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

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## AFRICA

### NORTH AFRICA

## Libya

### **Inhumane treatment of migrants in Libya: the EU is 'complicit' says filmmaker (Radio France International)** By Laura Angela Bagnetto

September 27, 2021

**A system of abuse against migrants in Libya, carried out by militias and the government, is fueled by European Union money given to authorities in a country where violence has been normalized after years of instability, according to a new documentary to be released in October.**

A number of migrants and refugees speak of the abuses and torture they suffered at the hands of Libyan militias in Libya, No Escape from Hell by documentary filmmaker Sara Creta.

Their views are juxtaposed by militiamen, many who have now been absorbed into the Libyan army, who claim migrants under their watch “weren’t denied anything.”

Libya’s second civil war (2014-2020), triggered by a chain of events after the fall of Libyan strongman Moamer Khadhafi in 2011, saw parts of the north African country in tatters as militias jostled for position in an all-out war. Two main centers of power emerged—a UN-backed government in Tripoli, and forces allied to Khalifa Haftar in the eastern city of Benghazi.

Africans fleeing insecurity in their own countries, forced inscription, or other kinds of persecution have been coming to Libya

in an effort to get across the Mediterranean Sea to Europe.

According to the IOM's Missing Migrants Project, an estimated 1,093 migrants died this year while crossing the Mediterranean Sea along the Libyan coastline.

The film reveals that migrants who were placed in detention centers, such as Tajura, on the outskirts of Tripoli, were pawns during the war. In horrible conditions, with 600 people from 36 countries placed in one room, the men recount being forced to clean tanks and other military equipment.

“It was really clear that the militias were using these camps, especially Tajura during the war, as a military base. And there are videos of weapons being stored next to migrants and refugees, and armed vehicles that are inside the detention centers,” says Creta.

Tajura was targeted by a military airstrike on 2 July 2019, killing more than 50 migrants and refugees and wounding 130, according to official reports after the killing.

#### Human shields

“We cleaned blood off the dead bodies,” says one migrant in the video after the airstrike, who spoke of forced labor overseen by the militias.

The documentary shows how the militias were looking for legitimacy in the name of migration in front of the EU and member states by agreeing to take care of the migrant facilities, but were in fact using the detainees as human shields, says Creta.

“I really wanted to show the normalization of violence and ill-treatment that is going on in the sense that those militias controlling detention centers is that their ultimate goal is to fight for power, political gain and to accumulate weapons,” she says.

“It’s very clear these groups are responsible for holding refugees and migrants in this condition, and at the same time, the European Union and the member states are complicit,” says the filmmaker.

She is referring to the EU migrant deal signed in February 2017 with one of the three Libyan governments in the country at the time. The deal, which would kick-start the treaty between Italy and Libya and include funding on stopping migration to Europe, would fund healthcare for migrants and rescue migrant boats.

“They are providing assistance to the Libyan coast guard, to Libyan authorities, to intercept people in international water and bring them back to Libya, when it’s known that they will be returned back to this inhumane and degrading treatment in the detention centers,” she says.

#### EU, UN complicit in degrading treatment

“We need to start talking about state complicity and human rights violations in terms of international law,” says Creta.

An official from Libya’s Migrant Office of Illegal Migration speaks on camera about the fact that Libya is one of the countries that never signed the 1951 UN Refugee Convention; anything done for migrants is not in accordance with any law.

“EU, Italy, other governments, and also partly the UN...have been contributing significantly to the abuse of migrants in Libya,” says Creta.

“Definitely the EU and member states are using the UN and the fact that the UN has access to these centers,” she says, adding, “I think the way that Europe should start to really reconsider this cooperation and these agreements with Libya.”

The United Nations High Commission for Refugees (UNHCR) hasn’t done anything for those stuck in this situation, says one migrant in the documentary, saying that the office’s attitude was if “you’re well enough to work, so go,” explains one migrant in the documentary.

The migrant adds that he didn’t ask UNHCR for any money, but was saddened by the agency’s lack of solidarity. Others reflected on similar situations with the International Organization on Migration (IOM) who say that the UN group only suggested the migrants could go back to their home country. No alternatives or support were offered.

#### The process

No Escape from Hell, produced by magneto/arte, is unusual in the sense that there is very little voice over to describe a complex situation. Instead, Creta says she didn’t want to impose a particular view, but to give the floor to the EU officials,

Libyan officials and militias, and refugees and migrants.

"I really tried to intertwine these three to give the audience as much as possible from the situation on the ground," she says.

Filming on a shoestring budget, the Italian director spent most of her time on the ground in Libya shooting without a crew. She says this proved to be an advantage, especially when speaking with the migrants who had suffered during their time in detention.

"I had to build trust with survivors because it was hard for these people to speak about the violations when they were still stuck in Libya," says Creta.

Losing hope

The migrants and refugees give their point of view of the events they have survived over the past three years in Tripoli, and some in Zintan, a town more than 200 kilometres south of Tripoli.

One migrant describes finding "less than nothing" in the restive Libyan capital, where he arrived to plan to get to Europe by crossing the Mediterranean Sea.

Constantly thwarted through the Libyan civil war (2018-2019), armed attacks in detention, and now living in the Gargaresh slum in Tripoli, migrant N'doka says, "when you see us, you see the people who lost hope."

MSF suspends work in Libyan detention centers in protest over violence

EU in talks with Tunisia, Libya to stem flow of illegal migrants

The one-hour documentary doesn't always have someone talking; there's the back story of the Libyan war and how it affected migrants as well as views of their daily life, where it reflects those who have lost hope.

Creta says that refugees and migrants are losing the ability to control their lives, blaming it on the European Union policies that fund Libyan authorities to prevent these people from crossing the sea to Europe.

One scene depicts refugees holding signs, saying "UNHCR what are you waiting for" and "we are dead but not buried yet".

"The structural effects of these policies are the normalization of this treatment, and the use of camps where people are abused, it's part of this new policy of externalization," she says.

"They are stuck in this situation, and at the same time they are in the system of extreme abuse, where some of them spend years in detention," says Creta, who has worked on the refugee crisis in Libya as a journalist and filmmaker.

"To spend three years of your life in a detention center without seeing the light or without the ability to move, or to eat, or to drink or to cook, you also lose the ability to think, actually. And to dream and to have control of your life," she adds.

Torture is usually perceived as physical, according to Creta, and torture certainly exists in this way in the detention centers. But migrants are not receiving food or water, and are constantly humiliated, which are other forms of torture and mistreatment.

"European countries are deliberately paying Libya to prevent migrants from reaching European jurisdiction to ask for asylum," she says.

"We should also start talking about complicity in these crimes against humanity, because they know that these people are being sent back to these detention centers that are governed by rape, torture and murder," adds the filmmaker.

### **Libya Stabilization Act Passes in U.S. House of Representatives (Embassy of Libya DC)**

September 30, 2021

**On 28 September 2021, the Libya Stabilization Act, or H.R. 1228 (previously H.R. 4644), passed in the U.S. House of Representatives. However, while this bill passed the House in the previous session of Congress on 18 November 2020, the Libya Stabilization Act never advanced in the Senate. By reintroducing H.R. 1228 early in the 117th Congress under the new Biden Administration, the aim is to pass this bill into law this year.**

The goal of the Libya Stabilization Act is "to advance a diplomatic solution to the conflict in Libya and support the people of

Libya.” H.R. 1228 calls on support from the U.S. Department of State to work with the UN Support Mission in Libya and the GNU to prepare for national elections scheduled for 24 December 2021, aiding in the assurance that they are free, fair, inclusive, and credible.

This bill presents actions to address negative foreign interference in Libya, imposing sanctions on those who threaten Libyan peace and stability and who violate internationally-recognized human rights law therein. In this regard, the bill demonstrates Congress’ interest in ending negative foreign interference in Libya, and expresses support for political and institutional unification.

In addition to this, H.R. 1228 proposes the continuation of humanitarian aid for Libyans who have been impacted by the conflict, along with refugees and migrants who have been residing in Libya due to external factors and conflicts. Stopping the spread of COVID-19 and the distribution of vaccines are considered top priorities, along with other health and hygiene services.

Finally, this bill recognizes the cruciality of Libyan stability and territorial unity to the security of North Africa, the Middle East, the African continent, Europe, and the United States.

**Officials: Libyan forces round up 500 migrants in crackdown (Associated Press)** By Samy Magdy  
October 1, 2021

**Libyan security forces on Friday detained at least 500 African migrants, including women and children, two officials and a refugee group said. The authorities described the raid as part of a crackdown on illegal migration but made no mention of any traffickers or smugglers being arrested.**

Libya’s Interior Ministry said the migrants were rounded up in the western town of Gargaresh and taken to detention centers in Tripoli — places that rights activists say are rife with abuse and where migrants are kept in miserable conditions.

The ministry did not say how many migrants were detained. Gargaresh, a known hub for migrants and refugees, is about 12 kilometers (7.5 miles) west of Tripoli, the Libyan capital.

Two security officials and the Norwegian Refugee Council said that “more than 500” were rounded up. The officials said many of those detained had “lived illegally in Libya” for years. The officials spoke on condition of anonymity because they were not authorized to brief the media.

The chief prosecutor office said hundreds of arrested migrants were taken to detention centers. The Interior Ministry posted images purporting to show some of those detained, sitting clustered together on a street with their hands tied behind their backs. Another image, an aerial photo, showed men lying face-down on the ground at a crossroads, with military trucks and guards around them.

Tarik Lamloum, a Libyan activist working with the Belaady Organization for Human Rights, described the raid as the fiercest crackdown in western Libya in years.

Dax Roque, the Norwegian Refugee Council’s director in Libya, expressed his concerns over the detentions, saying the arrested migrants are at risk of abuse and ill-treatment. “Torture, sexual violence, and extortion is rampant in Libyan detention centers,” he said.

Libya has for years been a hub for African and Middle Eastern migrants fleeing war and poverty in their homelands and hoping for a better life in Europe. The oil-rich country plunged into chaos following a NATO-backed uprising that toppled and killed longtime autocrat Moammar Gadhafi in 2011.

Traffickers have exploited the chaos and often pack desperate families into ill-equipped rubber or wooden boats that stall and founder along the perilous Central Mediterranean route. Thousands have drowned along the way, others were intercepted and returned to Libya.

Those returned to shore have been taken to government-run detention centers, where they are often abused and extorted for ransom under the very nose of U.N. officials.

**UN experts decry possible crimes against humanity in Libya (Associated Press)** By Jamey Keaten and Samy Magdy  
October 4, 2021

**Investigators commissioned by the United Nations’ top human rights body said**



**Monday they had evidence of possible crimes against humanity and war crimes in Libya. Many of the alleged crimes, they say, were committed against civilians and migrants detained in the country while trying to get to Europe.**

Their findings come amid an unprecedented crackdown in Libya in recent days that has led to the detention of more than 5,000 migrants, including hundreds of children and women. Violence during the raids left at least one migrant dead, according to a U.N. tally obtained by The Associated Press on Monday.

The Libyan government had no immediate comment on the U.N. findings and has said the arrest campaign is a security operation against illegal migration and drug trafficking.

The report is the first from a “fact-finding mission” commissioned by the Human Rights Council. It includes accounts of murder, torture, enslavement, extrajudicial killings and rape. Its release could be a signal to international powers, like Russia and the European Union, to reassess their policies and support for some of the war’s parties.

The report also comes at a sensitive time for Libya, where a transitional unity government is set to hold national elections by late this year, amid pressure from the U.N. and other world powers. Libyan lawmakers adopted a bill Monday regulating the parliamentary elections, said Abdullah Bliheg, a spokesman for the legislature, in a step toward making the vote happen.

Fighting has wracked Libya since the fall of former autocrat Moammar Gadhafi a decade ago. The country was for years split between rival administrations in the east and the west, each backed by armed groups.

“Our investigations have established that all parties to the conflict, including third-state foreign fighters and mercenaries, have violated international humanitarian law, in particular the principle of proportionality and distinction,” said Mohamed Auajjar, a former Moroccan justice minister who led the team. “Some have also committed war crimes.”

The principle of distinction requires parties to armed conflicts to distinguish between military objectives and civilian objects, while the principle of proportionality dictates warring sides must ensure limited incidental damage. The team also found that the practice of arbitrary disappearances and violence inside Libyan prisons could amount to crimes against humanity.

The experts cite reports indicating that the Libyan coast guard — which has been trained and equipped by the EU as part of efforts to stanch the flow of migrants across the Mediterranean — has mistreated migrants and handed some over to detention centers where there is widespread torture and sexual violence.

A report from the U.N.’s International Organization for Migration, dated Oct. 3 but obtained by The AP on Monday, showed that 5,152 migrants have been detained in the series of raids in the western Libya town of Gargaresh since just Friday. Those numbers are likely to increase, the report said, as the crackdown continues. Authorities have distributed the migrants to detention centers in the capital of Tripoli. At least 4,187 of the detainees, including 511 women and 60 children, were sent to just one detention center, which the report’s authors said was well over its capacity.

Libya has emerged as the dominant transit point for migrants fleeing war and poverty in Africa and the Middle East, hoping for a better life in Europe. But the lawlessness has made Libya’s detention centers rife with abuses, according to rights activists and migrants who make it out.

Another expert from the U.N. mission, Chaloka Beyani, said policies meant to push migrants back to Libya to keep them away from European shores ultimately lead to abuses.

“Upon return, and as our report indicates, this is one of the areas where we think that crimes against humanity have been committed,” said the London School of Economics law professor from Zambia.

The report cites findings that some 87,000 migrants have been intercepted by the Libyan coast guard since 2016, including about 7,000 who are now in centers run by the the country’s Department for Combating Illegal Migration.

The experts also addressed the issue of foreign mercenaries operating in Libya’s conflict. They said there are “reasonable grounds to believe” that personnel from a Russian private military company known as the Wagner Group, “may have committed the crime of murder.” The experts said they had documented an instance when forces from the group fired gunshots directly at people not taking direct part in the hostilities.

A U.N. panel found in 2020 that the group had provided between 800 and 1,200 mercenaries to support the offensive by Libyan commander Khalifa Hifter in his 14-month-long offensive on the capital Tripoli.

The fact-finding mission, which covers possible rights violations since 2016, adds to a litany of news reports, U.N. studies and warnings from advocacy groups about deadly violence, mistreatment of migrants and horrific conditions of detention across

Libya in recent years.

The team, which drew from hundreds of documents and interviewed more than 150 people, including survivors of alleged torture, said it had some limited access to Libya — and spoke to prosecutors and Libyan authorities. But commissioned only last year by the Geneva-based council, they said more research is needed to identify both the Libyans and foreigners who should be held accountable.

Jalel Harchaoui, a Libya expert and senior fellow at the Global Initiative, said the findings are nothing new.

“A U.N. report coming out at this juncture, asserting the same, may carry a bit more weight, but won’t make much of a difference,” Harchaoui said.

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## CENTRAL AFRICA

### Central African Republic

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

**Central African Republic war: No-go zones and Russian meddling (BBC News)** By Josh Losh  
September 23, 2021

**Amid a Russian-backed advance, the growing threat of landmines and improvised explosives in the Central African Republic (CAR) points to a dangerous tactical shift in a new and unfolding guerrilla war.**

Earlier this month, a convoy driving across CAR's volatile north-west struck an explosive device, killing an aid worker from the Danish Refugee Council.

Even in one of the world's most dangerous countries for aid workers, who routinely face violence and intimidation, the tragic incident stood out - highlighting a growing and unprecedented threat after years of civil war.

These indiscriminate devices, which can kill or cause horrific injuries, are keeping aid and human-rights investigators out of hotspots - and leaving desperate communities without a lifeline.

"Fighting is happening behind closed doors," said Christine Caldera, from advocacy group the Global Centre for the Responsibility to Protect, adding that it was civilians who were paying the price for the increasing use of explosive devices.

Documented atrocities:

While instability has wracked CAR for decades, the origins of this new chapter in the crisis stretch back to 2013 when a rebel coalition seized power, triggering reprisals from militias loyal to the ousted regime amid a spiral of war crimes and crimes against humanity.

As the warring parties fragmented, Russia entered the fray in 2017 as part of efforts to expand its influence across the continent - backing the beleaguered government in the capital, Bangui, and giving it weapons, ammunition and 175 military instructors.

Evidence suggests these so-called instructors include Russian mercenaries from the Wagner Group, a private military company with combat experience in Ukraine, Syria and Libya - though both governments deny this.

CAR's rebel groups - including Return, Reclamation, Rehabilitation (3R) - are largely drawn from the country's Muslim minority, which has long faced marginalisation.

Ahead of presidential elections last December, 3R joined a loose rebel alliance, causing the collapse of peace agreements signed in 2019.

With Russian help, the armed forces have since driven them back, retaking towns and villages which have languished beyond state control for years.

But according to a recent UN report, they have committed almost as many documented abuses as the rebels over the past year, ranging from abductions and arbitrary detentions to rape, torture and summary killings.

Black-market landmines:

Compounding this violence is the emerging threat of landmines and IEDs, which are increasingly prevalent in the region, particularly in northern Nigeria, the Lake Chad basin and the Democratic Republic of the Congo.

The first known use of them in CAR came in June 2020 during a UN-backed offensive against 3R, which began using these weapons in a brutal attempt to cling on to territory.

Among the devices being laid was a type of anti-tank mine known as a PRB-M3, a powerful, Belgium-made explosive from the 1970s and 1980s.

Weapons experts say these mines are probably being trafficked from Libyan stockpiles or harvested from active minefields in Chad and Sudan before entering the black market.

David Lochhead, a senior researcher with the Small Arms Survey, says CAR's rebels appear to be copying jihadist groups in Mali who have incorporated this type of mine into IEDs alongside other homemade explosives to create bigger blasts that destroy armoured vehicles.

"It's a very worrying trend," he said. "An IED may cost \$35 (£26) to build and you can defeat an armoured vehicle that costs \$500,000."

After the UN force ended its brief assault on 3R's strongholds, mine-related incidents all but stopped until the government's bid to rout rebels from provincial towns began this year. In total, between January and August, explosive ordnance killed at least 14 civilians, including a pregnant woman and two children, injured a further 21 as well as two peacekeepers in more than two dozen incidents, according to the UN's humanitarian agency Ocha.

"Access here has been extremely complex - you have shifting conflict lines, poor infrastructure, now the rainy season. But explosive ordinance is a new ballgame," Ocha's Rosaria Bruno said.

The impact on civilians is calamitous. Planted on roads and even near schools, the landmines and IEDs cut villagers off from peacekeeper patrols and humanitarian help, and force people from their homes. More than 1.4 million people are currently displaced nationwide - the highest level for five years.

For example, around 1,000 people fled their village in the Nana-Mambéré region after a device exploded there in May; the village remains inaccessible because of the continuing lethal threat. Some aid has been airlifted in by helicopter, including 1.5 tonnes of medicine, hygiene products and food for the villagers. But such operations are costly and unsustainable in a humanitarian emergency to which the response plan faces a funding gap of almost \$190m - more than 40% of the required amount.

Smear campaigns:

The impact is felt too by the UN's 15,000-strong peacekeeping force (Minusca), which has been hit by numerous sexual abuse allegations.

The beleaguered force has also been the target of smear campaigns from all sides, while its mission has been obstructed by the presence of explosives and also by Russian personnel deployed in the field.

Last month it faced rumours that it was supplying rebels with landmines, even as it was deploying personnel to remove these devices.

"Minusca has never used mines," said UN forces spokesman Maj Ibrahim Atikou Amadou, adding that de-mining operations were still at an impasse because of the accusations. Though it seems responsibility for laying landmines may not lie solely with the rebels. A UN report in June revealed that government troops had warned local communities in two different parts of the country that Russian soldiers had placed mines on a road and near a bridge.

Other sources said this was not the case but that such rumours had been circulated in a bid to deter rebels from launching attacks.

Regardless of whether the bomb presence is genuine, the fear created is real, limiting farming and preventing children going to school, the UN report said.

Both CAR and Russia deny that their forces have committed human-rights abuses or used landmines or other explosive devices.

While 3R has been widely blamed for planting mines, the group denies this, blaming the Russians.

More than 20 years ago, a global treaty banned the use of landmines targeted at individuals, though Russia is not a signatory and mines intended to destroy vehicles fall outside the convention.

'No military solution':

Experts warn that, despite their breath-taking advance, government forces have not eliminated the rebels, simply pushing them to peripheral areas and forcing them to adopt guerrilla tactics. Neither have they addressed the underlying grievances that fuelled their appearance in the first place - the state's long-term and violent discrimination against the Muslim population. "It is clear that there isn't a military solution to this conflict," said Ms Caldera.

"While the security forces are making progress in recapturing territory, they are wreaking havoc on the civilian population and not restoring stability whatsoever."

This week, CAR President Faustin-Archange Touadéra shrugged off criticism of his alliance with Russia, and insisted he was open to dialogue with the rebels, saying: "I did not choose this war." As the country slips deeper into disaster, civilians bearing the brunt of the clashes will be hoping he pursues another course.

