuwani in the occupied South Hebron Hills, is now accused of grievous bodily harm following a hearing at Ofer Military Court.

Hureini was arrested and has been held in detention since last Monday amid false claims by settlers, which were amplified by the Israeli mainstream media, of a “lynching” by dozens of Palestinians against a settler named Itamar Cohen. But an investigation by +972 and Local Call showed that Cohen was one of a group of settlers, armed with a rifle and metal pipes, that

had invaded private Palestinian land and attacked a small group of Palestinian farmers, including Hureini. During the altercation, in which Hureini was acting in self-defense, Cohen was struck and sustained fractures to his skull while Hureini had both his arms broken. Following the investigation, the police reduced Hureini's charges.

The court extended Hureini's detention by three days, while the judge criticized the police for the lack of progress in the investigation and did not respond to their request to extend Hureini's detention for another nine days due to the upcoming Jewish holidays. The judge also refused the request of attorney Riham Nasra, who represented Hureini, to release him from custody. "A 52-year-old man with two broken arms does not constitute a danger," Nasra claimed.

Hureini arrived at the hearing with both of his arms bandaged, and looking tired. Present in the hall were two of his family members, along with MK Ofer Cassif from the left-wing Hadash party and European diplomats. Outside the court, dozens of Israeli left-wing activists demonstrated calling for his release, which could be heard clearly inside the hearing.

The police prosecutor confirmed during the hearing that the incident took place on "land registered in the name of Palestinians," and that the settlers arrived holding "sticks." He added that the police had made attempts to locate the settlers who participated in the attack, but had so far been unsuccessful. As for the settler who was injured in the incident, it was noted that his testimony was only collected at the hospital and, according to the prosecutor, he will likely be questioned in the coming days.

Despite the fact that the entire event was documented in an uninterrupted video filmed by somebody present at the scene, the prosecutor insisted that it was a "complex case." He said that a confidential report was submitted to the court, and refused to answer many of the questions presented by Hureini's lawyer. The prosecutor also confirmed that three investigative actions, about which he provided no further details, have not yet been carried out; during the previous hearing, which took place on Thursday, the police claimed that releasing Hureini from detention might disrupt those efforts.

Nasra once again presented the video documenting the incident in court and said that while there was "no disputing the fact that one of the settler attackers was injured," the footage also made clear that Cohen was "attacked or pushed back only after he attacked Hureini and broke his arms, on his private land." Hureini, Nasra continued, acted "out of an immediate and tangible sense of danger" — permissible, she said, under the Dromi Law, which provides for the possibility of self-defense in the event of an invasion of private property.

"The question is not whether the detainee pushed back [the settler] or not, but in what context he did it. There was an objective danger here," Nasra continued. In the previous court hearing, the judge did not rule out the possibility that Hureini had acted in self-defense. Nasra added that while Hureini is detained, his Israeli attackers are free and have yet to be questioned under caution.

Since the incident, the army has stepped up its crackdown on A-Tuwani. For three days in a row, soldiers raided the village during the evening and at night, throwing stun grenades into homes and detaining residents. Last Friday, the army raided the home of +972 writer Basil Adra.

Earlier that day, settlers protested the incident at the entrance to Havat Ma'on; meanwhile, soldiers prevented Palestinian residents and left-wing activists from approaching the agricultural land.

On Saturday, Palestinian and Israeli activists held a small protest on the land beside A-Tuwani demanding Hureini's release. The army dispersed the protest and arrested six demonstrators, who were later released. Since last week's protest, the army has intermittently ceased accompanying Palestinian schoolchildren from the hamlet of Tuba to their school in A-Tuwani, which is supposed to protect them from attacks by the settlers of Havat Ma'on.

On Sunday, right-wing politician Amichai Chikli visited the area and repeated the false claims — despite the fact that they had already been refuted — that the confrontation was in fact an "ambush" and "lynching" of Jews. By Monday morning, in Ofer Military Court, even the police had changed their tune and no longer repeated the fake news. Meanwhile, Hureini's attackers are yet to come under formal investigation.

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## **Gulf Region**

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## ASIA

### Afghanistan

**Amnesty Confirms Fresh Videos Show Taliban Executing Resistance Fighters (Gandhara)** September 16, 2022

**Amnesty International says its initial investigation validates the authenticity of videos shared on social media depicting what appears to be extrajudicial executions carried out by the Taliban of members of a resistance group operating mainly out of the Panjshir Valley.**

The United Nations has already voiced "grave concern" about the videos, which show two groups of men from the National Resistance Front (NRF) squatting on a hillside with their hands tied behind their backs before being shot with automatic rifles by Taliban fighters.

"Amnesty International conducted an initial assessment and can confirm that these are new videos of extrajudicial executions, carried out by the Taliban, of apparent members of the National Resistance Front (NRF) in Panjshir," the London-based rights watchdog said in a tweet on September 15.

A Taliban spokesman has said authorities were investigating the matter.

Early this week, the Taliban said it had killed at least 40 NRF fighters in the Panjshir Valley. The UN special rapporteur for Afghanistan, Richard Bennett, in a statement on Twitter voiced deep concern "about latest allegations of extrajudicial summary executions in Panjshir" and called for an "immediate thorough investigation and for perpetrators to be held accountable. I am closely monitoring the situation."