Jack Losh is a journalist, photographer and filmmaker focusing on conflict, conservation, humanitarian issues and the crisis in CAR

### **C. Africa admits partial responsibility for abuses (Yahoo News)**

October 1, 2021

**The Central African Republic on Friday acknowledged some of the abuses which the UN has said its army and its "Russian instructors" committed, but insisted that most of the blame lay with rebel fighters.**

The Central African forces, supported by hundreds of Russian paramilitaries, have been conducting a vast counter-offensive against rebel groups since December 2020.

Government forces have also bolstered by a 12,000-strong UN peacekeeping force as well as hundreds of Russian and Rwandan paramilitaries.

UN experts in March expressed concerns over reports of "grave human rights abuses" in the country.

The UN recorded 526 violations and abuses of human rights over a year, which UN experts said caused at least 1,221 deaths, including 144 civilians.

"The people responsible for these incidents are divided into three categories, not including UN peacekeepers," Justice Minister Arnaud Djoubaye Abalene said on Friday.

While the country's security forces and their "Russian instructors" fill two of those categories, the rebels have been responsible for the majority, he said.

The UN report said its experts had "received, and continue to receive, reports of grave human rights abuses and violations of international humanitarian law, attributable to the private military personnel operating jointly with CAR's armed forces and in some instances UN peacekeepers", naming Russian companies.

The alleged abuses identified by the Working Group on mercenaries include mass summary executions, arbitrary detentions, torture, forced disappearances, forced displacement of civilians, indiscriminate targeting of civilian facilities and attacks on humanitarian workers.

The CAR defence minister presented to reporters a report by the enquiry commission ordered by President Faustin Archange

Touadera after the UN report was released.

The report detailed crimes and abuses blamed on the rebels, but not on the Russian security forces and paramilitaries.

Of the 103 cases of human rights abuses listed by the UN experts, "some are attributable to Russian instructors... (but) most are attributable to the CPC rebels".

The Coalition of Patriots for Change (CPC) is an alliance of rebel groups formed in December in an attempt to overthrow Touadera, the justice minister said.

But he also placed some of the blame on "support forces" from abroad, foreign, suggesting that the relevant governments should take their own legal action.

Last month the United Nations ordered the withdrawal of Gabon's 450-strong peacekeeping contingent from the Central African Republic over sexual abuse allegations, a scourge that has long tarnished UN interventions.

The UN said it has now received a total of 32 allegations of sexual abuse or sexual exploitation against troops from Gabon, which are part of an international peacekeeping force numbering thousands in the CAR.

When the UN report was published, the CAR government characterised the allegations as "mere denunciations".

Landlocked CAR is one of the world's poorest nations and has seen a string of coups and wars since it gained independence from France in 1960.

Thousands of people have died in the CAR since 2013 and more than a quarter of the population of 4.9 million have fled their homes.

Moscow has officially acknowledged that 1,135 Russian "non-armed instructors" are operating in the country, but NGOs on the ground say that some of these are from the private Russian security group Wagner, which Moscow denies.

The CAR has become a key area in the controversy over the role in Africa of the Wagner mercenary group which is allegedly run by the shadowy businessman Yevgeny Prigozhin, an ally of President Vladimir Putin.

Since the beginning of the year, CAR government forces, backed by the UN peacekeepers, Rwandan troops and Russian paramilitaries, have succeeded in recapturing from the rebels much of the two-thirds of the country which they controlled.

CAR has been wracked by coups and decades of misrule by dictators since its 1960 independence from France.

Touadera was re-elected as president in December on a turnout of fewer than one in three voters.

Mankeur Ndiaye, head of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), said that "all the parties to the conflict continue to commit atrocities".

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## **Sudan & South Sudan**

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

**Sudan: Young Sudanese Activists Detained for Criticising RSF Militia (All Africa)**  
September 23, 2021

**Two young Sudanese human rights activists are at risk of being sentenced for "trumped-up charges" for publicly demanding justice for crimes reportedly committed by the paramilitary Rapid Support Forces (RSF) in the country. A woman media activist faces charges for criticising the militia on Facebook.**

In a statement on Monday, the New York-based African Centre for Justice and Peace Studies (ACJPS) urged the Sudanese

authorities "to respect and guarantee the right to freedom of expression and peaceful assembly as provided for in article 56 and 57 of the Constitutional Declaration of 2019 and international and regional human rights treaties that Sudan is a state party to" and drop all charges levelled against civic rights activists and human rights defenders Musab Zakaria (19) and Suleiman Jamal (25).

On September 11, at about 13:00, members of the RSF detained the two activists from inside a mosque in Ombadda district in Omdurman as they protested against Lt Gen Mohamed Dagalo 'Hemeti', Vice-President of the Sovereignty Council and RSF Commander-in-Chief of the RSF\*, present at the mosque, and demanded justice and accountability for crimes committed by the RSF against the civilian population.

The two young men were at first taken to an unknown location but were later produced at the El Rashideen police station in Omdurman. A criminal case was filed against them under Art. 69 (Disturbance of public peace) and Art 77 (Public nuisance) of the 1991 Criminal Law. Each charge carries a penalty of three-months imprisonment, a fine or whipping of up to 20 lashes. The criminal case was filed against them without hearing any complainant or witnesses.

The following day, investigations were completed as a police officer showed up as a complainant. He was heard and the activists, who had been transported to a police station in Khartoum North, were released on bail. The criminal case is still pending and will be transferred to court at any given time, ACJPS notes.

#### Facebook

On September 15, media activist Aysha El Majidi was detained following charges of defamation under Art. 159 of the 1991 Criminal Law separately filed by the RSF and the Empowerment Elimination Committee against her. She was released the following day. The case is still pending, the African Centre said.

The reason for the charges was an article on El Majidi's Facebook account where she called for the merge of the RSF with the Sudan Armed Forces: "The Rapid Support Forces must be dissolved because they are not useful. There is no need for them in the first place, and they are of a very high cost to the state budget [...] The RSF barracks should be transformed into hospitals, child care homes, orphanages, and so on."

In another post, she criticised the Empowerment Elimination Committee by saying that history confirms that the Committee "every day increases the injustice and pain of the people".

The organisation has further documented an incident where a Sudanese journalist and human rights defender was also charged with defamation based on a Facebook post where she criticised the RSF.

The Centre calls on the Sudanese authorities to immediately drop all charges against the young activists and all other human rights defenders "detained on trumped-up charges. The authorities should "instruct security forces to stop targeting activists and should cease using the criminal code to silence or restrict activists".

#### Criticism not allowed

The use of the Criminal Law to silence or intimidate those exercising their right to freedom of expression, association and assembly in Sudan is not new. "The old regime [led by Omar Al Bashir] progressively and deliberately violated the right to freedom of expression, association and assembly through arrest, detention and prosecution of peaceful protesters for malicious and fabricated charges" usually under articles 69 and 77 of the Criminal Law. "Criminal charges levelled against citizens including activists, have often lacked legitimacy and unduly restricted the right to freedom of expression and assembly," ACJPS states.

In March this year, ACJPS reported that activist Khadeeja El Dweihi was charged with publishing false news under Art 24 of the 2018 Cybercrime Act, based on her Facebook post that tackled the health situation in Sudan.

In October 2020, six young artists were charged with disturbance of public peace and public nuisance for chanting revolutionary slogans inside jail cells. In 2019, ACJPS documented several human rights defenders and activists detained for actual or suspected participation in peaceful protests.

In the years before, criticism of the RSF as well led to threats and detention. In May 2014, National Umma Party President El Sadig El Mahdi was detained for accusing the government militia of committing war crimes in Darfur and operating beyond the scope of the regular armed troops. A month later, Ibrahim El Sheikh, Chairman of the Sudanese Congress Party was detained in En Nehoud in West Kordofan for the same reason.

The Rapid Support Forces (RSF) was set up by the ousted Al Bashir regime in 2013, to fight against the armed movements in the country. The militia which grew out of the Janjaweed militiamen who fought for the Sudanese government in Darfur since

the war broke out 2003, is widely believed to be responsible for atrocities in the region in the past six-seven years. The RSF are also held responsible for the violent break-up of the Khartoum sit-in in June 3 last year.

Officially, the RSF was integrated into the Sudan Armed Forces (SAF) two years ago. In the August 2019 Constitutional Charter it was agreed that both the army and the RSF will fall under the command of the "Supreme Commander of the Sudan Armed Forces". At the same time however, the militia stayed a force unto itself, commanded by Mohamed Dagalo 'Hemeti', Vice-President of Sudan's Sovereignty Council.

### **South Sudan promised to investigate civil war atrocities. Why hasn't that happened? (The Washington Post)** By Jacqueline R. McAllister

October 6, 2021

**Is South Sudan coming to terms with the violent five-year civil war that left 400,000 dead, and millions displaced? By 2018, a peace deal recommitted both sides to establishing a Hybrid Court for South Sudan, along with a truth-telling mechanism and reparations. The peace agreement that supporters and opponents of President Salva Kiir had agreed to now hangs by a thread.**

To date, none of the peace agreement's transitional justice mechanisms are operational. And, in an apparent setback, the United States reportedly pulled its funding for the court, a move some analysts see as a quiet signal that U.S. officials have given up on the court.

Why did parties initially commit to establishing this court, rather than pursue cases through South Sudan's domestic legal system or the International Criminal Court? And what happens now to the hybrid court?

Research suggests that war crimes tribunals tend to emerge when the demand is high for criminal accountability — and the constituencies that oppose prosecutions are weak. While the demand for criminal accountability in the form of a hybrid court has remained strong among nongovernmental groups within South Sudan, important backing for the court from the United States and African Union appears to be faltering. Meanwhile, the constituencies likely to resist such a court — the government and rebel officials whose forces stand accused of perpetrating atrocities — have grown stronger.

Many abuses were reported during the civil war. The 2013 conflict stemmed from a political crisis among Kiir, Vice President Riek Machar and other politicians. Kiir fired Machar and accused him of attempting a coup. The brutal fighting that ensued took on ethnic dimensions, with fighters from the Dinka ethnic group supporting Kiir and fighters from the Nuer ethnic group backing Machar.

Reports of horrific acts of violence on all sides prompted the African Union to establish a Commission of Inquiry on South Sudan. Its purpose was to investigate human rights violations and other abuses in the conflict, but it also recommend ways to ensure accountability, reconciliation and healing among all South Sudanese communities.

The commission's 2014 final report proposed a hybrid court and other transitional justice measures. The report uncovered evidence of extreme violence — including killings, torture, mutilations, rape and even episodes of forced cannibalism — perpetrated by government forces and by rebel forces, mostly against civilians.

It also found that the weak capacity of South Sudan's national criminal justice system meant the existing courts would be unable to deliver accountability, particularly in cases involving top political and military leaders. Consequently, the commission recommended, among other measures, the establishment of "an Africa-led, Africa-owned, and African-resourced legal mechanism under the aegis of the African Union," which would be supported by the international community and include South Sudanese judges and lawyers. This "legal mechanism" involves a mix of international and domestic legal processes and personnel — the "hybrid" nature of the court.

Consistent with what scholars call the "justice cascade," or the "revolution in accountability," international, regional and domestic leaders rallied behind the idea of creating a hybrid court. Diverse groups, including the United Nations, the U.S. and U.K. governments, and South Sudanese nongovernmental organizations, pressured recalcitrant government and rebel officials to commit to the establishment of the hybrid court and other transitional justice mechanisms, first in 2015 and then again in 2018. In 2015, the United States pledged \$5 million to kick-start the creation of the hybrid court.

Will lingering suspicions undermine public support for South Sudan's peace? Why not use the existing International Criminal Court, or ICC? Before the ICC's 1998 creation, hybrid tribunals addressed alleged atrocity crimes in Kosovo, East Timor, Sierra Leone, Cambodia, Bosnia, Iraq and Lebanon. The ICC was supposed to replace this patchwork approach to international criminal justice with a permanent court for global accountability.

The ICC has its limitations. But ICC jurisdiction does not extend to nonmembers like South Sudan. This means the court can

open an investigation only if the U.N. Security Council refers it, or if South Sudan's government requests ICC involvement. So far, neither scenario has transpired.

Moreover, a number of African leaders claim the ICC is politicized and biased, particularly against their citizens, who have — thus far — overwhelmingly landed in its dock. While some analysts disagree about the allegations of anti-African bias, the emphasis on creating an "African" hybrid tribunal could well be read as a rebuke to the ICC's alleged biases.

South Sudanese officials have also gone out of their way to oppose the hybrid court, even taking the step of hiring a U.S. lobbying firm to help block its creation. The 2015 and 2018 agreements expressly preclude the possibility of immunity (including for heads of state) and render people indicted or convicted by the court ineligible to participate in the government for "a period of time determined by the law."

Both Kiir and Machar have repeatedly spoken out against the creation of the hybrid court, instead advocating for a "national truth and reconciliation commission," an approach that could shield them from criminal prosecution and thus keep them in power. The government has yet to fully approve various legal instruments necessary to formally establish the court.

This type of reluctance is not surprising. Scholars like Samuel Huntington have long argued that in contexts where those accused of atrocity crimes remain in office, prosecutions — which could undermine these leaders' power — are unlikely to occur. More surprising, perhaps, is the apparent wavering of international and regional support for South Sudan's hybrid court.

The United States has played a central role in launching hybrid courts elsewhere, while the African Union has authority under the 2018 peace agreement to formally establish this court. Activists have accused South Sudan's neighbors of perpetuating an "environment of silence," which has served to undercut efforts to create the court.

At this point, it might take continuous pressure from international, regional and domestic constituencies to counteract the opposition from national authorities and get the hybrid court up and running. But nongovernmental groups both within and outside South Sudan continue to push for accountability for crimes committed during South Sudan's civil war. The scholarly research suggests that so long as the demand for accountability persists, war crimes tribunals can still occur down the road.

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## **Democratic Republic of the Congo**

**Official Website of the International Criminal Court**

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

**Congo-Kinshasa: Mihonya Trial Shows Link Between Environmental and War Crimes (All Africa) By**

Ephrem Rugiririza And Claude Sengenya

September 23, 2021

**A former army captain who deserted to form a militia in the eastern Democratic Republic of Congo was sentenced on September 21 to life in prison. Chance Mihonya was found guilty of crimes against humanity, war crimes and environmental crimes.**

The Kahuzi-Biega National Park (KBNP), a UNESCO World Heritage Site, is coveted by various militias operating in the South Kivu region of eastern Democratic Republic of Congo (DRC). They include the militia of Chance Mihonya, which moved into this protected natural area in 2019. Mihonya, a deserter from the Congolese army, claimed he wanted to defend the right of pygmies to live on their ancestral lands in the KBNP. But "his real motives soon emerged: exploitation of the protected resources of Kahuzi-Biega, with a view to enriching himself," says TRIAL International, a non-governmental organization engaged in fighting international crimes, which works with many Congolese victims. "In concrete terms, Mihonya and his men cut down trees to sell wood and charcoal, and dug mines to extract minerals from the ground. With the money from these sales, he bought weapons for his militia," which held sway in the area, adds the NGO, echoing the accusations of the military justice prosecutor.

In May 2020, Mihonya, who called himself a colonel, was finally arrested in a joint operation by the Park guards and the Congolese army.



## International crimes and a co-accused

The trial opened the following November without charges of international crimes. But at the request of the civil parties, the proceedings were suspended to allow the prosecutor to conduct further investigation. The prosecutor returned in April 2021 with an indictment implicating not only Chance Mihonya but also Major Benjamin Mazambi Bozy. Mihonya, 46, is now charged with crimes against humanity (deprivation of liberty, murder, other inhumane acts, rape), war crimes (enlisting and using children under 18 in his armed group, desertion), as well as environmental crimes (damaging and destroying protected areas, building in protected areas). Mazambi Bozy, 49, was also accused of war crimes and crimes against humanity, for having, according to the prosecution, supplied ammunition and weapons to Mihonya's militia between 2019 and 2020.

The new trial opened on September 13 at the scene of the events in Katana, about 50 kilometres north of Bukavu, the regional capital of South Kivu. Hundreds of children, women and men attended the six days of hearings, sometimes until nightfall. Proceedings were held outdoors, except when the weather didn't allow this or when closed sessions were necessary, for example to hear rape victims.

### No luck for Chance

The judgment came on the afternoon of Tuesday, September 21, with members of Mihonya's family present. His parents named him "Chance" (meaning luck in French) in the hope it would keep bad luck away from him, but that apparently failed now. The militia leader was found guilty on all counts against him. For each of the war crimes and crimes against humanity, the military judges gave him life imprisonment, except for the "crime of enlisting and using child soldiers", for which he got 20 years. For environmental crimes, he received three years for violating a nature reserve and 12 months for building a house and a hangar in the PNKB.

The court thus imposed the heaviest sentence: life imprisonment. Mihonya was also ordered to pay 50,000 US dollars to the KBNP for the various damages suffered. The 87 other civil parties - including 14 women who were raped and 8 children under the age of 18 - were not forgotten. The convict will have to pay each of them an amount varying between 3,000 and 10,000 dollars, depending on the seriousness of the harm - "jointly and severally with the Congolese State", which was held to be civilly liable.

No extenuating circumstances were retained, even though Mihonya admitted certain facts in the indictment.

### Defence to appeal

On the other hand for Major Mazambi it was the end of the nightmare. He was acquitted for lack of evidence. Some of his superiors told the court they had never noticed any war materiel missing from their stock, whereas Mihonya had stated during the investigation that the major sold him weapons from his unit. "Justice has been served. Chance did not show any willingness to repent, he did not express remorse. On the contrary, he boasted as if it was his right to commit these crimes," said David Bugamba, one of the lawyers for the civil parties. As for the acquittal of the second defendant, Bugamba believes that "the judge did his job", conceding that the evidence against him was not solid.

"We weren't expecting an acquittal for Chance Mihonya, but we did expect a lighter sentence," said his lawyer, Paul Bushabu Mabosho. He announced that he would appeal, saying the criteria were not met to prosecute for international crimes. "He operated in an isolated, sporadic manner. We cannot talk about crimes against humanity and war crimes. We argued this, but the court preferred to follow the prosecutor," said the lawyer, before expressing "joy" at the acquittal of Mazambi.

### A victory for the rights of nature

"We welcome this conviction of Chance Mihonya for environmental crimes. Other criminals linked to this mafia network will be deterred, seeing that things have changed," said Josué Aruna Sefu, a coordinator for civil society environmentalists in South Kivu. "We urge the justice system to continue tracking down all environmental criminals so they can be held accountable like Chance. These environmental crimes feed the armed groups in the forests and protected areas like Kahuzi-Biega National Park. Illegal mining in protected areas allows them to procure weapons, sowing panic and desolation in local communities."

Environmental lawyer Olivier Ndoole from North Kivu, another part of eastern DRC where armed groups plunder natural resources and commit crimes against the civilian population, also hails "a victory for the rights of nature". He says trafficking of wood, ivory and illegal fishing in the Virunga National Park in North Kivu illustrates "the link between these environmental crimes and the deaths, extra-judicial summary executions and destabilization of the Republic". But he says the work to be done is immense. "To achieve peace and stability in the DRC, we must stop the ecological haemorrhage. The International Criminal Court, the Security Council and other international bodies must now take seriously the issue of environmental crimes by armed groups in eastern DRC. We need to block the financial channels of these armed groups."

"This is one of the harshest sentences ever handed down by military justice on former soldiers in eastern DRC," commented a jurist who followed the trial. "But it couldn't have been any other way, since these were deemed international crimes. As for the pygmy community that [Mihonya] claimed to defend, it seems they have distanced themselves from him."

**Rights groups demand release of Congo journalist over terrorism charges (Reuters)** By Hereward Holland  
September 25, 2021

**Rights groups called on military authorities in Democratic Republic of Congo on Friday to release a journalist arrested on terrorism charges for the possession of a video showing the assassination of two U.N. sanctions monitors in 2017.**

Sosthene Kambidi, who works for Congolese news site Actualite.cd and sometimes with international news agencies, was arrested by the army prosecutor at a hotel in Kinshasa on Monday night, he said in a WhatsApp message to a Radio France International (RFI) journalist, which was shared with Reuters. Kambidi contributed to an investigation by RFI and Reuters in December 2017 which revealed that state security agents had helped plan a trip by the two U.N. monitors to investigate reports of atrocities during an armed conflict in a rural part of Congo's Kasai region.

Kambidi, who also accompanied Reuters and RFI journalists on a March 2017 reporting trip that revealed the existence of several mass graves in Kasai, is being prosecuted by the military for "criminal conspiracy, rebellion and terrorism", his lawyer Gode Kabongo told Reuters by telephone.

Amnesty International, Human Rights Watch and Reporters Without Borders (RSF) all called for Kambidi to be released.

Denied access to his family or a lawyer for 36 hours after his arrest, Kambidi was questioned over how he acquired footage of the killing in 2017, said Jean-Mobert Senga, an Amnesty International researcher.

"Until proven otherwise, Kambidi is a journalist who has done nothing but his job, and should not be forced to reveal his sources," Senga told Reuters.

A government spokesman did not immediately respond to a request for comment on Kambidi's arrest. The army could not be reached for comment.

During the 2017 U.N. mission, the two experts, Zaida Catalan, a Swede, and Michael Sharp, an American, were stopped along the road by armed men, marched into a field and executed.

Congolese authorities initially blamed a militia, arrested about two dozen alleged fighters and charged them with involvement in the killings. The government later said it could not exclude the possibility that state agents were involved.

They have, however, denied suggestions by rights groups that higher-level government and security officials might have been involved in the killings.

**Senior Official in Democratic Republic of Congo Spotlights Violence in Eastern Provinces, Outlines Mission Transition Plans, Briefing Security Council (Relief Web)**

October 5, 2021

**Noting the ongoing security challenges in several provinces, the Secretary-General's Special Representative in the Democratic Republic of the Congo today called on the Security Council to continue providing its "full backing" to the United Nations peacekeeping mission in that country.**

Bintou Keita, who also heads the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), briefed the 15 member Council on the contents of the Secretary General's latest report on the situation. She was joined by Abdou Abarry (Niger), Chair of Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, who reported on the sanctions regime's recent activities.

Outlining some elements of a proposed MONUSCO transition plan — which lays out benchmarks for the Mission's drawdown and eventual exit — Ms. Keita said the plan was jointly developed by the United Nations and the Congolese authorities. Describing it as a "roadmap that can help guide the work of the Mission in the coming years and prepare the ground for its orderly and responsible withdrawal", she nevertheless cautioned that the plan must not obscure the work that remains to silence the guns in the east, foster the political dialogue necessary to pave the way for credible and transparent elections in 2023 and support the long term strengthening of the country's institutions. Therefore, MONUSCO still needs the Council's full support, including its endorsement of the transition plan with adequate financial resources.

Nelly Godelieve Madioka Mbangi, Coordinator of the civil society group Sauti y'a Mama Mukongomani/Voice of Congolese Women, remarked that the state of siege recently declared by President Félix Tshisekedi in North Kivu and Ituri provinces allowed MONUSCO and the State armed forces to defeat militant groups and restore State authority in some areas. The goal, however, is to eradicate all armed groups. She urged the Council to help strengthen MONUSCO's rapid reaction units to meet the security needs in the east, and to support the disarmament, demobilization and reintegration process. The Council can also help restore State authority and set up an international investigative mechanism for crimes of genocide committed in the country, she said, also drawing attention to the dynamic work of Congolese women and highlighting the importance of their participation in the peace process.

In the ensuing discussion, Kenya's representative, speaking also for Niger, Tunisia and Saint Vincent and the Grenadines, said the transition plan must be implemented following a clear evaluation and assessment of the benchmarks achieved. Those should include an efficient transfer of important tasks, such as early warning networks, to the host Government, and enhanced peacebuilding efforts focused on socioeconomic development towards post conflict reconstruction.

France's delegate emphasized that a "partnership logic must prevail", with the Mission continuing its stabilization efforts and protecting civilians. Noting that an improved security situation in Tanganyika province will permit MONUSCO's withdrawal from the area in 2022, he called for a credible, transparent, inclusive and peaceful process to that end.

The representative of the United Kingdom stressed that the Government bears the responsibility for creating long term conditions for peace and for the Mission's withdrawal. Minimum benchmarks must be met, while MONUSCO hands over tasks to the United Nations country team and the Government against clear timelines.

The Russian Federation's delegate, noting that the national armed forces and MONUSCO have yet to curb numerous illegal militant groups, said that Moscow will carefully study the Mission's proposed transition plan.

Several speakers condemned allegations of sexual abuse and exploitation by United Nations personnel in the Democratic Republic of the Congo, with the representative of the United States demanding greater accountability for "such predatory behaviour" and assistance to victims.

The representative of the Democratic Republic of the Congo reiterated his request to the Council to lift restrictions on the import of military supplies and enable the State to enhance its capacity to combat armed groups. Among other things, he also called for severe and exemplary punishment against criminal groups or multinationals who support armed groups through the illegal exploitation of minerals.

Also speaking today were the representatives of Ireland, India, Norway, Mexico, China, Viet Nam and Estonia.

The meeting began at 10:04 a.m. and ended at 11:53 a.m.

#### Briefings

BINTOU KEITA, Special Representative of the Secretary General and Head of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), briefed the Council and presented the Secretary General's latest report on the situation (document S/2021/807). She said the primary – and undoubtedly, the biggest – challenge in the country is the security and protection of civilians in the east. Since the declaration of a state of siege by the Government in the provinces of North Kivu and Ituri, MONUSCO has redoubled its efforts to support the Armed Forces of the Democratic Republic of the Congo (FARDC), the police and the judicial authorities, in order to restore State presence and authority in each of those provinces. The Armed Forces' intelligence gathering capabilities have been enhanced, and MONUSCO is providing training on military tactics and respect for the principles of human rights and humanitarian law. The state of siege made it possible to strengthen the partnership between MONUSCO and the FARDC. Meanwhile, all rapid reaction units are on track to be deployed by the end of October to strengthen civilian protection capacity during joint operations against armed groups.

Although joint military operations resulted in the dismantling of several of the armed groups' strongholds, she went on to state that human rights violations perpetrated by both State- and non State actors – particularly in the provinces of Ituri, North Kivu and South Kivu – remain worrying. Between June and August, 367 people were victims of arbitrary and extrajudicial executions, with 203 people, mostly women and children, suffering sexual violence. The United Nations adhered to a zero tolerance policy for sexual exploitation and abuse and provides comprehensive assistance to victims. Following recent allegations regarding the Ebola response, the humanitarian team in the Democratic Republic of the Congo has strengthened its systems to prevent and combat sexual exploitation and abuse, with \$1.5 billion available through a common humanitarian fund.

On the country's democratic consolidation, she said that while the formation of a new Government in April provided an

opportunity to advance critical reforms, the focus of political actors and civil society is shifting towards the 2023 elections. There is still no consensus on the composition of the Independent National Electoral Commission and several members of the opposition have organized rallies to contest that body's reform, which has already been adopted by Parliament. Reiterating the need for an inclusive and peaceful electoral process founded on dialogue, trust and transparency, she said MONUSCO continues to pursue its good offices with actors across the political spectrum, including to advocate for increased women's participation in the process.

Beyond these challenges, she said the implementation of the MONUSCO transition plan — which was submitted to the Council in the Annex to the Secretary General's report — represents a real opportunity for both the Government and the United Nations. Operationalizing the plan, which is closely linked to the Government's programme of action, will hinge largely on the authorities' ability to finance their priorities and create the conditions necessary for the withdrawal of the Mission. The Government's 2022 budget bill emphasizing security, education, health and the acceleration of economic growth is a step in the right direction. With view to MONUSCO's withdrawal from Tanganyika province in June 2022, the Mission is working closely across the United Nations system to ensure the necessary support, consolidate gains and tackle the last pockets of insecurity, while incorporating lessons learned from the Mission's withdrawal from Kasai.

Highlighting President Félix Tshisekedi's ongoing efforts to improve the political climate in the Great Lakes region, she said the Democratic Republic of the Congo's term at the helm of the African Union offers an opportunity to not only foster peace, stability and development, but also to consolidate the partnership between the continental body and the United Nations. On the renewal of MONUSCO's mandate, she noted that the joint transition plan "constitutes a roadmap that can help guide the work of the Mission in the coming years and prepare the ground for its orderly and responsible withdrawal". However, that must not obscure the fact that there is still much to do to silence the guns in the eastern provinces, foster the political dialogue necessary to pave the way for credible and transparent elections in 2023 and support the long term strengthening of the country's institutions. She went on to call on the Council to continue providing its full backing to MONUSCO, including by endorsing the joint transition plan with adequate financial resources and playing an active role in its operationalization.

ABDOU ABARRY (Niger), briefing the Council in his capacity as Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, outlined the body's activities since his last presentation in October 2020. The Committee has held three in person meetings, in addition to four sessions held via videoconference due to the COVID 19 pandemic. On 3 December 2020, the Committee heard a midterm report by the coordinator of the Group of Experts and discussed its conclusions and recommendations. On 22 January 2021, following informal consultations with the coordinator of the Group of Experts, several regional States shared their comments and observations. He added that the Committee also heard briefings by a range of experts during the reporting period, including speakers from the United Nations Mine Action Service and the head of MONUSCO's working group on the arms embargo.

He said that, in the course of consultations held via videoconference on 20 May, the Committee heard a presentation of the final report by a coordinator of the Group of Experts, and examined its conclusions and recommendations. During the same meeting, the Committee heard a report by the Special Representative for Children and Armed Conflict, Virginia Gamba, on the situation of children in the Democratic Republic of Congo. On 9 July, the Committee held its first in person meeting since the start of the pandemic, to discuss the final report and to hear comments and observations from representatives of regional States. On the theme of resources, he said on 30 July, a meeting was held on the illicit trade in gold, tantalum and tungsten in the national and international market, with members hearing from a number of experts on that subject.

He went on to note that the Committee continues to support the mechanism investigating of the murder of two former experts of the Committee, Zaida Catalán and Michael Sharp, which took place in 2017. Several proposals were submitted by the Group of Experts to update the sanctions list on 10 August 2020, in line with Council resolution 2478 (2019). The Committee accepted updates concerning two persons and three entities and is awaiting updates and responses from concerned Member States in that regard. With additional information, on 2 November, the Committee accepted an update concerning an entry to the list. He concluded by noting that a delegation of the Committee will be conducting a visit to the Democratic Republic of Congo between 5 and 10 November, to gain firsthand information on the effective impact of sanctions. The visit will also offer an opportunity to hold consultations with the Government and with representatives of MONUSCO and civil society, with the aim of ensuring the full implementation of measures set out in paragraph 30 of resolution 2360 (2017).

NELLY GODELIEVE MADIEKA MBANGU, Coordinator of the civil society group Sauti y'a Mama Mukongomani/Voice of Congolese Women, said the eastern part of the Democratic Republic of the Congo has been the epicentre of armed conflict for decades, with women and children severely impacted. In response, the Security Council dispatched a peacekeeping mission to the country, now the largest mission in Africa and more than 20 years old. Despite its deployment, however, the east is still facing the same challenges, including mass displacement, rapes and sexual violence. Noting that the perpetrators of such crimes include both State- and non State actors, she added that natural resources have been looted, villages have been burned and children cannot go to school.

Welcoming the declared state of siege, she said some armed groups have been disbanded and State authority has been re-

established in some parts of the country. The goal is to eradicate all armed groups, she said, urging the Council to help strengthen rapid reaction units to meet the security needs in the east of the country, and to support the disarmament, demobilization and reintegration process. The Council can also help restore State authority and set up an international investigative mechanism for crimes of genocide committed in the country. Drawing attention to the dynamic work of women in eastern Democratic Republic of the Congo, she stressed the importance of women's participation in the peace process and asked the Council to strengthen its support for women's organizations.

## Statements

NICOLAS DE RIVIÈRE (France) welcomed progress made in improving the security situation in recent months and expressed support for the adoption of the order on disarmament, demobilization, community reintegration and stabilization. He also praised efforts to combat impunity and called for their continuation, and for the model of the Truth and Reconciliation Commission established in Kasai to be expanded to other regions. The role of women in public positions must be further strengthened, he added, while calling for better coordination between the national armed forces and MONUSCO in the country's east and for continued action to combat and prevent the use of improvised explosive devices. The reconfiguration of the Force Intervention Brigade ought to help improve the response to asymmetric threats, notably that of the Allied Democratic Forces (ADF). On the MONUSCO transition plan, he emphasized that a "partnership logic must prevail", with the Mission continuing its stabilization efforts and protecting civilians. Noting that an improved security situation in Tanganyika will permit MONUSCO's withdrawal in 2022, he called for a credible, transparent, inclusive and peaceful process to that end. GERALDINE BYRNE NASON (Ireland) said the upcoming 2023 elections will be an important time for the Democratic Republic of the Congo and expressed regret over the increase in tensions related to the Independent Election Commission. In that context, reform process questions must be resolved in a transparent manner. Noting that the state of siege has been extended multiple times, she said it is impacting timely access to justice, extending pre-trial detentions and contributing to prison overcrowding. Expressing concern over reports of pervasive sexual based violence, including by State actors, she said it is essential that humanitarian and democratic space is respected. Nevertheless, progress continues to be made on the Women, Peace and Security agenda, with positive indications around the meaningful participation of women in political processes. Turning to MONUSCO's transition plan, she said its 18 identified benchmarks are comprehensive and should provide a clear and predictable roadmap for Mission's phased withdrawal. It is crucial, however, that there is sufficient flexibility in the Plan to allow for setbacks and unexpected challenges, and timelines and benchmarks must be closely monitored and adjusted as necessary.

JAMES KARIUKI (United Kingdom) expressed concern about the deteriorating security and humanitarian situations, as well as rising casualties due to armed violence, in the Democratic Republic of the Congo. Welcoming improved operational cooperation among the relevant security stakeholders, he nevertheless voiced concern about increasing cases of former combatants being rearmed and called for the timely development of the disarmament, demobilization and reintegration strategy and its implementation. On plans for MONUSCO's drawdown, he welcomed the transition strategy and its identified benchmarks, stressing that the Government bears the responsibility to create long-term conditions for peace and for the Mission's withdrawal. Minimum benchmarks must be met for a drawdown, while the MONUSCO hands over tasks to the United Nations country team and the Government against clear timelines. He also called for enhanced coordination with the World Bank, humanitarian agencies and civil society. ANNA M. EVSTIGNEEVA (Russian Federation) said that unfortunately, the Congolese armed forces and MONUSCO peacekeepers have so far failed to curb the activities of numerous illegal armed formations, especially the ADF armed group. Noting that her delegation will carefully study the the MONUSCO transition plan prepared by the United Nations in coordination with the Congolese authorities, she said that, in principle, it is not possible to achieve long term normalization solely by military means. Work should continue to fully implement the Peace, Security and Cooperation Framework agreement, she said, pointing to security cooperation in the eastern parts of the country and across the region. The Russian Federation is a member of the Group of Friends of the Great Lakes Region and intends to actively contribute to the peace process in the country and the region.

RAVINDRA RAGUTTAHALLI (India) expressed hope that the Government of the Democratic Republic of the Congo and opposition parties will maintain the current positive trajectory in the run-up to the 2023 elections. On the security front, he underscored that the primary responsibility to protect civilians lies with the Government and recalled the assertion made by President Felix Tshisekedi in his recent General Assembly address on the presence of terrorists operating under the cover in Ituri, North Kivu, South Kivu and Maniema. Welcoming the creation of a Programme for Disarmament, Demobilization, Reintegration and Community Stabilization, he said MONUSCO's role is to support the Armed Forces in addressing the threat of armed groups. Turning to MONUSCO's transition and exit, he said the continued implementation of the security strategy at the national and provincial levels, as well as a plan of action for security sector reform, will be crucial.

MONA JUUL (Norway) observed that tensions have increased between political and civil society actors regarding the Democratic Republic of the Congo's electoral reforms and called on the Congolese authorities to ensure an inclusive and transparent processes in the build up to the 2023 elections. Despite five months of a state of siege in Ituri and North Kivu by the Government, the security situation in the east of the country is deteriorating, she warned. The threat posed by armed

groups against civilians is particularly concerning, as is the continued high number of human rights violations and abuses — including instances of sexual and gender based violence. As for MONUSCO's transition plan, its success hinges on constructive, effective cooperation and dialogue between a range of stakeholders, including the Congolese authorities and different parts of the United Nations system, she said.

LINDA THOMAS-GREENFIELD (United States) expressed deep concern about the continuing violence in the Democratic Republic of the Congo's eastern provinces, where armed groups such as "ISIS-DRC, also known as ADF" perpetrate violence daily. In the current state of siege, better coordination with local authorities is required for MONUSCO to fulfil its robust mandate. She welcomed MONUSCO's exit from Kasai province earlier in 2021 and commended the transitional justice that paved the way for a smooth drawdown, while expressing hope for a similar withdrawal from Tanganyika in 2022. Turning to the Joint Transition Plan, she hoped its benchmarks will be attainable. The promotion of key governance and security sector reforms are important, with elections approaching in 2023, and the dire continuing violence in the east, she stressed. She went on to condemn the "horrifying and unacceptable" allegations of abuse by United Nations staff — 17 of which were raised in 2021 — noting that while many implicated troops and police, a significant portion concerned civilian staff. Such predatory behaviour must end across the United Nations system, she said, demanding greater accountability and assistance for those harmed.

JUAN GÓMEZ ROBLEDO VERDUZCO (Mexico) commended progress made by the Democratic Republic of the Congo and MONUSCO in recent months, as well as the adoption of resolution 2556 (2020) which aimed to reduce the presence of MONUSCO. However, he expressed concern over the continuing violence in Ituri and North and South Kivu in recent months, which have seen attacks by armed groups such as the Cooperative for Development of the Congo and ADF. He called upon all actors to comply with international human rights law, and for greater efforts to fight hate speech, which increases intercommunity violence and displacement. He went on to commend MONUSCO's efforts through the eruption of Mount Nyiragongo and its consequent effects.

DAI BING (China) welcomed the Democratic Republic of the Congo's three year programme of action, stressing the importance of focusing on governance and electoral reform, which are key to national unity. Noting the ongoing efforts toward regional security and cooperation, he urged the country and its neighbours in the Great Lakes region to continue improving relations. Security must be addressed in a comprehensive manner, he said, welcoming President Tshisekedi's determination — shown in his recent address to the General Assembly — to combat armed groups. Citing the joint transition plan for MONUSCO's drawdown and 18 benchmarks, he said that in the areas where MONUSCO has withdrawn, United Nations country teams must take follow up actions. He also urged international financial institutions to increase aid to the country, while calling on the Council to heed the concerns expressed by the Congolese authorities and ensure that such sanctions do not undermine the country's capacity building efforts.

DINH QUY DANG (Viet Nam) noted the ongoing tensions among political and civil society actors in the Democratic Republic of the Congo and underlined the critical importance of integrating women's voice in the political process. Expressing concern over the continued deterioration of the security situation in the east of the country — especially in Ituri, North Kivu and South Kivu — he strongly condemned attacks against civilians, peacekeepers and humanitarian operations. Also citing the impacts of socioeconomic hardship, displacement and COVID 19, he stressed the utmost importance of addressing the root causes of instability. In that regard, he welcomed the Government's establishment and implementation of the Disarmament, Demobilization, Community Recovery and Stabilization Programme, which maps out a comprehensive strategy to combat hostile armed groups, and commended efforts to formulate a transition plan for the progressive and phased drawdown of MONUSCO.

SVEN JÜRGENSON (Estonia) welcomed the maintenance of stability by the Government, as well as progress made on relations with neighboring countries. While taking note of the Government's commitment to facilitating reforms ahead of the 2023 elections and to furthering the equitable representation of women, he underscored the importance of efforts to tackle hate speech and incitement to violence. On the security situation, he expressed concern about the unabated "circle of violence" in Kivu and Ituri provinces, and incidents in conflict-affected areas involving armed groups and State agents, which have resulted in the killing of at least 600 civilians. Such violence has exacerbated the humanitarian situation, he said, noting that the country ranked high in the number of internally displaced persons in Africa. He welcomed efforts to establish a Truth, Justice and Reconciliation Commission, and called for an end to impunity and support for justice and the rule of law.

MARTIN KIMANI (Kenya), Council President for October, spoke in his national capacity and also on behalf of Niger, Tunisia and Saint Vincent and the Grenadines, commending the Government of the Democratic Republic of the Congo for the progress made in diminishing armed group activities, particularly through the declaration of the state of siege in conflict affected eastern provinces. The joint offensive operations carried out by the national armed forces and MONUSCO in combatting those armed groups should be intensified. Welcoming the establishment of a disarmament, demobilization, community reintegration and stabilization programme by the Government under its programme of action for 2021-2023, he also acknowledged the establishment of a Contact and Coordination Group by neighbouring States and the adoption of a two

year action plan by heads of intelligence and security services of the regional States mandated to oversee non military approaches towards the eradication of negative forces in the Great Lakes region.

He went on to commend the efforts made by the Government, with the support of MONUSCO, to improve and strengthen its weapons and ammunitions management systems, urging the Security Council to give due consideration to the request for the removal of the notification requirement for the Government to acquire weapons. Noting the joint transition plan for MONUSCO, he said it must be implemented following a clear evaluation and assessment of the benchmarks achieved. Those should include an efficient transfer of important tasks, such as early warning networks, to the host Government and enhanced peacebuilding efforts focused on socioeconomic development initiatives that promote post conflict reconstruction. Spotlighting the principle of subsidiarity as enshrined in the United Nations Charter, he recognized the significant role of regional organizations, namely the Economic Community of Central African States (ECCAS), the International Conference of the Great Lakes Region and the African Union, in supporting mediation, dialogue and promoting sustainable peace, security and development.