Sibghatullah Ahmadi, a spokesman for the NRF, called the killings "war crimes" and urged the UN mission in Afghanistan (UNAMA) to "fulfil its obligations of not only being 'concerned' but also gaining the courage to name the Taliban, condemn their crimes and call on the UN security council to take immediate action."

UNAMA has accused the Taliban of committing hundreds of human rights violations since the militants seized power in August 2021 as international forces left the country.

**Former Australian commando under investigation over 2012 Afghanistan rotation (ABC News)** By Mark Willacy, Alex McDonald and Josh Robertson  
September 21, 2022

**A former Australian Special Forces commando is a target of a war crimes investigation for the alleged killing of at least one unarmed detainee during a deployment to Afghanistan.**

ABC Investigations has established that the alleged incident happened during an October 2012 raid, conducted by members of Australia's 2nd Commando Regiment, the United States Drug Enforcement Administration and Afghan forces.

The joint operation targeted Taliban drug networks in the district of Qarabagh in the north of Helmand Province.

Distressed Afghan villagers who were in Qarabagh when events unfolded have told ABC Investigations that civilians were shot after being detained, accounts that largely match information from Australian Defence sources.

The commando under investigation returned home and allegedly told an elder from his church that he had killed unarmed detainees during the operation.

While the Brereton Inquiry did not find credible evidence of war crimes by the 2nd Commando Regiment, ABC Investigations understands Australia's war crimes investigation agency has opened an active investigation into some commandos.

ABC Investigations has spent eight months examining the Qarabagh raid, twice sending an Afghan journalist to the site to interview villagers caught up in the operation and family members of those who died.

'Don't run ... we have seen you'

"They arrived at 2 o'clock in the afternoon and left at about 9 o'clock that night," villager Noor Ali told the ABC's Afghan reporter.

"They fired and shouted ... saying, 'don't run, come back, we have seen you.' And they shot at the villagers."

Noor Ali said his son Abdul Raziq was killed in the raid after being detained by men that he described as foreign troops.

"My son was shot in the eye. And from that side the bullet had gone through his head."

The Afghan reporter sent to Qarabagh by ABC Investigations was given no details about the 2012 raid. The information he returned with largely matches separate accounts from Australian Defence sources.

All the Afghans interviewed for this story said seven people were killed in the operation, with at least six of them alleged to have been killed while unarmed and under the control of some of the commandos on the raid.

The villagers say the seventh person to die — a man named Gulbuddin — was also unarmed, and was shot from a distance.

Defence sources have confirmed to ABC Investigations that the commandos encountered Taliban fighters during the operation, which also uncovered stores of weapons, explosives and a booby-trapped house.

Defence sources said seven Afghans died in the raid and allege that at least four may have been unlawfully killed.

At the time the dead were listed as 'Enemy Killed in Action' by the soldiers in the raid.

The Brereton inquiry into allegations of war crimes found "credible information" that 39 people were unlawfully killed by Australian Special Forces in Afghanistan, the vast majority being 'persons under control' (PUCs) who were protected under international law.

All of those cases involved the Special Air Service Regiment (SAS).

"Defence holds members of the ADF to the highest standards and investigates all allegations of breaches of the Law of Armed Conflict, including any raised during detention operations conducted in Afghanistan," a Defence spokesperson told the ABC.

'They caught us'

One villager, Malook, said he was among a group of men rounded up during the operation.

"At afternoon prayer time, the raid happened, and they caught us.

They took us to that house ... there were around 20 to 25 people. When they took us, they separated three of us. One was named Dad Mohammad, the other was Aminul Huq, and me," Malook said.

Malook said the three of them were made to sit down.

"Then a foreigner came and held the other two [by] their hands and took them to the near wall.

From where he was, Malook said he could only partially see what happened next.

"I heard the shots," he said.

"The two [Afghans] couldn't be seen, but the foreigners were visible."

The two Afghans were later found dead with head wounds.

Another villager, Mir Wali, said he was detained with two other men named Abdul Raziq and Atiqullah.

"They took us inside this house. At the other side of this house there is a small door. They took Abdul Raziq and Atiqullah out that way."

Both men were discovered by villagers with bullet wounds to the head.

Defence sources said officers and the commander on the ground, as well as some of his team, were stationed away from the raid, in a different part of the district, and did not see what happened.

A soldier on the Qarabagh mission – who ABC Investigations has called Commando S – later returned to Australia and went to see a church elder in February 2013.

The Age newspaper has obtained the church elder's notes of their conversation.

"[Commando S] advised me that he was troubled by an incident," the church elder wrote. "And he sought my counsel."

ABC Investigations has confirmed that the church elder's note relates to the Qarabagh raid.

In the note, the church elder said Commando S had described an incident where he and some members of his team detained a group of Afghans.

"He escorted them out into a yard and executed the first two by shooting them with his pistol, then, as he shot the third, the way in which the man looked at him, caused him to know that he was murdering an innocent man ... [a] non-combatant who had just been caught up in the skirmish," the elder wrote.

ABC Investigations understands that Commando S later contested the elder's account, but did admit to killing one of the detainees during the raid.

ABC Investigations can confirm that Commando S and several members of his platoon are under investigation by the Office of the Special Investigator (OSI), the agency established to probe war crimes in Afghanistan.

In April this year, the OSI served Commando S with a warrant.