PAUL LOSOKO EFAMBE EMPOLE (Democratic Republic of the Congo) described significant challenges faced in his country's eastern provinces, with holdout armed groups wreaking terror and destruction. Greater domestic, international and bilateral efforts, as well as military and non military solutions, are required to address them, he said, recalling that President Tshisekedi recently declared a state of siege in two provinces in order to stamp out those negative forces. The strengthened military presence has been bolstered by joint military operations with MONUSCO, he said, adding that the siege will be lifted once the circumstances that led to its imposition are reversed. He went on to outline measures taken to normalize peace, security and economic cooperation with neighboring countries, including the signing of protocol agreements to tackle terrorism and foster cross border trade with Uganda, cooperation agreements to tackle tax evasion with Rwanda and a railway line connecting Kindu in the Democratic Republic of Congo with Gitega in Burundi. Noting that the state of siege led to voluntary weapon surrenders by various warlords and armed groups, he said the President signed two recent ordinances establishing a Disarmament, Demobilization, Community Recovery and Stabilization Programme and appointed its members. The implementation of such operations pose significant security and financial challenges, for which the support of donors and other partners is crucial. Turning to the political situation, he said efforts are under way to hold elections in 2023, including through the reform of a law to strengthen the operations of the Independent National Election Commission, as well as continued support to transitional justice mechanisms and the establishment of an anti corruption agency. He recalled his request to the sanctions committee to lift prenotification measures for the import of military supplies and called for severe and exemplary punishment against criminal groups or multinationals who support armed groups through the illegal exploitation of minerals.

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## WEST AFRICA

### Côte d'Ivoire (Ivory Coast)

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

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

**REVEALED: Face Of Boko Haram, ISWAP Operational Commander Who Masterminded Killing Of Nigerian Soldiers, Civilians (Sahara Reporters)**

October 1, 2021

**A picture of the dreaded commandant of the Islamic State-backed faction of Boko Haram, the Islamic State West Africa Province (ISWAP), formerly known as Jamā'at Ahl as-Sunnah lid-Da'wah wa'l-Jihād in Borno State, Abubakar Dan-Buduma, has been released.**

SaharaReporters had in July 2021 reported that Dan-Buduma was appointed Operational Commander, Timbuktu Triangle by the group's Interim Council during an emergency meeting which was attended by Wali (Leaders), Qa'ids (Chiefs), Commanders and all other structures of both ISWAP and Boko Haram.

He is said to have killed so many Nigerian soldiers and civilians during different attacks by the terrorist group.

Unconfirmed report has it that Dan-Buduma was recently arrested by the Nigerian Army in Sambisa forest, Borno State.

ISWAP, which split from the mainstream Boko Haram in 2016, has become a dominant group, focusing on military targets and high-profile attacks, including against aid workers.

With the death of Abubakar Shekau and the realignment of various factions, an interim committee headed by one Abbah Gana aka Ba-Lawan was appointed to lead the ISIS Islamic Caliphate of Africa (Wilaya of Africa), covering parts of Nigeria, Chad, Niger and Cameroon.

The Nigerian Army has repeatedly claimed that the insurgency had been largely defeated and frequently underplays any losses.

The terror group has caused over 50,000 deaths and displaced millions of individuals mainly in Adamawa, Borno, and Yobe states.

**Nigeria: Boko Haram Asks Niger Residents to Flout Govt Orders, Shun Schools (All Africa)** By Abubakar Akote, Minna, and, Idowu Isamotu  
October 5, 2021

**Suspected Boko Haram terrorists have infiltrated many communities in some local government areas of Niger State, Daily Trust reports.**

They have reportedly directed residents to remove their children from formal schools, residents said and expressed fears that the onslaught would escalate in the coming days if nothing was done.

The terrorists had also directed the residents, both Muslims and Christians, to marry off their daughters at the age of 12 or face consequences, it was learnt.

The recent developments climaxed the arson by gunmen in Niger State, who were being described as "bandits" for a very long time. The terrorists had killed hundreds of people in Niger and contiguous states of Kaduna, Zamfara, Katsina, Sokoto and Kebbi.

Governor Abubakar Sani-Bello on Sunday alerted of the presence of Boko Haram insurgents in Niger, citing recent security breaches in the state.

"We have every reason to believe that we are not dealing with bandits. From the latest operation, the way they coordinated and planned the attack has also confirmed to us that they must have had some kind of training," the governor said.

Several bomb mines, allegedly planted by Boko Haram were uncovered in Shiroro Local Government Area of the state.

The governor had severally described the bandits as Boko Haram fighters.

For instance, after series of attacks on villages in Shiroro and Munya LGAs on Sunday, April 25, and Monday, April 26, the governor told newsmen that, "The attackers included not only bandits but also Boko Haram members and their next target would be Abuja, a mere two hours away by road."

The governor claimed that in Kaure, a village in Shiroro LGA, the attackers had hoisted a Boko Haram flag and were in control of the area.

Daily Trust recalled that members of the Ansarul-Islam and Darul-Salam were dislodged from parts of Niger State a few years ago.

Shiroro, Munya, Rafi communities under siege



The alarm raised by Governor Bello on Sunday was re-echoed by the Chairman of Shiroro LGA, Suleiman Chukuba, on Monday. Daily Trust reports that in the last few weeks, communities in Shiroro, Munya and Rafi local government areas had witnessed renewed attacks by suspected Boko Haram fighters leading to the loss of several lives.

Chukuba said, "On the issue of influx of Boko Haram in Shiroro, four wards have been affected."

He said the residents were made to believe that the invaders were Boko Haram insurgents because of their mode of preaching.

"They told villagers that they have money to help them and that they also have guns to give them to fight the government. And that is the same doctrine we know Boko Haram elements promote," he said. He said information coming from the affected areas indicated that the Boko Haram elements were coercing communities to marry off their daughters at the age of 12 years.

The Director-General, Niger State Emergency Management Agency (NSEMA), Ahmed Ibrahim Inga, while confirming the recent surge in attacks, said the incidents had increased the number of people in Internally Displaced Persons (IDP) camps.

He said major camps in Gwada and Kuta towns in Shiroro LGA had witnessed a mass influx of victims.

Witnesses and victims told our correspondent that the modes of recent attacks were different from those by bandits, saying that the attackers were members of the Boko Haram sect.

They also lamented that the invaders had directed them not to recognise any constituted authority.

A resident of the area and co-convener of Concerned Shiroro Youths, Bello Ibrahim, told our correspondent that the terrorists had invaded many communities.

"At a time, they were in Kawure, the village of former senator representing Niger East, David Umaru. But there was an operation by the joint military task force which dislodged them.

"They were sacked during the operation but after a while, since there is no military base in the area, they reconvened. For now, they are not only in Kawure. They have also extended their tentacles to other communities like Kuregbe, Awulo and others."

He said the terrorists were carrying out nefarious activities.

"In Awulo and Kuregbe communities, they assembled the locals, both Muslims and Christians and gave them matching order that any girl that is 12 years old should be married off."

Another resident who spoke in confidence said the criminals were operating freely.

"They are mingling with the villagers. They have become the constituted authority in those villages. They coerce locals to obey them as their leaders.

"In the entire Chukuba and Kuregbe ward, it is Boko Haram elements that are operating there not bandits that we know," he said.

Abubakar Sani Yusuf Kokki, a resident of Shiroro, said the appearance of the attackers in some communities recently confirmed that they were members of the Boko Haram sect.

"During the recent attack on Magami village in Shiroro LGA, they first entered the mosque and started reciting the Quran... So, their approach is different from that of bandits."

Daily Trust also learnt of the presence of the terrorists in Audu Fari Forest in the Borgu LGA of the state.

A resident who spoke in confidence said the sect members had been in the forest for a very long time.

Also, an audio message addressed to the Emir of Audu Fari, further confirmed the presence of the terrorists.

The man in the audio said in Hausa, "We are in this forest because of the authority that you (emir) service which is the government of Nigeria, which is not worthy of service. We are calling people to the path of Allah. White men have imposed their culture on you. Anybody supporting government is seen by us as an infidel and an unbeliever even if you call yourself a Muslim," the man said.

He said any citizen found aligning with security agencies would not be spared including vigilantes. When contacted, Niger State Police Command declined comments.

A security source said the attackers are loyal to the late leader of Boko Haram, Abubakar Shekau, who killed himself at his enclave in Sambisa forest in May 2021.

The source said since then, many of Shekau's foot soldiers had moved down to parts of North Central and North West and operating in smaller groups while others had infiltrated sundry bandits and continued with their nefarious activities of raiding communities, killing people and abducting others for ransom.

Many security experts and some political leaders had called for the designation of bandits terrorising the North West and North Central as terrorists.

The latest call was by the National Assembly which called on President Muhammadu Buhari to call them terrorists and use all instruments of coercion to decimate them.

Military mum When contacted by one of our correspondents last night, the acting director, Defence Media Operations, Brig.-Gen. Bernard Onyeuko did not answer several calls put across to his mobile phone.

He was yet to respond to the text message sent to him seeking whether the military was aware of recent developments in Niger.

But a source close to the military said, "For now, we don't have the manpower and equipment to confront these theatres and we are not proactive enough. Also, the intelligence units haven't done thorough profiling of these criminals and have a common database accessible to the core enforcement agencies to act upon. Until this is done, I doubt we can solve the problems.

"All our borders are still porous for small arms and light weapons to flow into the country. It is a big business selling weapons now and thousands are making a fortune from it," he said.

Another source said, "The truth is that since 2014, we did write to DIA, that the then Shekau's terrorist group had splinters running away from Sambisa into Kano, Kaduna, Birnin Gwari, Niger and Nasarawa States and the need to fish them out. But typical of our attitudes to serious national issues, no action was taken. Now, the same scenario is playing out..."

Intelligence gathering, usage only solution - Experts, CSO

A Minna based civil society organisation, the Blue Resolution Initiative, attributed the influx of Boko Haram insurgents in the state to the lack of utilisation of intelligence from affected communities by the security agencies.

The president of the Initiative, Mohammed Danjuma Abubakar, said, "Our security agencies don't utilise the reports by the locals. And also, there is no proper synergy between the local government and the state and security agencies.

"And these criminals are taking advantage of those lapses and penetrating. Therefore, all these media reports and reports from communities should be well utilised by security agencies. It would help deal with the situation," he said.

A retired Deputy Commissioner of Police, Abubakar A. Yahaya, said, "Security agencies are doing their best but there is room for serious improvement. Intelligence reports from villagers shouldn't be ignored."

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## **Mali**

**Mali's plan for Russia mercenaries to replace French troops unsettles Sahel (BBC News)** By Moses

Rono

October 2, 2021

**There is deep international concern over Mali's discussions with the controversial Russian private military company, the Wagner group, but many Malians feel the Russians cannot replace French troops soon enough.**

The group was first identified in 2014 when it was backing pro-Russian separatists in the conflict in eastern Ukraine. Since

then, it has been involved in countries including Syria, Mozambique, Sudan, Libya and the Central African Republic.

Back in 2013, there was a jubilant welcome for the French soldiers when they arrived in Mali after Islamist militants had hijacked a rebellion and threatened to seize control of the whole country.

But President Emmanuel Macron recently said the 5,000-strong French contingent would be reduced by half, prompting Mali's Prime Minister Choguel Maiga to accuse France of abandoning his country.

This in turn sparked a furious response from France, with Armed Forces Minister Florence Parly accusing Mali's government of "wiping your feet on the blood of French soldiers".

President Macron said he was "shocked" at the accusation, condemning Mali's military government, which he said had no "democratic legitimacy" following two coups in less than a year.

But public opinion in Mali has undoubtedly turned against the presence of troops from the former colonial power.

Eight years after the French arrived, the security crisis has spread to Burkina Faso and Niger, with numerous different groups, some linked to al-Qaeda or the Islamic State group, roaming the region from their bases in the Sahara Desert.

About 55 French soldiers and several hundreds of Malians have been killed.

Enraged by the deepening insecurity, Malians hold regular protests against the French military and accuse them of failing to make any difference in the fight against the jihadists. They call the presence of French soldiers an occupation, and demand their speedy exit.

Many are happy for the Russians to replace them.

'Russia is more neutral'

Oumar Cissé, a prominent peace campaigner in the restive Mopti region, said Russia was a historical partner of the Malian army.

"Russia has no interest in Malian politics unlike France, which manages the conflict according to its economic and political interests," he told the BBC.

Some activists say the presence of the French forces itself was a catalyst of the jihadist violence. France has long opposed negotiations with jihadists, an option favoured by some Malians.

There have been no public protests against Russia but public opinion towards the proposed intervention from Wagner is divided.

The Coordination of the Movements of the Azawad (CMA), a coalition of former Arab and Tuareg rebels in northern Mali, said working with the Russians would be a threat to their 2015 peace deal.

The international consternation over a deal with Wagner is linked to the shadowy reputation of the mercenary organisation. The Russian government's denial of links to the group is also treated with suspicion.

However, Russian Foreign Minister Sergei Lavrov has confirmed that Mali had "turned to a private military company from Russia" to help fight jihadist groups.

In Africa, Wagner operatives are reported to have dubious involvement in the Central African Republic (CAR), where some of the Russian military instructors backing the beleaguered government are believed to be mercenaries. They are also linked to war crimes in Libya's civil war.

Russia entered the fray in CAR in 2017 as part of efforts to expand its influence across the continent. It gave the African country weapons, ammunition and 175 military instructors.

The British foreign office described the Wagner group as "a driver of conflict" and said it "capitalises on instability for its own interests, as we have seen in other countries affected by conflict such as Libya and the Central African Republic".

If the deal with Mali does go ahead, it would signal a major expansion of Russia's military interests in Africa and a strategic setback for the West. The deployment of Russian military contractors would signal a profound break with France and the West.

French Minister Ms Parly warned that "we will not be able to cohabit with mercenaries". She later accused the Malian prime minister of "hypocrisy, bad faith and indecency" after he said his administration was not consulted on the drawdown of the French mission, Operation Barkhane.

Germany and Estonia, whose forces serve under a Mali-based European force called Takuba, have also threatened to pull out their soldiers.

The West African regional bloc Ecowas strongly denounced the plan to hire private security companies.

Cherif Mahamat Zene, the foreign minister of Chad, which has played a vital role in fighting Islamist groups across West Africa, said the rebels who killed former President Idriss Deby in April were trained by the Wagner group and warned against their intervention.

Russian helicopters arrive

In the face of rising public anger against France, the choice of Russia has been easy. Mali and Russia have maintained close ties in recent years, especially since 1994 when they signed a defence cooperation agreement which was revised in 2019.

Defence Minister Sadio Camara and some leading members of Mali's junta were trained in Russia.

On Thursday, he welcomed the arrival of four military helicopters from Russia, which he described as "a friendly country with which Mali has always maintained a very fruitful partnership". He said this was part of a deal agreed in December 2020 - long before the French drawdown was announced.

The Russian involvement could also be a convenient excuse for Mali's interim government to extend its term in office, following the military takeover in May.

Debate has been raging over whether the country's ruler, Col Assimi Goïta, will honour a pledge to hold a referendum on a new constitution on 31 October and general elections on 21 February 2022.

Prime Minister Maiga has said elections could be postponed.

A military partnership between Mali and its neighbours to tackle jihadist groups in the region, the G5-Sahel states, could also come under strain.

Niger's Foreign Minister, Hassoumi Massaoudou, said the alliance would "certainly" collapse if Mali hired the Wagner group.

Whether or not the Russians are sent to Mali, jihadist groups, which recently celebrated the exit of the US from Afghanistan and drew parallels with the French drawdown in West Africa, could seek to exploit the instability and scale up their attacks, prompting a fresh crisis in Mali, and its neighbours.

### **UN says 1 peacekeeper killed, 4 injured in Mali bomb attack (ABC News)**

October 3, 2021

**A U.N. convoy in Mali's northern Kidal region was attacked by improvised explosive devices, killing one peacekeeper from Egypt and seriously injuring four others, the United Nations said Saturday.**

The attack on the convoy from the U.N. peacekeeping mission in Mali took place near Tessalit, U.N. spokesman Stephane Dujarric said.

U.N. Secretary-General Antonio Guterres called on Malian authorities "to spare no effort in identifying the perpetrators of these attacks so that they can be brought to justice swiftly," reiterating that attacks against peacekeepers may constitute war crimes under international law, Dujarric said.

Guterres reaffirmed the U.N.'s support for the government and people of Mali and expressed deep condolences to the family of the Egyptian soldier who was killed and to the government and people of Egypt, and wishes for a speedy recovery to the injured.

Mali has been trying to contain an Islamic extremist insurgency since 2012. Extremist rebels were forced from power in Mali's northern cities with the help of a 2013 French-led military operation. However, the insurgents quickly regrouped in the desert and began launching frequent attacks on the Malian army and its allies fighting the insurgency.

The extremists have expanded their reach well into central Mali, where their presence has inflamed tensions between ethnic

groups in the area.

The U.N. peacekeeping mission has been in Mali since 2013, after Islamic extremists took control of major towns in the north. It is the deadliest for peacekeepers.

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## Liberia

**US court finds former Liberian military commander Thomas liable for war crimes (RFI)** By Darlington

Porpka

September 22, 2021

**A Pennsylvania court in the United States found Colonel Moses Thomas, commander of the defunct Armed Forces of Liberia's elite Special Anti-Terrorist Unit, responsible for the 1990 massacre of over 600 civilians sheltering in the St. Peter's Lutheran Church in Monrovia, Liberia.**

The court found that Thomas, as commander of the Armed Forces of Liberia's elite Special Anti-Terrorist Unit, ordered and directed one of the deadliest civilian massacres in Liberia's First Civil War, and is liable for war crimes, crimes against humanity, extrajudicial killing, attempted extrajudicial killing, and torture.

Four survivors of the massacre sued Thomas in 2018 in the U.S. District Court for the Eastern District of Pennsylvania, where he had been living since 2000.

In March 2021, lawyers for the plaintiffs, who are anonymous, filed nearly 2,000 pages of evidence with the court, arguing that Thomas commanded AFL soldiers who carried out the Lutheran Church Massacre.

The Center for Justice and Accountability (CJA), Debevoise and Plimpton LLP, and Blank Rome LLP are representing the survivors.

"This judgment is a key step towards achieving justice not only for our clients, but also for other survivors and victims of Liberia's civil wars," said Nushin Sarkarati, senior staff attorney at CJA.

Verdict not enough

Peterson K. Sony, 47, who was 16 on that fatal day, is the head of the Lutheran Church Massacre survivors. He insists the guilty verdict is not enough.

In an interview with RFI on the outskirts of Monrovia in Paynesville, he says survivors are gearing up to pressure the government to turn over Thomas to the United States authorities.

Thomas left the United States and returned to Liberia at some point in late 2019 or early 2020 when the case was filed against him.

"This is not enough, we need to go beyond and prosecute other warlords and their financiers and bring closure to wartime atrocities," he said.

Looming pressure

As President George Weah's administration reneged to prosecute perpetrators, the massacre survivors are now working with campaigners to ensure Thomas is expatriated to the US.

"The conviction of Thomas is highly welcome and it is an eye-opener to victims of the decade long civil crisis who are still seeking justice," says Adama K. Dempster, Secretary General CSO Human Rights Advocacy Platform of Liberia and Founding Director, Independent human Rights Investigators.

"Victims can now take up the same approach (to file a civil suit) to get justice," he adds.

Convict insists he's innocent

Thomas says the guilty verdict by the US Court came as a surprise to him.

"I went to the Church's guest house (ed: a five-minute trek from the church) and not the Church itself after the massacre and deployed some of my soldiers to mend the guest house," he said via telephone in Liberia.

He would not confirm nor deny reports that his men carried out the massacre. Thomas also failed to state clearly why he fled the US after the case was filed.

Despite his denial, human rights activist Dempster says Thomas' name is well known to many victims who narrowly survived the massacre.

"His name is on the lips of many victims, so we will advocate ensuring Thomas pay the price for his deeds," he asserted.

For now, Liberia is yet to establish a specialized war crimes court to prosecute those responsible for war-time violations, despite a recommendation from the country's Truth and Reconciliation Commission and the United Nations, as well as pressure from Liberian civil society and a few lawmakers.

**Dutch war criminal may be extradited to the Netherlands to serve 19-year sentence (IOL)** By  
Chevon Booysen  
September 23, 2021

**Dutch citizen and convicted war criminal, currently living in Cape Town, Augustinus Kouwenhoven could be extradited to the Netherlands, to serve a 19-year prison sentence for his complicity in war crimes in Liberia.**

Kouwenhoven, who had instituted court action against the Minister of Police and the Director of Public Prosecutions (DPP), was unsuccessful in his endeavours to resist the attempts of the Dutch government to secure his extradition from this country, to serve his sentence in the Netherlands.

The Supreme Court of Appeal (SCA) yesterday dismissed his appeals, after it was also turned down in the Western Cape High Court.

A businessman, Kouwenhoven, who formerly had significant business interests in Liberia, was convicted in 2017, by the Court of Appeal of 's-Hertogenbosch, of repeatedly committing the offence of complicity in war crimes and repeatedly violating the Dutch Sanctions Act, arising out of his involvement in the civil war in Liberia, that raged between 1997 and 2003, and led to the downfall of then president of Liberia Charles Taylor. Kouwenhoven smuggled weapons for Taylor's regime, during Sierra Leone's bloody civil war.

He was sentenced to serve a term of imprisonment of 19 years, and his conviction and sentence have since been upheld by the Supreme Court of the Netherlands.

He contended that he was not subject to extradition because the crimes of which he had been convicted in the Netherlands had been committed in Liberia, and not within the territorial area of jurisdiction of the Netherlands itself.

"The aim of the review was to obtain declaratory orders that the decision to arrest him (Kouwenhoven) and the arrest itself had been unlawful, and that the conduct of the extradition enquiry was unlawful and invalid," review appeal documents read.

Kouwenhoven had challenged his arrest on four grounds, which include that his attorney had concluded an agreement from a police officer stationed at the Interpol desk, in Pretoria, that he would not be arrested pursuant to an application by the Netherlands for his provisional arrest, under the extradition treaty between that country and South Africa.

He further submitted that a similar agreement had been concluded by a senior legal adviser in the Department of Justice and Constitutional Development.

But the SCA rejected each of these arguments.

In his judgment yesterday, Justice Malcolm Wallis said: "None of the arguments advanced in support of the contention that the arrest of Kouwenhoven was invalid had any merit. It is, accordingly, unnecessary to address the contention.

"It is also unnecessary to consider the cases where courts have discussed, in the context of civil proceedings, whether the fact that a person has been brought before a magistrate and, thereafter, remanded in custody interrupts the chain of causation between a prior unlawful arrest and the further detention of the arrested individual," said Wallis.

The SCA further held that an extradition enquiry is a criminal proceeding for the purposes of Section 310(1) of the Criminal Procedure Act and serves the purpose of enabling errors of law by the magistrate – leading to the discharge of the person whose extradition is requested – to be corrected.

Approached for comment, Kouwenhoven's lawyer Gary Eisenberg said it was premature to comment, as the judgment had been handed down yesterday morning.

"It would not be appropriate, nor is it possible, to make any comments or to respond to your enquiries, before my team and I have properly digested the judgments and their implications. These judgments were handed down only yesterday morning," said Eisenberg.

The Embassy of the Kingdom of the Netherlands' first secretary for political affairs Emma Boeke said: "We have shared the judgments with our Ministry of Justice and Security in The Hague today, and they will need time to go through the judgments to formulate a reaction, which were not done by last night."

Police ministry spokesperson Lirandzu Themba said they would not be able to comment by deadline, as they were awaiting instructions from their legal team.

Enquiries to the DPP were not answered by the time of publication.

### **Prosecutors debunk witness' claim Bility asked him to testify against Kosiah (Global News Network)**

October 1, 2021

#### **Gibril Massaquoi is charged with war crimes and crimes against humanity, including the murders of civilians and enemy fighters and aggravated rapes**

A third defence witness took the stand on Tuesday in the ongoing war crimes trial of Gibril Massaquoi to claim that Hassan Bility, the human rights advocate whose work gathering evidence has been instrumental in the trials of a dozen accused war criminals in international courts, had asked him to tell lies that would implicate Alieu Kosiah who was convicted of war crimes in Switzerland in June.

The witness, codenamed L3 to protect him from retaliation, undermined his own testimony by insisting Bility made the request in May this year, a month after trial of Kosiah had ended.

Kosiah, a former commander of the Ulimo rebel group, was prosecuted and convicted of war crimes committed in Liberia by the Swiss Federal Criminal Court.

The trial ran over two periods because of Covid. It began in December 2020 and ended in early April, 2021.

But L3 insisted to the Finnish court, conducting hearings at a secret location in Monrovia, that Bility had made the request.

"We met at a funeral in Black Gina yard and we talked for five minutes, and he told me he had a job for me to do," said L3. "He told me to work for him and testify against three persons – Alieu Kosiah, Issa Kabbah and Yousuf Massaquoi – but when I told him I did not know the two men Kabbah and Massaquoi, he said he was going to tell me what to say and he gave me \$US20. Bility promised that if I testify against the people he asked me to, he was going to pay me \$20,000 and make my family and I leave Liberia."

Me Massaquoi is charged with war crimes and crimes against humanity, including committing and inciting the murders of civilians and enemy fighters, aggravated rapes, aggravated war crimes, and aggravated violations of human rights in Liberia.

with the Special Court for Sierra Leone for which he was an informant.

Prosecutor Tom Laitinin presented a summary of an interview L3 did with Finnish police investigating the case where L3 said the alleged conversation with Bility about "a contract" took place in 2015 and not 2021.

L3 replied, "Sometimes during discussion you are not able to explain everything."

Mr. Laitinin pointed out that in the police interview L3 did not mention anything about Bility promising to pay him \$20,000.

L3 said Bility did not give him details about the testimonies he wanted him to provide against Kosiah and others.

Unhappy with the encounter, L3 said he told a fellow witness about it. On Friday that witness made his own claims in court about Bility offering him bribes. L3 said the fellow witness had connected him to Finnish investigators.

L3, who told the court he fought separately for ULIMO and Liberians United for Reconciliation and Democracy, known by the acronym LURD, also confirmed speaking to Alan White, a former chief investigator for the UN-backed Special Court for Sierra Leone. Two earlier witnesses have said they were also called by Dr. White.

The actions of the former investigator may come under scrutiny if Mr. Massaquoi, a Sierra Leonean former commander of the Revolutionary United Front rebel group, is found to have committed the crimes of which he is accused. Witnesses say the crimes took place in Liberia in June to August 2003 while Mr. Massaquoi was supposedly in a Sierra Leone safe house under witness protection overseen by Dr. White while he was informing on former combatants including Liberian President Charles Taylor.

"I talked with White constantly on the phone," L3 told the court. "I was connected to him by my friend. I spoke with Dr. White on April 10, 2021 in Ganta, Nimba County, when he called on my colleague's phone and he (colleague) put me on with him. I do not know what they talked but I guess it was about this same issue."

"When he called, I told him I was in a meeting and could not talk but he should discuss it with my colleague and he was going to relay it to me. My colleague told me Mr. White told him to carry me to talk with some people."

A second witness appeared behind closed doors with no press allowed. No reason was given but the Finnish court has previously allowed survivors of sexual assault to testify to a closed court.

The trial continues tomorrow with three Sierra Leonean witnesses set to appear.

Prosecution and defence teams will be seeking to probe the question of exactly where Mr Massaquoi was during the period of June to August 2003 when witnesses say he committed atrocities in Liberia.

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## EAST AFRICA

### Uganda

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

**Lawmakers allied to Uganda opposition leader charged with murder (Reuters)** By Elias Biryabarema  
September 29, 2021

#### **Two opposition lawmakers in Uganda were charged with murder and remanded on Wednesday for the second time in a month, an official with their party said.**

Lawmakers Muhammad Ssegirinya and Allan Ssewanyana were each charged with one count of murder in a court in Masaka, about 130 km (80 miles) south of the capital Kampala.

Both are members of the opposition National Unity Platform (NUP) led by Bobi Wine, a pop star-turned-politician and the leading opponent of long-ruling President Yoweri Museveni, 77.

Joel Ssenyonyi, a lawmaker and NUP spokesperson of NUP, told Reuters the charges were politically motivated.

"This is a calculated strategy to attack us, to weaken us by witch-hunting and persecuting us as much as possible," he said.

Both MPs were remanded to prison and were ordered to re-appear in court on Oct. 13, he said.

"Museveni's strategy is arrest and keep our leaders in jail," he said.

A police spokesperson did not respond to a request for comment.

On Tuesday police said they were holding the two MPs on treason charges. Police did not say on Wednesday whether the



treason charges would still be pursued.

The allegations against the MPs stem from a rash of killings in central Uganda, an opposition stronghold, that left at least 26 people dead.

Most people in the area voted for the opposition lawmakers in Uganda's last election in January.

Security officers arrested both lawmakers earlier this month and charged them each with three counts of murder. They pleaded not guilty and were subsequently remanded.

After spending more than a fortnight in jail, they were granted bail. But both lawmakers were subsequently re-arrested.

Museveni has ruled the East African country since 1986 and the opposition has accused him of grooming his son, commander of land forces in the military, to succeed him. He has denied the accusation.

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## **Kenya**

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

**Kenya: Lawyer Paul Gicheru's Trial at ICC to Open on February 1 (All Africa)** By Laban Wanambisi  
October 1, 2021

### **The International Criminal Court in the Hague has set February 15, 2022, as the commencement date for the trial of Kenyan lawyer Paul Gicheru.**

The date was set by the Chamber after it held a Status Conference on September 24 and reviewed the respective submissions by the Prosecution and the Defence, as well as the necessary time for the disclosure of evidence and other materials.

Gicheru is facing charges of offences against the administration of justice, including witness tampering.

"The Chamber deems it is indeed necessary for the Prosecution to file a detailed Trial Brief and that this should be done, as suggested and as is common practice, three months before the commencement of the trial. In light of the Chamber's decision to advance the start of the trial by two weeks, the deadline for filing the Prosecution Trial Brief is 15 November 2021," read a statement from the Hague-based court published on Thursday.

Trial Chamber III which is headed by Judge Miatta Maria Samba ordered the Prosecution to file a list of all items it plans to submit as evidence during the trial.

"The Prosecution is further instructed to file a list of Prosecution witnesses no later than 15 November 2021. The list of witnesses should include the following information: the witness pseudonym and identity (including different spellings if applicable); known kinship or other relationship to other witnesses or other relevant persons in this case; summary of anticipated testimony; projected order of calling; estimated length of questioning by the Prosecution; anticipated in-court protective measures to be sought, if any; and anticipated requests under Rule 74 of the Rules," the Trial Chamber III ordered.

The Defence was ordered to file its Trial Brief by December 17, 2021.

The court in July found substantial grounds to believe that Gicheru committed, as a co-perpetrator, or under alternative modes of liability, offences against the administration of justice between April 2013 and the closure of the cases against Deputy President William Ruto and radio journalist Joshua Sang.

The Hague-based court's prosecution said the offences were allegedly committed in the furtherance of a common plan implemented by a group of persons including Gicheru, with the ultimate goal of undermining the Ruto and Sang case.

Gicheru surrendered himself to the authorities in The Netherlands on November 2, 2020 and was surrendered to ICC custody on November 3, 2020.

Arrest warrants had been issued against him and another Kenyan - Philip Kipkoech Bett - in 2015

**Can Kenya's Catholic Bishops end the cold war between Kenyatta and Ruto? (The Africa Report)** By Jeff Otieno  
September 29, 2021

**After years of a political cold war between Kenya's President Uhuru Kenyatta and his deputy William Ruto, the clergy is now offering to reconcile the two to prevent further violence between supporters. Is it too little too late?**

In 2014, Kenyatta appointed Ruto as acting president after the International Criminal Court (ICC) ordered him to attend a status conference on his crimes-against-humanity case in The Hague.

The two had won the fiercely-contested presidential election a year earlier, despite facing trial at the ICC for their alleged role in the post-election violence that engulfed the country in 2007, leaving 1,300 people dead and 600,000 homeless.

Kenyatta had asked the court to allow him to attend the conference virtually or be represented by his lawyers, but the court rejected the request maintaining that he must appear in person – a decision that irked him and his supporters.

“Let it not be said that I am attending the status conference as the president of Kenya. So, to all those who are concerned that my personal attendance of the status conference compromises the sovereignty of our people or sets a precedence for the attendance of presidents before the court be assured this is not the case,” the president told parliament before signing an executive order appointing Ruto as acting president for 48-hours, while he was away in the Netherlands.

In a show of trust in his deputy, the president handed over the instruments of power, including the presidential limousine, to his deputy before leaving the country.

Upon his return, the president showered his deputy with praise, saying the respect of Kenya had remained intact while he was away. “I had no fear because I know we work closely with my brother (Ruto). Why fear your colleague? We have to learn to trust one another,” the president told a crowd that turned out to welcome him back home.

Fast forward to 2021, the bonhomie that existed between the two is long gone. They no longer appear in public wearing similar-colour bespoke suits, exchanging niceties or giving each other high-fives.

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## **Rwanda (International Criminal Tribunal for Rwanda)**

**Official Website of the ICTR**

**Alleged Rwanda's genocide financier to appear in court on Oct 6 (Journal du Cameroun)** October 10, 2021

**Félicien Kabuga, one of Rwanda's richest men at the time of the 1994 genocide, is set to appear in court again on Wednesday, October 6, a judicial source confirmed Sunday. The 84-year-old was also one of the alleged operators of Radio Télévision Libre des Mille Collines, a radio station used to fan hatred and incite killings of the minority Tutsis and moderate Hutus.**

Previously, on June 1, a defence motion seeking his provisional release was denied as the Trial Chamber of the International Residual Mechanism for Criminal Tribunals held a Status Conference in the Prosecutor v. Félicien Kabuga case, in the Courtroom of The Hague Branch of the UN court.

The parties, through informal communication, earlier agreed to an in-person status conference at the Hague Branch of the Mechanism.

According to the UN Court, in view of his current condition and care regime, Kabuga may choose to appear via video-conference link or waive his right to be present, should he elect to do so.

The in-person status conference will be held on October 6 at 2.30 p.m. in the Courtroom of the Hague Branch of the Mechanism.

In a motion filed on May 6, Kabuga requested a stay of proceedings on the basis of his health and, in the alternative, his provisional release on humanitarian grounds to an appropriate facility in The Hague to be identified by the Registrar in cooperation with the Defence.

His lawyers claimed that, among others, based on medical reports, there is sufficient medical information to conclude that Kabuga is not fit to stand trial.

The Prosecution, in response, also filed a motion, later, requesting that the defence's motion be denied on the basis that: the request for a stay of proceedings, whether temporary or permanent, is premature; and that the requirements for provisional release are not met.

Conditions required for provisional release are that: there must be compelling humanitarian grounds; the suspect does not pose any danger to Prosecution investigations or witnesses; and in light of the suspect's condition, there is no flight risk.

At the time, the Court also found that the Defence did not demonstrate that a request for a stay of proceedings was justified.

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## **Somalia**

**Al-Shabaab executes two men by firing squad in southern Somalia (Garowe Online) October 6, 2021**

**Somalia-based Al-Shabaab militants on Tuesday executed two people in Lower Jubba, in the latest killings targeted people believed to be against their divisive agenda aimed at taking over the Horn of Africa nation.**

The execution took place at Jamame District in Lower Jubba, where the militants have almost absolute control. The two men, reports indicate, were accused by the militants of being sorcerers, and or, serving in government, a claim that could not be established. The two, Mohamed Mowlid Aden and Abdullahi Hassan Omar, were accused of being government soldiers and sorcerers respectively by the Al-Qaida linked group. Witnesses say they were executed in front of at least 100 locals from the region. According to reports, both men have lived in Jamame, a farming community some 70 km [43 miles] north of Kismayo, the interim administrative capital of Jubaland. Kismayo was one time an Al-Shabaab stronghold before being liberated by AMISOM troops in 2012. This is not an isolated incident given that Al-Shabaab has in the past executed several men in the past, either by beheading or firing squad, in districts across the south and central Somalia where it has absolute control. For almost 14 years, both the Somali National Army [SNA] and AMISOM troops have been fighting to dislodge the militant insurgency group from parts of Somalia's fertile areas. The group uses strategic regions to extort taxes from locals. Usually, Al-Shabaab does not give victims access to their legal counsels and instead, it tries and executes them without being heard. It's this strategy that has led to the death of dozens of people who are condemned unheard.

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## **EUROPE**

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

**Bosnian Serb Ex-Police Testify About Prisoner Disappearances (Balkan Transitional Justice)** By  
Milica Stojanovic  
June 3, 2021

**Former employees from the Ripac police station near Bihac testified at the trial of Bosnian Serb Army ex-soldier Dragan Dopudja at Belgrade Higher Court on Wednesday that around 150 Bosnian civilians were detained at an old tractor repair shop in the village of Ripac in June 1992.**

Half of them were freed under prisoner exchanges and the rest were taken away and never came back, former police administrative worker Milan Matijevic told the court.

“The military police came and took them away, in groups... As a person, I was interested in where they were going, and they said that ‘they are going on an exchange’ or ‘they are going on a work detail’,” Matijevic testified.

“Did they come back?” asked prosecutor Gordana Jekic Bradajic. Matijevic replied: “No.”

The indictment alleges that Dopudja was a member of Bosnian Serb Army’s 15th Bihac Brigade, and that between June 24 and the first half of July 1992, he and other members of his unit entered the detention facility, picked out ten prisoners, tied them up and transported them by truck to Hrgar, where they were killed.

Dopudja is accused of personally killing four of them.

Bosnian Serb soldiers threw the dead bodies into the Bezdana pit in Hrgar, where they were discovered in 1997, together with 73 other people.

Matijevic’s story was corroborated at Wednesday’s hearing by two of his former police colleagues from Ripac, who also said that a couple of times a week, prisoners were taken away and did not come back.

Two witnesses said they didn’t know the defendant and could not say if he was among the people who took the prisoners away.

Another said he knew Dopudja but that he did not see him when the prisoners were taken.

Dopudja denies the charges.

He has confirmed that prisoners were being held at the former tractor repair shop, but claimed that he never entered the detention facility.

The Bosnian prosecution initially charged Dopudja in 2014, together with former Bosnian Serb military policeman Zeljko Stanarevic. In 2017, Stanarevic was sentenced to 13 years in prison in Bosnia and Herzegovina.

The case against Dopudja was transferred to Serbia, where he lives.

Another former Bosnian Serb Army soldier, Sasa Curguz, was also convicted in Bosnia and Herzegovina of involvement in the crime in Hrgar and sentenced to 14 years in prison in 2017.

The trial continues.

**Bosnian Soldiers Jailed for War Crimes Against Serbs (International The News)** June 12, 2021

**SARAJEVO: Two former members of Bosnian forces were sentenced to prison on Friday for war crimes, including murder and rape, committed against Serb civilians who remained in Sarajevo during the 1990s siege.**

Crimes against Serbs in the Bosnian capital during the bloody siege from 1992 to 1995 have rarely resulted in convictions. With more than 11,000 dead, including 1,600 children killed by bombs or snipers, the Sarajevo siege remains a symbol of crimes committed by Bosnian Serb forces during the inter-communal war that followed the collapse of former Yugoslavia.

But some of the Serbs who lived in multi-ethnic Sarajevo before the conflict were also victims of rogue defenders of the city. Senad Džananović, who ran several detention facilities set up in the Alipasino Polje neighborhood, was given 11 years in

prison, while Edin Gadzo, one of his subordinates, received five years, the Bosnian State Court said in a statement.

The two men were part an initially paramilitary special unit, founded by Jusuf "Juka" Prazina, one of the warlords in the Sarajevo siege, and killed in Belgium in December 1993. They were found guilty of "participating in the illegal incarceration of Serb civilians (...) in detention facilities set up in the basements of buildings (...) where they were killed, raped, tortured and forced to work."

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

**Official Website of the ICTY**

**The Relay Race of Defining Crimes Against Humanity – From the International Tribunals to the Draft Articles (Just Security)** By Ana Cristina Rodriguez Pineda

September 27, 2021

**With the work of the International Law Commission (ILC) on the Draft Articles on Prevention and Punishment of Crimes Against Humanity in full swing and with the ball back in the United Nations General Assembly's (UNGA) court (set in its agenda for this 76th session), it is an opportune time to consider the development of crimes against humanity from the perspective of the International Criminal Tribunals, where it all started, and to examine whether the process is moving forward or marching in place.**

Except for a few adjustments, the Draft Articles base the definition of crimes against humanity on the definition contained in the Statute of the International Criminal Court (ICC). This is not surprising considering that the majority of U.N. member States are State Parties to the ICC Statute. In turn, the ICC Statute's drafters did not formulate these crimes out of thin air; rather, the ICC definition marks the culmination of the work that preceded it.

The Beginning of the Crimes Against Humanity Criminalization Race

The notion of laws of humanity preceded the two World Wars, but the origins of the modern legal formulation, the starting pistol for the race to codify the crime, was in the drafting of the Charter of the International Military Tribunal (IMT). Established in Nuremberg following World War II, the IMT represented a quantum leap in individual criminal responsibility for international crimes. While its jurisdiction was limited and focused on the atrocities of World War II, it provided a unique opportunity to extract the concept of crimes against humanity out of international moral precepts and the cataclysm of the first half of the 20th century. The crimes listed in the IMT Charter as crimes against humanity are now included in the Draft Articles, namely murder, extermination, enslavement, deportation, persecution, and "other inhumane acts committed against any civilian population." The Charter of the IMT for the Far East in 1946 followed suit. The ILC's formulation of the Principles of International Law (the Nuremberg Principles) further cemented this codification.

However, the drafters of the IMT Charter purposefully limited the jurisdiction of the Tribunal, so that it could only adjudicate crimes against humanity that were perpetrated in connection to the war. Interestingly, Control Council Law No. 10, enacted in 1945 to provide the legal basis in Germany for the prosecution of war criminals by the allies in their respective zones of occupation, did not require such a link between crimes against humanity and acts of war. By 1968, this jurisdictional limitation on crimes against humanity was clearly abandoned by the UNGA as well.