A lawyer for Commando S told ABC Investigations it would be inappropriate to respond to our questions as these matters were now, "the subject of a current investigation by the Office of the Special Investigator".

An ADF spokesperson told the ABC that "criminal investigations and any potential prosecutions were being conducted independently of Defence".

"The Office of the Special Investigator (OSI) is working with the Australian Federal Police to investigate allegations of criminal offences under Australian law arising from or related to breaches of the law of armed conflict by ADF members in Afghanistan between 2005 and 2016."

Family members in Qarabagh say they still want justice for their loved ones and anyone responsible held accountable.

"If we have the power and the ability, we would bring them to justice," said Noor Ali, whose son Abdul Raziq was killed.

"But we can't do anything."

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## **Extraordinary Chambers in the Courts of Cambodia (ECCC)**

**Official Website of the Extraordinary Chambers [English]  
Official Website of the United Nations Assistance to the Khmer Rouge Trials (UNAKRT)  
Cambodia Tribunal Monitor**

**The United Nations-backed Khmer Rouge tribunal will hand down its final decision on Sept 22 when it rules on an appeal launched by Khieu Samphan against his conviction for genocide and the slaughter of Muslim Chams and ethnic Vietnamese more than 40 years ago.**

Khieu Samphan, the 91-year-old former head of state, was convicted of genocide alongside Nuon Chea, also known as “Brother Number 2,” in 2018 by the Extraordinary Chambers in the Courts of Cambodia (ECCC).

“I cannot accept the accusation that I was involved in a plot to commit crimes against my compatriots, including the Cham or the Vietnamese,” Khieu Samphan, the last surviving senior Khmer Rouge leader, told the ECCC when launching his appeal in August last year.

Ucan Store

“Many years of sitting as a defendant at the end of this long case, it is important for me to inform you and especially inform the Cambodian people that I never wanted to commit a crime against my compatriots or anyone else,” he said.

Nuon Chea died behind bars before his appeal could be heard.

Both former Khmer Rouge cadres had already exhausted all legal avenues for their previous 2014 convictions for crimes against humanity and regardless of the genocide ruling, Khieu Samphan will still spend the rest of his life in jail.

They had served under Pol Pot during his bloody rule which claimed around two million lives between April 1975 and January 1979.

Vietnamese forces then crossed the border and forced the ultra-Maoists into the countryside where the conflict continued.

The Vietnamese occupation lasted 10 years but the civil war did not end until December 1998, when Khieu Samphan and Nuon Chea formally surrendered to Prime Minister Hun Sen. It was only then that negotiations for a Khmer Rouge tribunal could begin with the UN.

Long-time observers said the ECCC’s ruling in Khieu Samphan’s genocide appeal will be closely observed for its international legal implications and precedents that might be set.

“That decision will have a substantial impact on both Cambodian history and international jurisprudence,” said Craig Etcheson, the author of *Extraordinary Justice: Law, Politics and the Khmer Rouge Tribunals*.

Six people have been convicted of genocide. The first was Jean-Paul Akayesu who was found guilty on 15 counts of genocide in September 1998, by the International Criminal Tribunal for Rwanda.

“I imagine that they will ultimately uphold most of this litany of criminal conduct”

The Cambodian tribunal is also a hybrid court with the ECCC consisting of local and international judges and prosecutors who have differed over who should be charged.

“If the past is any guide, the Supreme Chamber judges will take issue with many aspects of the Trial Chamber judgment,” Etcheson said.

“But I imagine that they will ultimately uphold most of this litany of criminal conduct.”

The ECCC was created with UN backing in 2006 and has convicted just three people at a cost of more than \$300 million. Former Khmer Rouge foreign minister Ieng Sary also died before he could be tried while his wife Ieng Thirith was ruled mentally unfit.

Youk Chhang, executive director of the Documentation Center of Cambodia, said Thursday’s ruling will prove a legacy for Cambodia and the UN – given the UN Convention on the Prevention and Punishment of the Crime of Genocide was ratified by the General Assembly resolution in 1948.

“Because since then, only few genocides have been prosecuted,” he said.

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## **Bangladesh International Crimes Tribunal**

**Al-Badr leader Khalilur Rahman sentenced to death for war crimes in Netrokona (bdnews24.com)** September 13, 2022

**A tribunal has sentenced Khalilur Rahman, a commander of the anti-liberation Al-Badr force, to death for crimes against humanity in Netrokona during the Liberation War in 1971.**

A three-member panel of the International Crimes Tribunal led by Justice Md Shahinur Islam delivered the verdict on Tuesday.

Khalilur, a fugitive, faced five charges relating to war crimes, including the murders of 22 people and the rape of a woman. He was found guilty on all charges.

Rana Dasgupta and Rezia Sultana Chaman conducted the prosecution while state-appointed lawyer Gazi MH Tamim represented the accused.

The judges read out a summary of the 255-page verdict and said the "brutal and horrific" charges against Khalilur had been proved beyond a reasonable doubt.

Reacting to the verdict, prosecutor Sultan Mahmud Simon said the tribunal handed down the death penalty on four charges and 10 years' imprisonment on the other.

On the steps being taken to arrest the fugitive convict, he added, "An arrest warrant was issued by the tribunal but the police weren't able to take effective action to execute it. A new warrant of arrest will be issued today. After that, the police must take appropriate action."