Passing the Baton to the International Criminal Tribunals

It took several decades, or a dozen summer Olympics, before international criminal adjudication resurfaced. In 1993, the Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) and, a year later, the International Criminal Tribunal for Rwanda (ICTR). Both were endowed with primacy over national courts in prosecuting

individuals involved in the commission of international crimes, including crimes against humanity, the former with regard to events that unfolded in the territory of the former Yugoslavia and the latter with regard to the genocide committed against the Tutsi in Rwanda. Other courts and tribunals followed suit, as did the ICC. The contextual element of crimes against humanity

There were subtle differences in the formulation of crimes against humanity in the original two tribunal statutes. The ICTY Statute still contained the war nexus, whereas the drafters of the ICTR Statute in the Security Council clearly dissociated crimes against humanity from any armed conflict. This issue was put to rest conclusively by the ICTY in 1995, in its groundbreaking Tadić case, wherein the Appeals Chamber stated that “[i]t is by now a settled rule of customary international law that crimes against humanity do not require a connection to international armed conflict.”

In addition, the ICTY and ICTR contributed to the conceptualization of crimes against humanity in clarifying the crime’s contextual element. As introduced in the ICTR Statute and stated by the U.N. Secretary-General in his report [para. 48] on the establishment of the ICTY, for crimes against humanity to exist, the specific crimes need to be committed as part of a “widespread or systematic” attack directed against a civilian population. It is their large-scale or systematic nature that elevates the specific crimes (horrific on their own merits) to crimes that shock the conscience of the international community and constitute an affront to the very notion of humaneness.

While Article 7 of the ICC Statute incorporated this contextual formulation, the negotiation process added a potential caveat: the attack has to be executed “pursuant to or in furtherance of a State or organizational policy to commit such attack.” Some States were concerned that the formula of “widespread or systematic” might classify crime waves by common criminals as crimes against humanity. This policy element was incorporated verbatim into the Draft Articles as well. The fear of States of being accused of committing crimes against humanity for actions beyond their control might have given a free pass to any rogue State that, for example, acquiesces or tolerates a widespread rape in a territory under its effective control. The policy requirement is also at odds with the definition of “enforced disappearance” as a specific crime of crimes against humanity (both in the ICC Statute and the Draft Articles), which includes abduction of persons with the acquiescence of a State.

It is possible that the right balance between these concerns has yet to be found. At least, in the case of the ICC, a footnote in its Elements of the Crimes clarifies that the “policy” requirement may be fulfilled, in exceptional circumstances, “by a deliberate failure to take action, which is consciously aimed at encouraging such attack.” The inclusion of this important issue in a footnote speaks volumes. One may hope that the Draft Articles will grapple directly with this matter or, at the very least, will clarify it in its future commentary.

Finally, the contextual element of crimes against humanity refers to a widespread or systematic attack directed against any “civilian population.” This phrase was introduced in the IMT Charter and persevered until today. However, the ICTY and ICTR have construed it liberally to include non-civilians, such as incapacitated soldiers. Considering the contextual element of crimes against humanity and its clear detachment from armed conflicts, we might need to rethink this phrase. Whereas the torture of one soldier constitutes a war crime, the systematic or widespread torture of soldiers could also be considered a crime against humanity, regardless of whether the civilian population was targeted. The specific crimes

Recognizing the categories of crimes that may be considered crimes against humanity, if committed in a widespread or systematic manner, was more linear. As already mentioned, the drafters of the IMT Charter did most of the heavy lifting and identified a non-exhaustive list of crimes, including murder, extermination, enslavement, deportation, and persecution. The ICTY and ICTR Statutes further recognized the uncontroversial crimes of imprisonment, torture, and rape (also to be found in Control Council Law No. 10 of 1945). The drafters of the ICC Statute, in addition to developing, clarifying, and expanding these established categories of specific crimes (by, for example, adding forcible transfer to deportation, or sexual slavery to rape), included the crimes of apartheid and enforced disappearance of persons. These two additional crimes are also not disputed as such, and both even have a dedicated convention. Following in the ICC footsteps, the Draft Articles reproduced the list of crimes that may constitute crimes against humanity if committed in a widespread or systematic manner, subject to some minor changes. While this is a pragmatic approach, its added value must be questioned. For example, the definition of the crime of enforced disappearance in the 2006 convention that is dedicated to such acts and was drafted almost a decade after the ICC Statute, is arguably broader than the one in the current Draft Articles, as the definition of enforced disappearance in the convention is not limited to the acts of “arrest, detention or abduction” and includes “any form of deprivation of liberty.” Hence, it might have been wiser to depart from the convenience of adopting a formulation that was negotiated in 1998 and revisit the specific crimes along with their definition in other conventions and in customary international law.

While the Draft Articles clarify that their definition of crimes against humanity is “without prejudice” to any broader definition (provided for in any international instrument, in customary international law, or in national law), it is regrettable that member States did not seize the opportunity to take the extra step and recognize advancements in the law that have been made in the last 20 years. The Finish Line

Since the drafting of the IMT Statute, the ILC and the Sixth Committee have been in a 70 year relay race, passing the crimes

against humanity baton from one to the other. At times the baton was dropped, as with the first versions of the Draft Code of Offences against the Peace and Security of Mankind; at other times, drafters successfully overcame the hurdles in the process, as with the ICC Statute. The race for the codification of crimes against humanity is not over, but a potential finish line is in sight. The only question is whether the race will end with a new world record, presenting a progressive codification of crimes against humanity, or whether all contestants will go home with a 20-year-old consolation prize.

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

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### **Turkey**

**Libya's warring sides, including Russian mercenaries, may be guilty of crimes – UN (Reuters)** By  
Stephanie Nebehay  
October 4, 2021

**Russian mercenaries in Libya killed detainees, among the possible war crimes committed by multiple sides in the conflict, U.N. human rights investigators said on Monday, adding that they had drawn up a confidential list of suspects.**

Libya has been in turmoil for a decade, with the last several years seeing war between forces backing rival governments based in the east and west, supported by regional powers, foreign fighters and mercenaries. Russia, Egypt and the United Arab Emirates backed the eastern forces, while Turkey backed the government in the west.

"The investigations indicated that several parties to the conflicts violated (international humanitarian law) and potentially committed war crimes," the U.N. fact-finding mission, led by Mohamed Auajjar, said in its first report.

The report specifically accused mercenaries from Wagner, a Russian security firm, of having shot prisoners in September 2019. "There are thus reasonable grounds to believe that Wagner personnel may have committed the war crime of murder," it said.

It also said Wagner personnel had left behind a computer tablet with a map showing 35 locations where land mines were planted near civilian buildings, in areas abandoned by retreating eastern forces. The mines, mostly made in Russia, had killed and maimed civilians returning to their homes since June 2020, it said.

Reuters was not immediately able to reach Wagner, and the secretive firm has not responded to questions about its activities in the past. When asked last year about allegations of Russian mercenary activity in Libya, President Vladimir Putin said that if any Russians were fighting there they did not represent the Russian state.

Major combat in Libya has been paused since last year after an advance on the capital by the eastern forces was pushed back in 2020, and both sides have accepted a ceasefire and unity interim government. An election is planned for December.

Libya's foreign minister said on Sunday that some foreign fighters had left the country as the unity government seeks to marshal international help to withdraw the rest.

The three-member panel's report to the Human Rights Council, delayed by budget constraints, was based on hundreds of documents, satellite imagery, interviews with more than 150 people and investigations in Libya, Tunisia and Italy.

Much of Libya has been dominated since the 2011 NATO-backed rising against Muammar Gaddafi by myriad armed groups battling for control of territory and economic assets - including the illegal traffic in migrants fleeing conflict and instability.

Torture and other abuses perpetrated on a "daily basis" in Libyan prisons by state authorities and militias against detained migrants may amount to crimes against humanity, the independent experts said.

"It is quite clear that the (European Union) pushback policies at sea have led to huge violations of human rights...of migrants, leading to detention in Libya upon return," said panel member Chaloka Beyani.

The U.N. investigators identified the suspected perpetrator of one of the worst abuses - killings carried out by an armed group in the town of Tarhouna with victims buried in mass graves - as Mohammed al-Kani, a commander they said was himself killed in July during a raid by the eastern-based Libyan National Army.

"The scale of the atrocities in Tarhouna demand far more focused attention including forensic investigations," panel expert Tracy Robinson told reporters.

Kani's armed group had been fighting alongside the LNA for years and had found refuge in LNA-held territory after being driven from Tarhouna. Neither the LNA nor police in Benghazi had previously confirmed the killing of Kani. Reuters was not able to contact his representatives.

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## **Kosovo Specialist Chambers**

### **Kosovo Court Urged to Convict Serb Ex-Policeman of Wartime Killings (Balkan Transitional Justice)** By Melisa Kadolli

October 1, 2021

#### **The prosecution called for Serb ex-policeman Goran Stanisic to be convicted of involvement in the killings of 13 ethnic Albanian civilians in an attack on the village of Sllovi/Slovinje during the Kosovo war in April 1999.**

In closing arguments at Pristina Basic Court on Thursday, the prosecution said it had been incontrovertibly proved that 13 ethnic Albanian civilians were killed in the village of Sllovi/Slovinje in the Lipjan/Lipljan municipality of central Kosovo during an attack by Serbian forces in April 1999, and called for Goran Stanisic to be found guilty of involvement.

Prosecutor Drita Hajdari said that on the first count of the indictment, two witnesses had testified that Stanisic was among a group of uniformed men who killed five members of the Gashi family in Sllovi/Slovinje on April 15, 1999.

Two other witness testified that he was involved in another murder in the village on the same day by opening fire on the victim, she continued.

She said that "not just one, but several witnesses" had further testified that Stanisic was one of the men who took another six ethnic Albanians from a column of people who were leaving the village because of the attack on April 15, 1999 and put them up against a wall.

"They all were murdered," Hajdari said.

Another witness testified that Stanisic was involved in a further murder the day afterwards, she added.

She argued that his alibi should be rejected because there were contradictions in the testimony of the defense witnesses, who are close relatives of the accused.

In the defence's closing arguments, Stanisic's lawyer Lubomir Pantovic questioned the credibility of the prosecution witnesses.

Pantovic argued that in the statements given by the witnesses after the end of the war, to the UN mission UNMIK and the EU rule-of-law mission EULEX, Stanisic's name was not mentioned.

"The evidence provided by the prosecution is not convincing as the prosecution claims, because there are inconsistencies and ambiguities in the testimonies of the witnesses," Pantovic said.

The defence lawyer told the court that he does not deny the fact that innocent civilians were killed on April 15 and 16, 1999 in villages in the Lipjan/Lipljan municipality.

But he said although the families of the victims are waiting for and deserve justice, Stanisic was not guilty and should be acquitted.



Stanisic also addressed the court and said that he felt sorry for the residents of the village but he was not guilty and did not assist the crime in any way.

The verdict will be handed down on October 5.

**Witness at Kosovo Guerrilla's Trial 'Tortured in Cowshed' (Balkan Transitional Justice)** By Erolinda Uka and Xhorxhina Bami  
October 4, 2021

**A protected witness told the war crimes trial of ex-guerrilla Salih Mustafa that he was detained by Kosovo Liberation Army fighters in a cowshed, beaten up, urinated upon and given electric shocks.**

A protected witness told the trial of Salih Mustafa at the Kosovo Specialist Chambers in The Hague on Monday that he was detained for 17 days in a cowshed in the village of Zllash/Zlas, some 30 kilometres east of Kosovo's capital Pristina, during the war in 1999.

The witness said he was beaten until he fainted, and then his captors "grabbed me by the arms, dragged me and threw me out, and sent me to the cowshed".

"I spent 17 nights in that barn ... there was torture every day, and I just waited for someone to take me upstairs and beat me, that is all I remember," the witness said.

He said he was given electric shocks and urinated upon by the fighters on two separate occasions.

"they tied the wires to my legs and released the electricity," he told the court.

He added that he "was not sexually abused, but they urinated on me. I asked for water and two soldiers came and beat me, laid me on the ground and urinated, telling me: 'Here is the water.'"

Mustafa is accused of involvement in murder, torture, cruel treatment and arbitrary detentions during the Kosovo war in April 1999 at a KLA-run detention compound in Zllash/Zlas, which was allegedly run by a unit that he commanded.

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

The protected witness also told the court on Monday that detainees in Zllash/Zlas were brought food "once every two to three days", which they shared with each other. He recalled how the detainees only had three blankets and some straw to sleep on.

They were not allowed to use the toilets at the detention facility and did not even have a bucket to use instead.

The Kosovo Specialist Chambers were established to prosecute KLA fighters for crimes committed during the guerrilla force's 1998-99 war of resistance against Yugoslav leader Slobodan Milosevic's repressive rule. Mustafa is the first ex-KLA fighter to be tried there.

The Specialist Chambers are part of Kosovo's justice system but are located in The Hague and staffed by internationals. They were set up under pressure from Kosovo's Western allies, who feared that Kosovo's justice system was not robust enough to try KLA cases and protect witnesses from interference.

But the so-called 'special court' is widely resented by Kosovo Albanians who see it as an insult to the KLA's war for liberation.

The trial continues.

**Kosovo Liberation Army had links to Turkish jihadist outfit IHH, still active in Kosovo today (Nordic Monitor)** By Abdullah Bozkurt  
October 4, 2021

**The Kosovo Liberation Army (KLA), a separatist group that fought during the 1998-1999 war against Serbia, had links to a Turkish jihadist charity group that helped both al-Qaeda and the Islamic State in Iraq and Syria (ISIS) in later years.**

According to photographs obtained by Nordic Monitor, the KLA, locally known as Ushtria Çlirimtare e Kosovës, or UÇK, acknowledged the help of the Foundation for Human Rights and Freedoms and Humanitarian Relief (İnsan Hak ve Hürriyetleri ve İnsani Yardım Vakfı, or IHH) in a citation awarded to the Turkish group for its help in the late '90s.

One photograph showed Osman Atalay, a member of the IHH board of trustees, accepting a citation from Xhevdet Qeriqi (known as Cevdet Çeriçi in Turkish), president of the Association for KLA War Veterans, who thanked the IHH official for the group's assistance during the war.

The citation was dated July 20, 2021 and was presented to Atalay by the association's president Qeriqi in August. The photos and certificate confirmed the long-known connection between Turkish jihadists and the KLA, an ethnic Albanian group that now faces charges of war crimes. Some senior KLA commanders were charged or investigated for alleged war crimes by the Kosovo Specialist Chambers and Specialist Prosecutor's Office, based in The Hague.

Many IHH officials were also indicted and/or investigated in Turkey for their links to terrorist groups including al-Qaeda. According to intelligence documents submitted to the UN Security Council on Feb. 10, 2016, Russian Ambassador Vitaly Churkin, the then-permanent representative to the UN, revealed Russian intelligence documents that even furnished the license plate numbers of trucks dispatched to Syria by the IHH loaded with arms and supplies bound for jihadist groups including the Nusra Front.

The network of this highly controversial charity was also accused of smuggling arms to al-Qaeda-affiliated jihadists in Syria in January 2014 in a criminal investigation conducted by a prosecutor in Turkey's eastern province of Van.

The investigation led to the IHH when wiretaps and surveillance revealed that the Kayseri and Kilis branches of the IHH were sending funds and medical and household supplies to jihadists in Syria with the help of Turkey's National Intelligence Organization (MIT), which is run by Turkish President Erdoğan's close confidant Hakan Fidan, an Islamist figure.

The prosecutor's conclusion was that the NGO took part in the scheme knowing full well what it was involved in. It was not a random or individual participation but rather a deliberate scheme with the knowledge of IHH management.

Fearing that the expansion of the probe could lead to senior figures in the IHH and expose the links to his government, then-prime minister and now President Recep Tayyip Erdoğan quickly moved to quash it. The government dismissed and later arrested all police chiefs and prosecutors who uncovered the IHH's clandestine dealings with jihadist groups.

According to the testimony of a Turkish woman named Merve DüNDAR, the wife of ISIS militant Mahmut Gazi DüNDAR, both of whom were listed as suspected ISIS suicide bombers and placed on a watchlist, the IHH channelled logistical supplies to people who live in ISIS-controlled cities and towns. "We were living in ISIS territory, and my husband wasn't working in Syria. We were distributing [IHH-provided] supplies to the needy," she told the court in a hearing on June 10, 2021.

Atalay, who leads the IHH network in Kosovo today, was red-flagged by Turkish investigators in 2013 when he was identified as collaborating with Iran's Islamic Revolutionary Guard Corps (IRGC) Quds Force. The terrorism investigation into Quds Force cells in Turkey showed that Atalay was in frequent contact with Iranian assets.

The IRGC Quds Force case in Turkey never went to trial because the Erdoğan government squelched it in February 2014 after learning about the probe, which clearly incriminated senior government officials.

Many Turkish jihadists went to Bosnia and Kosovo during the conflict in the 1990s, and some of them lost their lives, while others returned, only to seek a new jihadist cause in their homeland or other conflict areas in Afghanistan and Pakistan and later in Syria.

In September 2021 the Kosovo Specialist Chambers and Specialist Prosecutor's Office tribunal in The Hague launched hearings on war crimes allegedly committed by KLA commanders in the '90s conflict. Salih Mustafa, a former KLA commander who appeared as one of the suspects in the first hearing, denied the charges. The tribunal indicted eight suspects including former Kosovo President Hashim Thaci, who resigned in 2020 to face charges of war crimes and crimes against humanity.

More than 10,000 people died during the 1998-99 war in Kosovo, which was halted when NATO intervened. In 2008 Kosovo declared its independence from Serbia, which was recognized by many countries including Turkey. Serbia, Russia and China did not recognize the move.

The IHH is still active in Kosovo and enjoys the Erdoğan government's backing in its work abroad, especially that of intelligence agency MIT.

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**Azerbaijan**

## **US House demands Azerbaijani war crimes investigation; Azerbaijan's release of Armenian POWs (Armenian Weekly) September 23, 2021**

**The U.S. House staked out a powerful stand today against Azerbaijan and Turkey's 2020 attack on Artsakh (Nagorno Karabakh) and Armenia, overwhelmingly passing five Armenian National Committee of America (ANCA)-backed amendments demanding Baku's release of Armenian prisoners of war (POWs), calling for investigations into Azerbaijani war crimes, supporting US aid to Artsakh, and urging Turkey's Grey Wolves be designated a foreign terrorist organization.**

The measures were adopted by voice vote on Wednesday and Thursday, as part of larger groupings, or blocs, of amendments to the National Defense Authorization Act (NDAA – H.R.4350). The US House is expected to pass the underlying NDAA measure later tonight on a largely party-line vote.

“The US House of Representatives – over intense Turkish and Azerbaijani lobbying, but without any vocal legislative opposition – voted overwhelmingly today to hold Ankara and Baku accountable for their attacks on Artsakh last fall and ongoing aggression against Armenia,” said ANCA Executive Director Aram Hamparian. “We join with our coalition partners and countless community activists to thank the authors of these ANCA-backed amendments – and all those who supported their passage – and are already at work ensuring that these principled and powerful stands are enacted into US law and translated into American policy.”

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

“It is critical that we get a full accounting of the facts as we look to hold Azerbaijan accountable for its actions in Nagorno Karabakh last year,” said Rep. Cardenas. “I am glad to have worked closely with Reps. Schiff and Sherman to produce an amendment that does exactly that. This report is critical to getting a clear picture of the extent of Azerbaijan's actions and any potential violations of international law. Additionally, it will make clear that the United States Congress expects Azerbaijan to honor its obligation to carry out the unconditional return of any remaining Armenian prisoners of war safely to Armenia. I am thankful for the bipartisan group of cosponsors that has joined us in this effort, and will work hard to see that the report gets done.”

Rep. Schiff concurred, adding, “It is unconscionable that as we approach the one-year anniversary of the war in Nagorno-Karabakh, Azerbaijan continues to illegally detain Armenian service members and captured civilians – a reality made even more horrific by ongoing reports that these prisoners of war are subject to torture in violation of international human rights conventions.” Rep. Schiff went on to note, “With this amendment, we are making it absolutely clear to the Aliyev regime that they have the obligation to release these prisoners immediately and unconditionally, and that the Biden administration should take every possible diplomatic action, including through the OSCE Minsk Group, to hold them to account.”

Rep. Sherman explained, “This amendment is critical in our efforts to hold Azerbaijan accountable for its heinous acts of aggression last year against the people of Armenia and Artsakh. I was pleased to work with Congressmen Cardenas and Schiff and many others on this amendment that aims to uncover the full extent of Azerbaijan's actions, and sends a strong message calling on Azerbaijan to honor its obligation for the unconditional and safe return to Armenia of any remaining Armenian prisoners of war.”

The second amendment, led by Rep. Frank Pallone (D-NJ), requires a report from the Secretary of Defense, in collaboration with the Secretary of State, addressing allegations that some units of foreign countries that have participated in security cooperation programs under section 333 of title 10, U.S.C. may have also committed gross violations of internationally recognized human rights before or while receiving US security assistance. Since 2016, Azerbaijan has received over \$120 million in US military assistance under section 333 funding, and would be in the list of countries scrutinized for committing human rights violations during and after the 2020 Artsakh War.