An investigation into allegations of war crimes against Khalilur and his associates was launched in April 2015. In April 2016, the tribunal issued arrest warrants for the accused.

The investigation report in the case was filed on Jan 30, 2017. At the time, there were five accused, but one of them, Ramzan Ali, died during treatment at Dhaka Medical College Hospital.

Later in May 2017, the prosecution pressed charges against the accused and the trial commenced in Mar 2018 after their indictment.

After hearing the arguments of both sides, the case was put on hold for further deliberation pending judgment on Jul 18.

The three other suspects were Khalilur's brother Azizur Rahman, Ashok Ali and Md Shahnewaz.

But they died in prison at various points of the trial proceedings. As a result, Khalilur was the only one to face judgment.

The charges against Khalilur included mass killings, murder, rape, abduction and torture, and looting and arson in Durgapur and Kalmakanda.

In 1971, Khalilur was a member of the Islami Chhatra Sangha, which later came to be known as Islami Chhatra Shibir - the student affiliate of Jamaat-e-Islami. He later joined Al-Badr and became a commander of the paramilitary force in Chandigar Union.

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# War Crimes Investigation in Myanmar

**Myanmar: Increasing Evidence of Crimes Against Humanity Since Coup (UN News) September 12, 2022**

**The Geneva-based body was briefed by Nicholas Koumjian, Head of the Independent Investigative Mechanism for Myanmar (IIMM), who presented its latest report.**

The Mechanism was established by the Council to collect and preserve evidence of the most serious international crimes in the country.

Lack of accountability

Mr. Koumjian began by pointing out that it has been five years since the August 2017 military clearance operations in Rakhine State that forced most of the Rohingya population to flee. “Almost all remain in neighbouring countries awaiting the day when conditions will allow their safe and dignified return home. The end of impunity for those who inflicted the violence would do much to create such conditions,” he said.

He reported that since the coup, there is growing evidence of the most serious international crimes including murder, torture, deportation and forcible transfer, persecution, imprisonment, and targeting of civilians.

“The people of Myanmar continue to suffer because of the lack of accountability for those who believe they answer to no law,” he stated.

Prioritizing women and children

Mr. Koumjian said the Mechanism prioritizes gathering evidence of sexual and gender-based violence and crimes against children.

Although women and children are at particular risk in conflicts, crimes against them are typically under-reported and under-prosecuted.

“We have gathered reports of children in Myanmar having been tortured and arbitrarily detained, sometimes to target their parents. There is also increasing evidence of sexual and gender-based crimes against both women and men,” he said.

Due process lacking

The report also addresses the execution of four pro-democracy activists in July. While capital punishment is not itself an international crime, Mr. Koumjian said that “imposing the death sentence on the basis of proceedings that do not satisfy the basic requirements of a fair trial can amount to a crime against humanity”.

He said that there are “strong indications” the executions were without due process, adding “proceedings lacked transparency and virtually no information is available as to the charges and evidence”.

Progress and challenges

Mr. Koumjian said the Mechanism faces many challenges, given that staff are denied access to crime scenes and witnesses in Myanmar despite making a dozen requests to the authorities. Despite this, notable progress has occurred.

“Many brave individuals, NGOs and other entities have shared valuable evidence with us,” he said.

“We have conducted numerous screenings and interviews from persons who have provided vital first-hand information about crimes perpetrated inside the country. Ensuring protection and support for those who provide us with information is an issue of increasing concern”.

Collecting evidence of crimes

The Mechanism has prepared 67 evidential and analytical packages to share with judicial authorities, including for proceedings at the International Criminal Court and the International Court of Justice.

Almost three million “information items” from more than 200 sources have so far been collected and processed.

They include interview statements, documentation, videos, photographs, geospatial imagery, and social media material. Mr. Koumjian said his team now faces the challenging task of analysing them.

“For example, Facebook has shared with the Mechanism millions of items from networks of accounts that were taken down by the company because they misrepresented their identity – the accounts were actually controlled by the Myanmar military,” he said.

#### False reports on social media

The team has identified posts inciting fear and hatred of Rohingya that appeared on these military-controlled networks. He gave the example of a post that appeared on 10 different pages within one such network just prior to the start of the August 2017 clearance operations. “The post contained false reports of Rohingya arming en masse and threatening Myanmar’s Buddhists, and a photo of a cow with its stomach slit and disembowelled – an image offensive to Myanmar Buddhists,” he said.

#### Search for justice

In expressing gratitude to the Human Rights Council, Mr. Koumjian called on all countries “committed to ending the worst violence in Myanmar” to support the Mechanism’s work. “Perpetrators of the most serious international crimes committed in Myanmar must know that we are united in our efforts to break the cycle of impunity and to ensure that those responsible for such crimes will face justice,” he said.

#### **UN Rights Office Calls for Urgent Halt to Arms Sales to Myanmar (Reuters) September 16, 2022**

##### **Countries should do more to prevent revenues and arms from reaching a military in Myanmar that is ruling by repressing and terrorising its people, the United Nations human rights office said on Friday.**

Myanmar has been in turmoil since a coup early last year, with the military fighting a pro-democracy resistance movement and arresting thousands of its opponents, while struggling to manage an economy battered by domestic and global upheaval.

The U.N. has accused the junta of mass killings and crimes against humanity. It says it is fighting "terrorists" determined to harm the country.

In Friday's report, the office called for the military to be isolated further and said it had failed to govern the country in a meaningful and sustainable way, or resolve a "profound financial sector crisis".

It recommended U.N. members impose bans on arms sales and targeted sanctions to prevent the military's business network from gaining access to foreign currency.

"The international community should take all steps within its power to support the people of Myanmar and to answer calls for the military's financial isolation," it said.

"Prompt coordinated action should be considered to minimise pre-emptive evasive actions." The United States, Britain, Canada and the European Union have imposed wide sanctions on Myanmar but trade has continued with its neighbours and several countries have kept supplying defence hardware to the junta.

While China has urged an end to hostilities, Russia has been the generals' closest diplomatic ally and has received the junta chief as its guest on three occasions since the coup.

The report said Russia had supplied fighter jets and armoured vehicles to Myanmar, China had transferred fighter and transport planes, Serbia had provided rockets and artillery shells and India a remote air defence station.

In a separate statement, independent U.N. experts on Myanmar Mary Lawlor and Tom Andrews appealed for support for Myanmar human rights defenders documenting military atrocities, urging an end to what they called "apparent international indifference".

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## Commentary and Perspectives

**A UN Report Implicates the Chinese Government in Crimes Against Humanity. What Comes Next? (Human Rights Watch)** By Sophie Richardson  
September 8, 2022

**Mere minutes before the end of her four-year mandate at midnight on Aug. 31, United Nations High Commissioner for Human Rights Michelle Bachelet released a long-delayed and long-awaited report on the Chinese government's human rights violations against Uyghurs and other Turkic communities in the Xinjiang region. The report's findings confirm wide-scale evidence of mass arbitrary detentions, family separations, torture, and religious persecution — and it concludes that Chinese authorities may have committed crimes against humanity.**

But the delay has needlessly prolonged agony for the Uyghur and other communities that are seeking greater international pressure on the Chinese government to end its nightmarish repression. Now, it is imperative for governments and U.N. bodies to seize the report's momentum and act swiftly to hold the Chinese government accountable and protect those who have bravely raised their voices and spoken out.

### Protecting Those Who Spoke Out

The high commissioner's report details the disturbing phenomenon of the Chinese government's reprisals against Uyghurs from the region who shared their experiences of abuse. One person interviewed for the report said: "We had to sign a document to remain silent about the camp. Otherwise, we would be kept for longer and there would be punishment for the whole family."

Given Beijing's anger over the report's release, and its well-known efforts to silence its critics around the world, governments with Uyghur diaspora communities should take steps to ensure that Chinese authorities do not harass or intimidate people in their countries. Any such intimidation should be promptly investigated and appropriately prosecuted.

The report's heart-wrenching focus on how the Chinese state separated families, often across borders, should further compel governments to act. They should urgently establish efforts to try to locate the missing relatives of citizens of Uyghur descent in their countries, and press Beijing for the whereabouts and well-being of those individuals. Chinese authorities may dismiss those demands, contending that the family members are citizens of the People's Republic of China, but steady diplomatic pressure will make that fiction harder to maintain.

In fact, consistent foreign government pressure has previously helped locate arbitrarily detained people and in some cases also achieved their release. Governments should move quickly to compile information about their own citizens' missing relatives, and press for information about and the release of all those wrongfully detained.

Several governments, including Canada and the United States, have issued statements in response to the report, pledging to hold those responsible for the violations to account. Now it is time to put those words into action. Judicial officials who have

the ability should, open preliminary investigations into crimes against humanity committed abroad, such as in China. In August, the Uyghur Human Rights Project and World Uyghur Congress, two prominent international Uyghur advocacy organizations, submitted a case in Argentina under its universal jurisdiction laws. The suit alleged that the Chinese government is committing genocide and crimes against humanity. Governments should bolster that effort through additional targeted financial and travel sanctions, which impose costs on individual Chinese government officials and agencies implicated in repression.

### Shining a Spotlight on Beijing at the Human Rights Council

When the U.N. Human Rights Council next convenes in Geneva, on Sept. 12, member states should ensure that the report takes center stage. The Council should adopt a resolution, which is required to mandate discussion of the report, and ensure appropriate follow-up to implement its recommendations. It could go further and hold a special session on China, as a group of U.N. human rights experts recently urged. These are standard steps that states can take following a high commissioner's detailed, critical report with little cooperation from the Chinese authorities.

Formally placing the report on the Council's agenda will indicate to the Uyghur community that it in and of itself is not the end of the line — but rather just the beginning of concerted international action to establish a formal investigative mechanism. The U.N. did just that in response to recent human rights violations in Myanmar.

The fact that China's ire — direct or indirect — nearly derailed the report speaks to Beijing's power within the U.N. system. That flexing of diplomatic muscle hurts many others in addition to the Uyghurs, including human rights defenders, Tibetans, and residents of Hong Kong, along with those harmed by the draconian "zero Covid" policy, and those around the world unlawfully displaced by Beijing's rights-disregarding development projects.

One way to ensure better outcomes in the face of the Chinese government's hostility to U.N. human rights scrutiny is to establish a mandate to monitor and report to the Office of the High Commissioner, the Human Rights Council, and others on the Chinese government's human rights violations.