Speaking on the House floor, Rep. Pallone explained, “Azerbaijan was still receiving equipment and training from the US military that began a deadly attack against Nagorno-Karabakh (Artsakh) on September 27 that led to the death of thousands and the displacement of so many more.” He went on to explain, “passage of this amendment sends a clear signal that the US

takes seriously its democratic norms and commitment to peace by ensuring oversight of our security assistance and I hope at least in future restraint from aiding and tolerating similar regimes in the future, especially when their actions are aimed at destabilizing a fellow democracy.” Rep. Pallone’s bi-partisan amendment was cosponsored by Representatives Gus Bilirakis (R-FL), Judy Chu (D-CA), Jim Costa (D-CA), Anna Eshoo (D-CA), Zoe Lofgren (D-CA), Grace Meng (D-NY), Linda Sanchez (D-CA), Adam Schiff (D-CA), Abigail Spanberger (D-VA), Jackie Speier (D-CA), Rashida Tlaib (D-MI), and David Valadao (R-CA). The third amendment, led by Representatives David Valadao (R-CA) and Brad Sherman (D-CA), requires the Secretary of State to submit a report to the Senate and House Foreign Affairs Committees of all US humanitarian and developmental assistance programs in Artsakh (Nagorno Karabakh), including an analysis of the effectiveness of such programs and any plans for future assistance. Rep. Sherman is considered the father of US aid programs to Artsakh, leading legislative effort as early as 1997. Rep. Valadao traveled to Artsakh in 2017 and reviewed US aid programs there, including US-funded demining efforts by The HALO Trust. The Valadao-Sherman amendment was cosponsored by Representatives Don Beyer (D-VA), Judy Chu (D-CA), Jim Costa (D-CA), Young Kim (R-CA), Raja Krishnamoorthi (D-IL), Andy Levin (D-MI), Zoe Lofgren (D-CA), Frank Pallone (D-NJ), Katie Porter (D-CA), David Schweikert (R-AZ), Abigail Spanberger (D-VA), David Trone (D-MD), and Susan Wild (D-PA). Rep. Dina Titus (D-NV) led a fourth amendment requiring a report by the Secretary of State on the activities Turkey’s Grey Wolves organization has undertaken against US interests, allies, and international partners, including a review of the criteria met for designation as a foreign terrorist organization. The amendment had the support of a coalition of organizations including the Hellenic American Leadership Council, In Defense of Christians, American Friends of Kurdistan, Middle East Forum, as well as the ANCA, which circulated a detailed legislative brief to Congress in the days leading up to the vote. The Titus amendment was cosponsored by Representatives Judy Chu (D-CA), Jim Costa (D-CA), Anna Eshoo (D-CA), Young Kim (R-CA) and Zoe Lofgren (D-CA). Rep. Jim McGovern (D-MA) led the fifth amendment supported by the ANCA, modifying the Global Magnitsky Human Rights Accountability Act to authorize sanctions for serious human rights abuse, any violation of internationally recognized human rights, or corruption. The amendment was cosponsored by Representatives Don Beyer (D-VA), David Cicilline (D-RI), Gerald Connolly (D-VA), Anna Eshoo (D-CA), Sheila Jackson Lee (D-TX), Ted Lieu (D-CA), Tom Malinowski (D-NJ), Jamie Raskin (D-MD), Dina Titus (D-NV), Norma Torres (D-CA) and Peter Welch (D-VT). The Senate is set to consider its version of the National Defense Authorization Act over the next month. The ANCA is working closely with Senate Armed Services Committee and Foreign Relations Committee members to explore amendment opportunities similar to those adopted by the US House and to zero-out US military aid to Azerbaijan.

**Azerbaijan files case at ICJ against Armenia for 'ethnic cleansing' (TRTWorld) September 24, 2021**

**Azerbaijan has launched its case accusing neighbour Armenia of racial discrimination and "ethnic cleansing" before the UN's top court, in a bitter tit for tat international court battle.**

Baku's claim comes just a week after Armenia lodged a similar case before the Hague-based International Court of Justice.

"Armenia has engaged and is continuing to engage in a series of discriminatory acts against Azerbaijanis on the basis of their 'national or ethnic' origin," Azerbaijan said in its filing before the court.

Echoing Armenia's case against Baku, Azerbaijan said Yerevan has breached a UN treaty, the International Convention of All Forms of Racial Discrimination (CERD).

"Through both direct and indirect means, Armenia continues its policy of ethnic cleansing," Azerbaijan said.

Armenia "incites hatred and ethnic violence against Azerbaijanis by engaging in hate speech and disseminating racist propaganda, including at the highest levels of its government," it said.

The ICJ was set up after World War II to rule on disputes between United Nations member states. Cases usually take years to reach a conclusion.

"Armenia once again targeted Azerbaijanis for brutal treatment motivated by ethnic hatred," Baku said, referring to the hostilities. Baku asked the ICJ to institute emergency measures to "protect Azerbaijanis" while the case was being heard. Both sides have long traded accusations of rights abuses, including in last year's war. In February, the foreign ministers of Armenia and Azerbaijan both addressed the United Nations Human Rights Council over their claims that the other side violated international law. Armenia accused Azerbaijani forces of targeting civilian infrastructure and destroying Armenian cultural and religious heritage. In December, Amnesty International urged Baku and Yerevan to urgently probe "war crimes" committed by both sides during the fighting.

Relations between the former Soviet republics of Armenia and Azerbaijan have been tense since 1991 when the Armenian military occupied Nagorno-Karabakh, also known as Upper Karabakh, a territory internationally recognised as part of Azerbaijan, and seven adjacent regions.

New clashes erupted last September and ended with a Russia-brokered ceasefire on November 10, 2020.

During a subsequent 44-day conflict which ended under a deal signed on November 10, Azerbaijan liberated several cities and nearly 300 illegal settlements and villages from nearly three-decade Armenian occupation.

The ceasefire is seen as a victory for Azerbaijan and a defeat for Armenia, whose armed forces withdrew in line with the agreement.

A joint Turkish-Russian centre was established to monitor the truce.

Russian peacekeeping troops have also been deployed in the region.

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## MIDDLE-EAST

### Iraq

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

**The Netherlands Commits New Funding to UNITAD in Support of Witness Protection in Iraq (ReliefWeb)**

October 5, 2021

**The Ministry of Foreign Affairs of the Netherlands renewed its support to the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) with additional funding for the support and protection of vulnerable witnesses of ISIL crimes in Iraq.**

This timely contribution is critical to continue strengthening UNITAD's survivor-centered approach to investigations, through which vulnerable witnesses are provided psychosocial guidance and support before, during and after their interviews, to reduce the risk of re-traumatization while giving their testimonies. The Netherlands is a longstanding supporter of UNITAD's Witness Protection and Support Unit (WPSU) which ensures that victims and witnesses of ISIL's crimes in Iraq can testify in a confidential setting in safe and emotionally reassuring environments with access to appropriate support.

Additionally, this contribution will allow UNITAD's clinical psychologists to continue organizing capacity building trainings for national service providers working in the field of mental health on appropriate protection and specialist intervention measures to support witnesses, victims, and survivors.

Moreover, UNITAD will continue to work closely with the Iraqi authorities to extend technical assistance in the field of witness protection and psychosocial support to witnesses and survivors.

"UNITAD has played and is playing a key role in ensuring both accountability and support for the survivors of ISIL in Iraq and the Netherlands is a proud supporter of its work", said Yoka Brandt, Permanent Representative of the Netherlands to the United Nations in New York.

This support continues to be fundamental for the Investigative Team's efforts to uphold international standards in collecting evidence of crimes committed by ISIL members in Iraq that amount to war crimes, crimes against humanity and genocide to support accountability measures in national courts.

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# Syria

**U.N. issues new Syria war death toll, says 350,000 is an 'undercount' (Reuters)** By Stephanie Nebehay  
September 24, 2021

**At least 350,209 people have been killed in the decade-old war in Syria, the United Nations human rights office said on Friday in its first report since 2014 on the death toll, adding that the tally was an "undercount".**

The figure includes civilians and combatants and is based on strict methodology requiring the full name of the deceased, as well as an established date and location of death.

"On this basis, we have compiled a list of 350,209 identified individuals killed in the conflict in Syria between March 2011 to March 2021," U.N. High Commissioner for Human Rights Michelle Bachelet told the Human Rights Council.

One in every 13 victims was a woman or a child, she said.

"It indicates a minimum verifiable number, and is certainly an under-count of the actual number of killings," she added.

Her office was working on a statistical model to provide a more complete picture, which could also help establish accountability for some killings, she said.

The largest number of documented killings, 51,731, was recorded in Aleppo governorate, long held by the opposition, which became a flashpoint in the conflict.

The war, which spiralled out of an uprising against President Bashar al-Assad's rule, sparked the world's biggest refugee crisis. Syria's neighbours host 5.6 million refugees, while European countries are hosting more than 1 million.

Assad has recovered most of Syria, but significant areas remain outside his control: Turkish forces are deployed in much of the north and northwest - the last major bastion of anti-Assad rebels - and U.S. forces are stationed in the Kurdish-controlled east and northeast.

Bachelet said the previous update by her office, in August 2014, reported that at least 191,369 people had been killed in the war.

The Syrian Observatory for Human Rights says that 500,000 people have been killed in the war and that it is examining a further 200,000 cases.

"It is very difficult to give a statistic that is close to reality," Rami Abdurrahman, director of the British-based group, told Reuters in Beirut. "There are a lot of names and there has to be documentation to make sure."

Karen Koning AbuZayd, a member of the U.N. Commission of Inquiry on Syria investigating war crimes, told the council on Thursday that incidents of unlawful and incommunicado detention by government forces remain "unabated".

"This is no time for anyone to think that Syria is a country fit for its refugees to return. The war on Syrian civilians continues," she said.

**Syria committed to 'combating and eradicating terrorism', General Assembly hears (UN News)**  
September 27, 2021

**Addressing the General Assembly at UN Headquarters in New York, Foreign Affairs Minister Mekdad, started by speaking about the global impact of the COVID-19 pandemic.**

After being held virtually last year due to the pandemic, this year's debate features "hybrid" activities that include leaders speaking in person along with virtual participants.

"Some used the pandemic as a way to settle political scores and accuse other countries of creating the virus, while others selfishly ignored the needs of others, choosing to believe they were alone on this earth", he said.

Declaring that sanctions have exacerbated the effects of the coronavirus pandemic in his and other heavily sanctioned countries, Mr. Mekdad said that “if COVID-19 would claim one life in the absence of so-called sanctions, it would claim so many more when they are in place”.

“Sanctions are bringing suffering and death in countries like Cuba, Iran, Sudan, Syria, Venezuela and Yemen”, he added.

#### The threat of terrorism

Turning on to the threat of terrorism, Mr. Mekdad, acknowledging that Syria is one of the countries most affected by that scourge, confirmed that his country will continue the fight against it, and ensure that “State authority, security and stability are restored”.

“Those that continue to support and invest in terrorists are making a dangerous bet that is doomed to fail”, Mr. Mekdad said on the last day of the high-level week of the General Assembly.

Turning to Turkey, he said that “regime has committed war crimes and crimes against humanity in the territories of Syria it occupies”, and called for urgent action by the UN Security Council and the Secretariat, to bring them to an immediate end.

“Turkish and US forces are occupying Syrian territories under false prettexts and are looting the natural resources belonging to the Syrian people”, he added, calling for an end to the occupation.

#### Refugees

Mr. Mekdad pointed to Syria’s ‘open doors’ for the safe and voluntary return of all refugees to their country, underlying that Syria is working to “rebuild and rehabilitate infrastructure and services in areas reclaimed from terrorists and by putting the necessary procedures in place to facilitate the return of people and meet their basic needs”.

“The scope of humanitarian interventions must be expanded to incorporate development assistance and early recovery and resilience projects, which would provide water, sanitation, health, medical, and housing services”, he said.

#### Interconnected world

Mr. Mekdad called for an end to Israel’s war crimes and crimes against humanity in the occupied Palestinian territories, and expressed Syria’s support and solidarity with Iran in “the face of the illegal and irresponsible US measures against it, especially following the US withdrawal from the nuclear agreement”.

He concluded by stating that the world is “interconnected” and that “no country can serve its interests and ensure its security at the expense of the interests and security of other countries”.

### **War Crimes survivors turn to German courts when international tribunals are blocked (NPR)**

October 4, 2021

**RACHEL MARTIN, HOST: German courts and investigators are taking on some of the most difficult criminal cases in the world. These are crimes that happened far outside German borders. That includes the genocide of Iraq's Yazidi minority and torture in Syria's prisons. NPR's Deborah Amos has the story.**

DEBORAH AMOS, BYLINE: So why is Germany taking on these international cases? It's partly because of history.

(SOUNDBITE OF ARCHIVED RECORDING)

ARTHUR GAETH: This is Arthur Gaeth reporting from Nuremberg.

UNIDENTIFIED PERSON: I was an eyewitness.

PATRICK KROKER: I mean, with the Nuremberg trials, basically the idea of international justice was more or less born here, or at least the practice, like the real, first practice of international criminal law happened in Germany.

AMOS: That's German lawyer Patrick Kroker, who says there was also a new legal language allowing crimes against humanity to be taken to court.

(SOUNDBITE OF ARCHIVED RECORDING)

GAETH: Justice has been done. This is Arthur Gaeth reporting from Nuremberg.

AMOS: Fast-forward 75 years. Germany is now the go-to place to seek justice for the gravest international crimes, including potential cases in Iran, Saudi Arabia and The Gambia. Kroker represents Syrian victims in a German trial that addresses state-sponsored torture.

KROKER: How does the law actually deal with the most extreme human behavior that you can imagine?

AMOS: The answer in Germany and other European states is a legal principle known as universal jurisdiction. It allows for cases even if the alleged crimes were committed outside German borders. One example in Munich - the world's first trial for genocide committed against the Yazidi minority in Iraq.

KROKER: The latest information I have was from, I think, September 2020, when the federal prosecutor publicly said that there are - I think it was 120 or 130 ongoing investigations. By far, the majority relates to Iraq and Syria.

AMOS: Germany's universal jurisdiction has been on the books for decades, fast-tracked after nearly a million refugees arrived from conflict zones in 2015, among them witnesses, victims, even some suspects. Syrian activists and lawyers brought new expertise. They spoke Arabic, and they knew the inner workings of the Syrian prison system. They teamed with German lawyers to push the high-profile trial of a former Syrian intelligence official charged with crimes against humanity. I went to the place where a chance meeting accelerated the search for Syrian accountability.

(SOUNDBITE OF VEHICLE AMBIENCE)

AMOS: I'm at the Marienfelde refugee transit camp outside of Berlin, where some refugees spend their first few months when they come to this country. You could say that our story starts moving faster because of what happened here. In 2014, a Syrian human rights lawyer spotted someone he knew from back home - a Syrian intelligence officer who had arrested him. The two men would meet again in a courtroom in Koblenz. The lawyer was Anwar al Bunni.

ANWAR AL BUNNI: Yeah, I saw him. And he smiled as, you know, who are you to speak about me? One time he looked angry - I am the God; who are you? In another situation, all of you will die. He don't realize, really, the real situation.

AMOS: Al Bunni helped identify other survivors willing to testify. German police arrested Anwar Raslan, the former intelligence officer, in Berlin in 2019. The federal prosecutor charged him with 58 counts of murder and 4,000 counts of torture. Raslan has denied those charges, and he has denied that torture took place under his watch. Al Bunni says he and his team are tracking other former Syrian officials in Europe.

AL BUNNI: We have information about more than 100. There is between five or 10 cases we'll open in the next year.

AMOS: Syrians have turned to European courts because the international system is blocked, says Joumana Seif, a Syrian lawyer in Germany. At the U.N., China and Russia vetoed referring Syria to the International Criminal Court.

JOUMANA SEIF: We applaud Germany. That really opened the path of justice for us, for the Syrian, after years of atrocities - everything happened. We can prove it in legal document, and that is very important.

AMOS: But even Germany's system has limitations. Cases take years to build. Plus, there's also a political hitch - Germany's justice ministry can block an investigation if it clashes with foreign policy considerations. But this is a start, says Stephen Rapp, who served as U.S. ambassador for war crimes issues.

STEPHEN RAPP: Yes, it's a good thing. I mean, I would like there to be justice at home, but that's not really possible unless the bad guys have been beaten. It is the only way that we can achieve justice. It sends a signal to the country that you can't sweep justice under the rug.

AMOS: And Germany is sending a signal that more trials are coming.

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## Yemen

**A Tragedy Without Justice: Human Rights in Yemen in 2020 (ReliefWeb)**

September 30, 2021



**The war in Yemen is entering its seventh year. Throughout the conflict, devastation, destruction, division, horrific violations and deepening social rifts have created an almost complete separation between Yemeni men and women and their inherent rights to life, dignity and freedom, while the country experiences the most severe man-made humanitarian disaster. In this annual report, Mwatana for Human Rights provides an extensive review of particular violations that occurred and the overall human rights situation in Yemen during 2020. Mwatana, whose work covers all Yemeni governorates, has documented—through fact-finding, evidence examination, and detailed research—hundreds of incidents that appear to violate international humanitarian law and international human rights law some of which may amount to war crimes. The report presents some incidents as examples, highlighting different types of abuse committed by the warring parties.**

The parties to the conflict in Yemen continued to commit grave violations, undermining Yemenis' ability to live, in flagrant disregard of the basic rules of international law and humanitarian standards. The warring parties, including the Saudi/UAE-led coalition as well as armed groups on the ground, such as Ansar Allah group (Houthis), have increasingly resorted to bureaucratic measures and other restrictions that have prevented basic items necessary for survival reaching vulnerable groups. Saudi/UAE-led coalition air strikes caused heavy loss of life and damage to vital infrastructure in the country. As documented in this report, ground attacks with indiscriminate and highly inaccurate weapons, like mortars, on populated areas by the Ansar Allah group (Houthis), government forces, and armed groups loyal to the Saudi/UAE-led coalition have caused significant material damage and loss of life. The landmines and booby traps left by the Ansar Allah group (Houthis) have claimed the lives of dozens of civilians, including women and children.

The report includes incidents highlighting the harsh conditions of detention, including the atrocious practices of torture and other forms of inhumane treatment, by the UAE-backed Southern Transitional Council forces and Ansar Allah group (Houthis), as well as forces affiliated with the Hadi government. In 2020, Mwatana documented a significantly higher number of incidents of civilians who experienced various forms of torture in detention centers run by the forces of the UAE-backed Southern Transitional Council. Unofficial detention sites and detention centers remain overcrowded, holding both civilian detainees and combatants.

During 2020, Mwatana for Human Rights provided legal support to victims of arbitrary detention in 19 Yemeni governorates through the work of 23 field lawyers who provided assistance and legal counselling in 541 incidents. The team's continuous follow-up aimed to secure the release of victims of arbitrary detention, or improve conditions of detention, for example, the person's environment or access to medication, etc., as well as pushing for detention procedures to proceed in accordance with national and international laws. During 2020, 277 people who had been arbitrarily detained and whose detentions were documented by Mwatana during the conflict were released, including detainees to whom Mwatana provided legal support. Many victims of detention-related abuse remain in detention.

The Ansar Allah group (Houthis), government forces and armed entities loyal to the Saudi/UAE-led coalition have been recruiting and using children in combat, security and logistical operations. In addition, Mwatana found an increase, compared to 2019, in the number of documented sexual violence incidents.

The report includes incidents of attacks on hospitals and medical staff. Strikingly, Mwatana documented more than double the number of these incidents by the parties to the conflict in 2020 than in 2019. The warring parties bear responsibility for the incessant damage to the already dilapidated medical sector during a time of extremely dangerous humanitarian conditions due to the spread of the novel coronavirus (COVID-19). The report also includes documented attacks on schools and educational facilities, including various forms of attack and abuse, such as air and ground strikes, and military occupation and use.

The report also includes, for the first time, one chapter dedicated to other ways in which the warring parties have harmed civilians, including through the use of live ammunition and hitting civilians with military vehicles, as civilians continue to be killed and wounded by warring parties in various ways, and the report seeks to highlight some of these patterns of civilian harm.

In its annual report, Mwatana has also devoted space to illustrate conduct that affected the rights and civil liberties of Yemenis during 2020. The warring parties continued committing violations against journalists and media professionals. The parties also restricted freedom of movement and subjected civilians to additional arbitrary restrictions that deepened their suffering. The UAE-backed Southern Transitional Council and government forces used force to break up peaceful gatherings.

Finally, the report sheds light on the human rights situation in regards freedom of belief in Yemen, and devotes a chapter of the report to addressing attacks on personal freedoms by the parties to the conflict during 2020.

**UN Rights Body Should Stand with Yemeni People (Human Rights Watch)** By Afrah Nasser  
October 5, 2021

**The latest report by the United Nations Group of Eminent Experts (GEE) on Yemen details “over six years of unnecessary suffering” by people in the country. First established by the UN Human Rights Council in 2017, the group is the only international, impartial, and independent body reporting on rights violations and abuses in Yemen.**

Now, despite the gravity of the ongoing humanitarian tragedy in Yemen and violations and abuses by all parties to the conflict, the mandate of this essential body is under threat.

Saudi Arabia, a leading party to the conflict in Yemen accused of serious violations including likely war crimes, together with its coalition allies, is engaging in a tireless lobbying campaign to deter states at the Human Rights Council from renewing the GEE’s mandate. Member states bowing to pressure to end the mandate when it is still urgently needed would be a stain on the credibility of the Council and a slap in the face to victims.