Doing so would put Beijing on notice that it will pay a price for its abusive conduct, and will start to repair the damage to the U.N. human rights system's resilience and credibility. Most important, these steps can reassure those who survive Beijing's wrath and abuses that their experiences — not the Chinese government's efforts to suppress scrutiny — set the agenda.

**Do we give India a free pass on human rights? (Human Rights Watch)** By Elaine Pearson  
September 9, 2022

### **Systematic discrimination against religious minorities.**

Detention of peaceful activists and government critics on spurious charges.

Use of technology to suppress free expression.

This could refer to China of course, but these human rights violations are also taking place in India. Despite these transgressions, the Indian government largely gets a free pass from the international community as the "world's largest democracy." It shouldn't.

Australia is on an India charm offensive with a host of senior government officials, ministers and state premiers traveling to the country recently, primarily to promote trade. In September, the fifth Australia-India Leadership Dialogue will be held in Delhi involving a delegation of ministers, business leaders and academics. But will human rights be discussed or brushed off as an unfortunate irritant in deepening Australia-India relations?

In June, Australia's Defence Minister Richard Marles travelled to India to meet with Prime Minister Narendra Modi — the first high-level meeting with India since Australia's change of government. When asked by a journalist about India's human rights record, Marles lamely responded, "I'm not going to pass judgment on India. ... India is the world's largest democracy. It does value the rule of law and we are countries that have a shared set of values."

Australia, India, Japan, and the United States make up the "Quad" — a security pact of the four Indo-Pacific countries formed as a bulwark against the growing influence of China's government. Closer security and trade ties are part of the Quad's democratic values-first agenda. Western governments eye India as an attractive alternative market, especially with growing unhappiness with Beijing as a trade partner.

But democratic governments should not repeat the same mistakes they made with the Chinese government by pursuing deeper trade engagement while sidelining human rights concerns. Today, China is not only an economic powerhouse, but the human rights situation has worsened and the government boldly wields its repression within and across national borders.

Meanwhile, the escalating human rights crisis in India under the Modi administration receives inadequate attention. On the global stage, such as at the June G7 summit in Germany, Modi embraced Western leaders and pledged to defend free expression, civil society and religious freedom. But his government's actions spoke louder than its words.

The same week as Modi's charm offensive in Germany, Indian authorities arrested Mohammed Zubair, cofounder of the independent fact-checking website Alt News, accusing him of "hurting Hindu sentiments" in a 2018 Twitter post. He was released on bail after three weeks in custody with the Supreme Court refusing to restrict him from "exercising his right of free speech" and warning that powers to arrest should be used sparingly.

That is seldom the case for rights activists or government critics. The authorities have also jailed the activist Teesta Setalvad, accusing her of criminal conspiracy and other crimes in apparent reprisal for pursuing justice for the Muslim victims of the 2002 Gujarat riots. A month later the government released 11 men sentenced to life in prison for gang rape and murder during the Gujarat riots, with members of the ruling Bharatiya Janata Party (BJP) publicly celebrating.

Setalvad and Zubair are among dozens of human rights defenders, journalists, students, and members of religious minorities arrested in politically motivated cases during Modi's administration. Simultaneously, India's information technology law and internet rules have put pressure on social media companies to censor content and share user information to aid these prosecutions. Indian authorities have also been implicated in using the Israeli-produced spyware Pegasus to target activists, journalists, and political opponents.

Modi and his ruling Hindu nationalist BJP have sought to legitimize discrimination against religious minorities and enabled violent Hindu nationalism. India's citizenship law, passed in December 2019, discriminates against Muslims, making religion the basis for citizenship for the first time.

If the Quad and other democratic governments are serious about values-first diplomacy, then they should consistently speak up about crackdowns on human rights wherever they occur, including to hold one another to account.

In an environment of state-backed propaganda and censorship where bilateral visits are regularly spun into expressions of support for Modi's rule, it is important to find ways to speak directly to the Indian people. During bilateral engagements, Australian officials and politicians should make public statements that outline all matters discussed, take interviews with independent media, and meet with civil society activists and groups. They should also avoid smiling photo-ops with pernicious organizations like Hindu nationalist groups that will be used explicitly as a public endorsement.

Governments should encourage the Modi administration to live up to its legal obligations and expressed commitments on rights. They should express concerns about the erosion of the rule of law, especially with the Modi government's laws and policies that discriminate against Muslims, and the detention and harassment of critics. These government should adopt benchmarks for rights reform in trade and technology deals.

Put simply, it's a disservice to Indians to simply hail India as the world's largest democracy. Turning a blind eye to rights abuses will not magically transform India into a country where rights are respected. That approach did not work with Beijing. When outspoken activists are being harassed, silenced, and prosecuted, it's up to concerned governments to come together to speak out.

**It's Time for the U.S. to Ban Cluster Munitions (Human Rights Watch)** By Mary Wareham  
September 19, 2022

### **The couple were in their yard cooking a meal. Then the submunitions hit.**

The wife died instantly. The husband lost both legs and died that day during surgery.

The Russian attack was just one of dozens to hit Derhachi, a town in the Kharkiv region of Ukraine, in May and June. The cluster munitions struck homes and gardens, streets and parks, hospitals and a cultural center.

Ukraine is the only country in the world where cluster munitions are currently being used. Russia has extensively used both old stocks of cluster munitions and newly developed ones extensively since its all-out invasion of the country on February 24.

But Russia is an outlier. Cluster munitions have a well-deserved reputation as deeply problematic and widely stigmatized weapons. The 2008 treaty to prohibit them and destroy existing stocks has been ratified by 110 countries and signed by 13 more. In all of 2021, there wasn't a single recorded cluster munition attack.

Now is the time for the U.S. to join the treaty.

The problem with cluster munitions is that they not only kill but keep on killing. Fired from the ground by artillery, rockets,

and mortars, or dropped by aircraft, they typically open in the air to disperse multiple bomblets or submunitions indiscriminately over a wide area. Many submunitions fail to explode on initial impact and remain dangerous duds that, like landmines, can kill and maim for years until they're cleared and destroyed.

Preliminary data shows at least 689 civilian casualties from Russia's cluster munition attacks in Ukraine between February and July 2022. Ukraine has not denied credible evidence that it has also used cluster munitions several times in the current conflict. Neither country is a party to the international treaty banning cluster munitions.

According to Cluster Munition Monitor 2022, released this August, there have been no confirmed reports or allegations of new use, production, or transfers of cluster munitions by any party to the convention since it was adopted. There's also no evidence to suggest cluster munitions, as defined by the convention, have been transferred among the artillery, rocket systems, and other weapons that the Ukrainian government has received from third parties in 2022.

The lack of cluster munition transfers to Ukraine reflects that three-quarters of NATO member countries have banned these weapons. It also shows that countries that have not joined the treaty are quietly taking significant steps to align their policies with the strict standard set by the convention's prohibitions, including on assisting with any banned activities.

The United States is a case in point. The Department of Defense says that cluster munitions provide "a vital military capability," but U.S. forces have not used them since the 2003 invasion of Iraq, with the exception of a single attack on Yemen in 2009. The last U.S. production of cluster munitions was in 2016.

Even a single use of cluster munitions is too many. But the U.S. is now steadily destroying its stockpiled cluster munitions and removing and replacing submunitions from existing artillery and rocket systems.

Despite these steps, the United States has not acceded to the Convention on Cluster Munitions and largely ignores its existence. A November 2017 policy directive allows the U.S. military to continue to use, acquire, and stockpile millions of unreliable cluster munitions in existing stocks.

The U.S. stance on cluster munitions stands in stark contrast to its June 2022 policy committing not to produce antipersonnel landmines and not to use them outside the Korean peninsula. The new policy says that the "ultimate" goal is for the U.S. to ratify the 1997 Mine Ban Treaty.

In April, a group of 27 members of Congress decried Russia's use of cluster munitions, calling them "barbaric and indiscriminate weapons." They also criticized current U.S. policy on cluster munitions as "wholly unacceptable given what we know about the immediate and long-term damage done to societies on which they are deployed." The congressional representatives appealed to President Joe Biden "to take all the necessary steps to join the Convention on Cluster Munitions."

The convention is the only international legal framework explicitly dedicated to eradicating these weapons — and U.S. participation would significantly boost its standing. A U.S. ban on cluster munitions would also go a long way toward repairing the legacy of harm caused by past U.S. production, transfers, and use of these weapons.

And this is the time, while the world is watching the death and destruction from cluster munitions in Ukraine with horror.

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## **Aiding and Abetting**

**FIFA World Cup: All Sponsors Should Back Remedies for Workers (Human Rights Watch)** September 20, 2022

**FIFA's corporate partners and sponsors of the 2022 World Cup should all press the global football association and the Qatari government to provide compensation and other remedies to migrant workers and their families who suffered death or injury, wage theft or debt from illegal recruitment fees while preparing the tournament, Human Rights Watch, Amnesty International, and FairSquare said today.**

The call comes as a new global opinion poll commissioned by Amnesty International shows that two-thirds (66 percent) of those surveyed, and 72 percent of those likely to watch at least one World Cup match, said that FIFA's corporate partners and sponsors

should publicly call on FIFA to compensate migrant workers who suffered while preparing the World Cup in Qatar. The poll was carried out by YouGov and surveyed 17,477 adults in 15 countries.

In July, the three human rights organizations wrote to FIFA's 14 corporate partners and World Cup sponsors urging them to call on the football body to remedy abuses of migrant workers linked to preparations for the World Cup. Since then, four of them, AB InBev/Budweiser, Adidas, Coca-Cola, and McDonald's, have stated their support for such financial compensation. Ten other sponsors have offered no public support and have not responded to written requests to discuss tournament-related abuses. These companies are Visa, Hyundai-Kia, Wanda Group, Qatar Energy, Qatar Airways, Vivo, Hisense, Mengniu, Crypto, and Byju's.

"Brands buy rights to sponsor the World Cup because they want to be associated with joy, fair competition, and spectacular human achievement on the playing field—not rampant wage theft and the deaths of workers who made the World Cup possible," said Minky Worden, director of global initiatives at Human Rights Watch. "With only two months until the first ball is kicked, sponsors should use their considerable leverage to press FIFA and Qatar to fulfill their human rights responsibilities to these workers."

In addition to World Cup sponsors, national football associations should also use their leverage and call for FIFA and Qatari authorities to publicly commit to a compensation fund to remedy serious abuses against migrant workers who made the World Cup possible. FIFA should also support and contribute financially toward initiatives designed to assist and support migrant workers, such as the Migrant Workers' Centre recommended by the Building and Wood Workers' International.

### Sponsors' Responses

Below are the responses from the four sponsors indicating their support for ensuring remedy for workers:

AB InBev/Budweiser, the official beer sponsor of the 2022 FIFA World Cup, released a statement that said: "We support access to procedures that can achieve fair remedies to migrant workers who have been negatively affected."

Adidas released a statement that said it is "supportive" of FIFA and the Qatari World Cup organizing body, the Supreme Committee for Delivery and Legacy, addressing "all and any worker rights issues arising out of the hosting of the 2022 World Cup, including required actions for remediation and, where appropriate, due compensation for workers and their families with unresolved grievances."

Coca-Cola responded to the human rights groups stating it continues "to engage in discussions with sponsors and FIFA to explore how best to build upon the progress being made in Qatar to further expand access to effective remedies for migrant workers," and "encourages FIFA to build on its efforts to date to imbed respect for human rights into the lifecycle of this and future World Cup events, including effective structures to support remedy."

McDonald's wrote: "We will continue working with FIFA, human rights experts, and the other sponsors to help spur positive change on human rights, including supporting processes that facilitate access to remedy, both around the tournament and in the communities we serve."

Ten other World Cup sponsors and FIFA partners did not respond, despite having policies to respect human rights and environmental, social, and governance standards in their operations and business relationships. The United Nations Guiding Principles on Business and Human Rights spell out the responsibilities of all businesses to respect human rights, including by using their leverage with business partners to prevent or mitigate adverse human rights impacts.

### The Need to Remedy

In recent years, Qatar has introduced a series of important reforms following a forced labour complaint at the International Labour Organization, and the Supreme Committee for Delivery and Legacy offered better protections for those building stadiums. Nonetheless, serious labor abuses persist across the country and past abuses have not been adequately remedied.

A report published by Amnesty International in May highlighted how FIFA failed to conduct any human rights due diligence when awarding the World Cup to Qatar in 2010, despite the risks to workers being well documented, and subsequently failed to take timely and effective measures to mitigate these.

On May 19, a global coalition of migrant rights groups, labor unions, fan groups, abuse survivors, and human rights organizations called on FIFA to establish with Qatar a comprehensive programme to provide remedy for all abuses related to the 2022 World Cup. To fund this, FIFA should reserve an amount at least equivalent to the US\$440 million prize money provided to teams participating in the tournament. With just two months to tournament kick-off, FIFA has not yet committed to remedy abuses and says it is still considering the proposal.

"There is nothing Qatar nor FIFA could ever do to make up for the loss of a loved one," said Nick McGeehan, a founding director

of FairSquare, which investigates migrant labor abuses. “But financial compensation to struggling families for migrant worker deaths could provide some financial respite and potentially reduce lasting harm.”

#### Building on Existing Mechanisms

Human Rights Watch has documented that compensation can have far-reaching benefits to migrant workers and their families.

Since 2018, Qatari authorities have put in place measures to protect workers from wage theft and enhance access to justice, but these do not cover all workers or address abuses in the years before the systems were established. Crucially, significant implementation and enforcement gaps remain. For example, workers who have already left Qatar cannot access the labor committees or a fund established to pay them when their employers fail to do so.

Sponsors, football associations (FAs), and FIFA should use their leverage with Qatar and press the authorities to expand and strengthen the country’s existing compensation schemes and systems, and, where needed to deal with large numbers of past abuses, establish complementary effective mechanisms to remedy all unaddressed harms.

#### Survey Background

YouGov surveyed 17,477 adults in Argentina, Belgium, Denmark, Finland, France, Germany, Kenya, Mexico, Morocco, Netherlands, Norway, Spain, Switzerland, UK, and the USA. Of these, 54 percent said they were likely to watch at least one game at the World Cup.

All figures, unless otherwise stated, are from YouGov Plc. Total sample size was 17,477 adults. Fieldwork was undertaken between August 16 and September 6, 2022. The survey was carried out online. The figures have been weighted and are representative of all surveyed countries adults (aged 18+).

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## WORTH READING

### **Criminal Responsibility in International Criminal Law; The Sylvania Case**

Stephen W. Makau

September 9, 2022

**The Hague Regulations specify that no penalty can be inflicted on persons for acts for which they are not responsible. The Fourth Geneva Convention provides that “no protected person may be punished for an offence he or she has not personally committed” The requirement of individual criminal responsibility is recognized as a fundamental rule of criminal procedure in Additional Protocols I and II. The requirement of individual criminal responsibility is explicitly provided for in several military manuals. It is a basic rule of most, if not all, national legal systems. The requirement of individual criminal responsibility is included in the American Convention on Human Rights (as a non-derogable right), the African Charter on Human and Peoples’ Rights and the Cairo Declaration on Human Rights in Islam. The European Convention on Human Rights does not spell out this rule, but the European Court of Human Rights has stated that “it is a fundamental rule of criminal law that criminal liability does not survive the person who has committed the criminal act”. It is a basic principle of criminal law that individual criminal responsibility for a crime includes attempting to commit such crime, as well as assisting in, facilitating, aiding or abetting, the commission of a crime. It also includes planning or instigating the commission of a crime. This is confirmed, for example, in the Statute of the International Criminal Court. Article 28 of the Statute also confirms the principle of command responsibility for crimes under international law. The principles of individual responsibility and command responsibility for war crimes are dealt with in Chapter 43.**

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