Over the years, Human Rights Watch has interviewed relatives of detainees and people who were forcibly disappeared, humanitarian workers witnessing unlawful attacks against camps for displaced people, journalists who survived brutal and inhuman detention conditions, survivors who fled the country after facing restrictions on fundamental freedoms, women survivors of gender-based violence, African migrants who survived vicious abuses, and the list goes on. All ask who can bring them justice. Failing to renew the GEE mandate at this time would be a terrible step in the wrong direction.

Years of violations have shown that parties to Yemen’s conflict have little incentive to halt their abuses in the absence of real accountability. Accountability fundamentally requires impartial and independent documentation of violations by all parties to the conflict. The GEE’s continued scrutiny is essential to support victims, ensure parties to the conflict know the world is watching, and deter further violations and abuse.

The GEE titled their latest report “A nation abandoned: a call to end Yemen’s suffering.” Rather than allowing allow a party to the conflict to evade scrutiny for its own abuses, HRC member states should stand with the people of Yemen by renewing the GEE’s mandate at this critical time.

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## **Special Tribunal for Lebanon**

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

**Beirut blast survivors protest against suspension of probe (Al Jazeera)** By Kareem Chehayeb  
September 29, 2021

**Families of the Beirut Port blast victims are protesting against the suspension of the investigation into the devastating explosion, saying the probe is the “last opportunity for accountability” in Lebanon.**

About 300 protesters gathered by the Palace of Justice in Beirut on Wednesday to condemn top political officials for attempting to remove lead investigator Judge Tarek Bitar from the probe after it was suspended on Monday.

Paul Naggear, who lost his three-year-old daughter Alexandra in the blast, was outraged that the investigation had been suspended. He likened Lebanese officials to criminals.

“Although expected from the mafia, it’s disgusting”, Naggear told Al Jazeera.

Protesters held up portraits of family members they lost in the blast.

Among them was 17-year-old Christelle Merhi, whose father Joseph worked at the Beirut Port and was killed in the explosion.

“If we don’t demand the truth then we won’t ever know what happened to the victims,” Merhi told Al Jazeera. “We support Judge Bitar and want him to continue leading the investigation.”

Inquiry suspended The Beirut port blast inquiry was suspended on Monday after former Interior Minister Nouhad Machnouk – who is accused of criminal negligence over the blast – formally notified the investigator Bitar of his request to dismiss him from the case.

Machnouk, a sitting parliamentarian, along with former Public Works Minister Youssef Finianos, requested the removal of Bitar from the blast investigation last week, accusing the judge of bias and misconduct.

The legal complaint on the grounds of “legitimate suspicion” is similar to complaints lodged in December 2020 by former ministers Ali Hassan Khalil and Ghazi Zeiter against Judge Bitar’s predecessor, Judge Fadi Sawan.

Khalil and Zeiter accused Sawan of being unable to conduct a fair investigation because his Beirut residence had been damaged in the blast. Sawan stepped down from the investigation in February.

Finianos is one of a handful of former ministers and senior security officials Bitar charged with criminal negligence in early July, but had refused to appear for questioning.

The others include former Prime Minister Hassan Diab, former Interior Minister Nohad Machnouk, and former Public Works Minister Zeiter.

Bitar also filed charges against former army commander General Jean Kahwaji and former head of military intelligence Brigadier-General Kameel Daher, as well as two other retired intelligence generals.

Hours before the investigation was suspended, Bitar had also filed requests to the Interior Ministry to summon top security officials General Security Chief Major-General Abbas Ibrahim and State Security Chief Major-General Tony Saliba for questioning.

At least 218 people were killed in the August 4, 2020, Beirut Port blast when a huge stockpile of ammonium nitrate, which had been stored unsafely at the port for years, detonated.

The death count continues to increase. Ibrahim Harb, a 35-year-old accountant who fell into a coma after the blast, succumbed to his wounds on Tuesday.

About 6,500 people were injured and entire neighborhoods in Lebanon’s capital were destroyed.

The blast was one of the largest non-nuclear explosions ever recorded and was the most destructive single incident in the country’s troubled history.

“The guilty must be convicted... the innocent acquitted” President Michel Aoun, who previously admitted that he knew about the dangerous ammonium nitrate stockpile, issued a statement on Wednesday supporting the continuation of the investigation.

“The investigation must continue for the guilty to be convicted and the innocent to be acquitted,” the statement said.

Neither Bitar nor his predecessor has summoned the president thus far.

But political and security officials across the country’s array of sect-based political parties have been critical of Judge Bitar.

Hezbollah Secretary-General Hassan Nasrallah accused Bitar of “playing politics” on the first anniversary of the blast, while Grand Mufti Abdel-Latif Derian also condemned Bitar for subpoenaing Diab, describing the move as “reprehensible”.

Prime Minister Najib Mikati has not been as vocally critical of Bitar as others, though he told local broadcaster LBCI that he doesn’t think Lebanon “could withstand the second judge being removed”.

Human Rights Watch, local watchdog Legal Agenda, and other organisations have accused the country’s leadership of obstructing the investigation and unjustly targeting Bitar.

A handful of civil society organisations, survivors, and UN experts have called for an international probe, which they believe would be more technically effective and would prevent constant obstruction.

The European Parliament recently followed suit, passing a new resolution on Lebanon calling for the same.

**Prosecutors try to reverse acquittals in Hariri blast case at Lebanon Tribunal (Reuters)** By Stephanie van den Berg  
[DATE (Month #, Year)]

**Prosecutors at the Special Tribunal for Lebanon seeking to overturn the acquittal of two men over the 2005 assassination of Lebanese former prime minister Rafik al-Hariri said on Monday there had been "fundamental errors" in the judgment.**

They said judges of the lower chamber had not properly assessed circumstantial evidence in the case, which was based almost entirely on mobile phone records, when they acquitted Hassan Habib Merhi and Hussein Hassan Oneissi last year. [read more](#)

"It is this incorrect approach to assessing the evidence which infects the judgment as a whole and is fundamental in understanding how, in the prosecution's submission, the judgment went wrong," prosecutor Norman Farrell said.

The lower trial chamber last year did convict a former member of the Shi'ite movement Hezbollah, Salim Jamil Ayyash, for the bombing that killed veteran Sunni Muslim politician Hariri and 21 others.

all suspects were tried in absentia and remain at large. Prosecutors are now seeking the conviction on appeal of Merhi and Oneissi.

Lawyers for Ayyash have also tried to appeal his conviction but appeals judges in April said there was no legal framework to allow a defence appeal for somebody tried in absentia. Ayyash would be able to lodge an appeal or demand a retrial if he ever handed himself in, they said.

The hearing on the appeal lodged by the prosecution is scheduled to last five days. A judgment will follow later.

The Lebanon tribunal was created by a 2007 U.N. Security Council resolution. Funded by voluntary contributions and by the Lebanese government, the court said in June it was at risk of closing due to funding problems.

It says it has now secured enough funding to see the appeal in the Hariri assassination case through, but is expected to wrap up soon after.

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## **Israel and Palestine**

### **Five Palestinians killed by Israeli forces in occupied West Bank (Al-Jazeera)**

September 26, 2021

**The Israeli army killed the Palestinians during confrontations in Jenin and Jerusalem early on Sunday.**

Five Palestinians have been killed by the Israeli army during overnight military raids that led to armed confrontations on Sunday in the Jenin and Jerusalem areas of the occupied West Bank.

Mohammad Hlayel, spokesman for the Palestinian health ministry, confirmed to Al Jazeera the killing of three Palestinians from the village of Biddu, northwest Jerusalem, who were identified by their families as Ahmad Zahran, Mahmoud Hmaidan and Zakariya Badwan.

Israeli forces also killed two residents from the village of Burqin, southwest of Jenin city, who were identified as 22-year-old Osama Soboh, and 16-year-old child, Yousif Soboh.

According to Israeli media, two Israeli soldiers were "seriously injured" during the armed confrontations, and have been hospitalized.

Hlayel told Al Jazeera that the bodies of the three Palestinians from Biddu are in Israeli army custody, while Osama Soboh

from Jenin died at the Ibn Sina hospital in Jenin.

According to the official Palestinian news agency Wafa, Osama Soboh was killed after Israeli forces raided Burqin and surrounded one of the homes, leading to a gun battle with the army.

Zahran, Hmeidan and Badwan were killed during an armed confrontation with the Israeli army after it raided the town of Beit Anan, near Biddu.

Israeli media said the army raids aimed to arrest “ Hamas operatives”.

According to Zahran’s family, Israeli forces had been chasing him for weeks, including with previous army raids on their home, arrests and interrogation of family members, local media reported.

Ahmad Zahran’s mother accused the Palestinian Authority of aiding the Israeli army arrest operation, saying PA forces had also raided their home recently. “The PA is the one who sent the Israelis to us,” she told local media.

In a statement, PA Prime Minister Mohammad Shtayyeh mourned the five Palestinians.

“Patience and solace to their families and close ones, and freedom to our people from this criminal occupation and its continuous violations against our people,” the statement said.

Raids and arrests were also reported in the Jenin villages of Kufrdan and Yaabad. The Palestinian Museum in Birzeit, near Ramallah, told Al Jazeera that Zakariya Badwan was a full-time employee there. The museum said in a social media post it “received the news with utter shock and immense sadness”.

“We remember our dear Zakariya for his amiable character, friendliness, and his ever smiling and cheerful face,” adding that the museum is shutting its doors to the public today “in mourning of the martyr Zakariya and the martyrs of Palestine who were killed at dawn today”.

While Israeli military operations in West Bank towns and villages are a near-daily reality, over the past few months, army raids in the Jenin area have been met with live fire by Palestinian residents.

Last month, the Israeli army killed four Palestinians in the Jenin refugee camp during an operation that led to armed confrontations.

### **Israeli forces kill 15-year-old Palestinian boy with gun (Defense for Children International, Palestine)**

September 27, 2021

#### **Israeli forces shot and killed a 15-year-old Palestinian boy after he allegedly picked up a gun and fired at an Israeli military vehicle during an early morning military raid on Sunday in the northern occupied West Bank.**

Yousef Mohammad Fathi Odeh, 15, was shot and killed by Israeli forces after he allegedly picked up a gun discarded by a Palestinian gunman during an early morning raid on Burqin, a village three miles west of Jenin in the northern occupied West Bank on September 26, according to information gathered by Defense for Children International - Palestine. An Israeli sniper shot Yousef multiple times after he reportedly picked up a firearm and fired at an Israeli military vehicle, according to DCIP’s investigation.

“Palestinian children live in a hyper-militarized context where the Israeli military’s nighttime incursions into Palestinian communities to arrest and intimidate Palestinian civilians is the norm,” said Ayed Abu Eqtaish, Accountability Program Director at DCIP. “Israeli authorities must end policies of collective punishment, including confiscating and withholding Palestinian bodies in violation of international humanitarian law.”

Israeli forces raided Burqin around 3 a.m. on September 26 to conduct a search and arrest operation. Armed clashes ensued between Israeli soldiers and Palestinian gunmen, according to information gathered by DCIP.

Around 7 a.m., the confrontation moved to the western entrance of the town. Yousef arrived on his motorbike at the site at same time a Palestinian gunman opened fire at Israeli soldiers, an eyewitness told DCIP. Israeli soldiers returned fire at the gunman, striking him in the leg. The gunman threw his weapon to the ground and fled, according to information gathered by DCIP.

Yousef allegedly crawled on the ground and picked up the weapon. At that moment, an Israeli sniper shot Yousef in the leg. Yousef dropped the gun, picked it up and fired two shots at an Israeli military vehicle located about 120 meters (400 feet)

away, according to DCIP's documentation. The Israeli sniper fired twice more at Yousef, striking him in the lower part of his body and in his head, likely killing him on the spot, according to information gathered by DCIP.

After he was shot, an Israeli military vehicle approached Yousef and ran over his body. A number of soldiers got out of the vehicle, put Yousef on a stretcher, loaded him into the vehicle, and left the site.

The Israeli army later notified Palestinian authorities who notified Yousef's family that he was dead. Yousef's body has not been returned to his family, according to information gathered by DCIP.

Yousef is the 13th Palestinian child shot and killed by Israeli forces in the occupied West Bank, including East Jerusalem, since the beginning of 2021. Imad Khaled Saleh Hashash, 15, was shot and killed by Israeli forces on August 24 as Israeli forces conducted a raid in the Balata refugee camp located southeast of Nablus. Israeli forces shot Mohammad Mo'ayyad Bahjat Abu Sara on July 28, while he was a passenger in his father's car. Israeli forces fired 13 bullets at the vehicle as it retreated from the area in which they were deployed.

Under international law, intentional lethal force is only justified in circumstances where a direct threat to life or of serious injury is present. However, investigations and evidence collected by DCIP regularly suggest that Israeli forces use lethal force against Palestinian children in circumstances that may amount to extrajudicial or wilful killings.

Israeli authorities' practice of confiscating and withholding Palestinian bodies is a violation of international humanitarian law and international human rights law, which include absolute prohibitions on cruel, inhuman, or degrading treatment, as well as stipulate that parties of an armed conflict must bury the deceased in an honorable way. For families, the practice amounts to collective punishment in violation of international humanitarian law.

### **New report exposes billions in European financial support to companies in illegal Israeli settlements (International Federation for Human Rights)**

September 29, 2021

**672 European financial institutions have financial relationships with 50 businesses that are actively involved with illegal Israeli settlements. These financial institutions provided US\$ 114 billion in the form of loans and underwritings and held investments to the amount of US\$ 141 billion in shares and bonds of these companies. This is the key finding of a new research report published today by a cross-regional coalition of Palestinian and European NGOs, which looked at financial flows between January 2018 and May 2021.**

The "Don't Buy into Occupation" (DBIO) coalition is a joint project between 25 Palestinian, regional and European organisations based in Belgium, France, Ireland, the Netherlands, Norway, Spain and the United Kingdom (UK), including FIDH and its member leagues Al-Haq and the Cairo Institute for Human Rights. The coalition investigates the financial relationships between businesses involved in the illegal Israeli settlement enterprise in the Occupied Palestinian Territory (OPT) and European Financial Institutions (FIs).

Providing economic oxygen

Israeli settlements are illegal under international law and constitute acts which incur individual criminal liability as war crimes and crimes against humanity under the Rome Statute of the International Criminal Court (ICC). Yet European financial institutions continue to invest billions into companies that are actively involved with the Israeli settlement enterprise.

Research by the DBIO coalition shows that between 2018 and May 2021, 672 European financial institutions, including banks, asset managers, insurance companies, and pension funds, had financial relationships with 50 businesses that are actively involved with Israeli settlements. US\$ 114 billion was provided in the form of loans and underwritings. As of May 2021, European investors also held US\$ 141 billion in shares and bonds of these companies.

These businesses and financial institutions play a critical role in facilitating the economic viability growth of the Israeli settlement enterprise.

"The involvement of these corporations with the settlements – through investments, banking loans, resource extraction, infrastructure contracts and equipment and product supply agreements – provides them with the indispensable economic oxygen they require to grow and thrive."

Michael Lynk, UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967

## Corporate responsibility

These businesses, creditors and investors have a responsibility to ensure that they are not involved in violations of international law and are not complicit in international crimes, and to address any adverse human rights impacts arising from their business activities and financial relationships.

Companies are expected to have a rapid response and to consider responsible disengagement. International financial institutions, including banks and pension funds, have a responsibility to use their leverage to ensure their investee companies act responsibly and in line with international law standards, and to divest from those who are unable or unwilling to do so.

Recently, several financial institutions and companies have taken up their responsibility by divesting from business enterprises linked to Israeli settlements. The two most recent and important examples are those of Kommunal Landspensjonskasse (KLP) and the Norwegian Government Pension Fund Global (GPF). KLP is Norway's largest pensions company, who in July 2021, divested from 16 companies linked to Israel's settlement enterprise. In a similar vein, GPF announced in September 2021 that it will exclude three companies that are actively involved with Israeli settlements. The 19 companies excluded by KLP and GPF were listed in the UN database of businesses involved in certain activities relating to Israeli settlements in the OPT, mandated by the Human Rights Council in 2016, and published in February 2020.

"Despite the illegal nature of Israeli settlements under international law, European financial institutions continue to throw a financial lifeline to companies operating in the settlements. European financial institutions should take up their responsibility and follow the example of KLP and GPF. They should end all investments and financial flows into Israeli settlements, and not buy into the Israeli occupation."

Willem Staes, coordinator of the DBIO coalition.

**Scenes from a Jewish pogrom (+972 Magazine)** By Yuval Abraham and Basil al-Adraa  
September 29, 2021

### **Dozens of masked Israeli settlers lead an organized assault on the Palestinian village of Mufagara, beating and stoning residents while wreaking havoc home by home.**

"All of a sudden I heard glass shatter and then all the children screaming from the other room. I ran over there. Muhammad's head was wounded, he was bleeding on the floor. He is three years old. And the settlers were still outside, all the children were around [Muhammad], crying like I've never seen them cry."

This is how Mariam Hamamdah, 30, described Tuesday's coordinated assault by dozens of Israeli settlers on the village of Mufagara in the South Hebron Hills, on the final day of the Jewish holiday of Simhat Torah. Muhammad, her nephew, was hit in the head by a stone thrown by the settlers. He was hospitalized in Be'er Sheva's Soroka Medical Center with a fracture in his skull and internal bleeding in his brain.

The attack on the village began at 1 p.m. after a group of masked settlers assaulted a Palestinian shepherd. They slit the throats of three of his sheep, after which the shepherd fled with two children who were accompanying him, one of whom was his son. Soon after, several dozen more masked settlers arrived armed with handguns, stones, clubs, and sticks. At least 60 Israelis participated in the attack on Mufagara, which has been a target of settler violence before — but never like this.

Mufagara is one of dozens of unrecognized Palestinian villages in the area of Masafer Yatta in the occupied West Bank. Although the village has existed for generations, its residents are not granted building permits by the Israeli authorities. Representatives from the Civil Administration — the arm of Israel's military government that rules the occupied territories — arrive here regularly to demolish homes and other structures. According to Mufagara's residents, the settlers began by throwing stones at their village, then went home to home while cutting water pipes with knives and machetes. Many of the residents fled to the nearby valley for safety. A few of the masked attackers even entered the homes and wreaked havoc inside. Others turned over vehicles belonging to the residents and tried to roll them down into the nearby valley. One settler opened fire on a Palestinian man who was throwing stones at him from inside of his home, but was unharmed.

Israeli soldiers were present during the attack, but instead of stopping the violence, they simply stood behind the masked settlers. The soldiers also fired large amounts of tear gas and rubber bullets at Palestinians who were defending themselves from the attack with stones. Settler-soldier cooperation is nothing new in the West Bank, but over the last few months it has had lethal repercussions for Palestinians.

"I heard a noise, I went outside in my sandals and saw people looking toward the nearby [settlement] outpost of Avigayil," said Fadel Hamamdah, 45. "I went over to the mosque and saw the settlers attacking a shepherd, a man named Amar. He was with a small child. They beat him mercilessly with stones. He was on his own land in the valley, near the olive trees."

Fadel describes that at a certain point, settlers drove a green tractor into Mufagara from Havat Ma'on, the outpost built on the other side of the village. "He parked in the center of the village," Fadel said, "and [the tractor] was full of clubs and machetes, and the settlers had guns. We protected ourselves against the tractor, and the settlers began to attack the village. More and more settlers arrived, all of them masked. The army then began to shoot tear gas and stun grenades at us."

He continued: "They went home by home. They destroyed the windows in eight houses. They wounded at least five children with stones. It was organized, planned. They split up — five here, 15 there, an unbelievable number of settlers. They destroyed the cars completely. Families were in their homes during the attack." The windows of Fadel's own home were completely shattered by stones.

Hadra Hamamdah, Fadel's wife, described how she saw the settlers standing by the mosque, close to their homes. "They began throwing stones at us. I screamed, 'you're attacking children, you're destroying our homes!' This is the first time I've seen this kind of attack. In the past, [settlers] came here, but not in these numbers, not with such ease.

"My son Ahmad's eyes were full of tears from the tear gas, which the soldiers threw on the residents who tried to defend themselves. My neighbor, a pregnant woman, left one of the homes and fell. We need volunteers who will sleep here with us. My children are afraid to fall asleep."

Mariam, meanwhile, was in her garden when she heard the masked settlers arriving from Avigayil. "I put all the children in a small room — about 20 kids, one after another. I told them not to worry, and locked the door," she said.

"I remembered that there were children sleeping in the next room. And I heard the settlers outside, smashing cars, and my house being hit by stones. I opened the door and ran like mad to the other room. Two children were screaming there. I held them in my arms."

One of the rocks hit her three-year-old nephew Muhammad, who was in the next room. "I picked him up and ran to the soldiers, who were standing a few hundred meters from there," Mariam recounted. "They told me to go to the ambulance, but I said that I was afraid, since there were settlers next to it."

"Muhammad's eyes were closed the entire time. He had fainted. A military jeep arrived and took us to the ambulance, along with Muhammad's uncle who was with us. When we were in the ambulance, the settlers tried to attack the uncle. The boy bled in the ambulance for half an hour until the settlers left, and then they took him to Soroka [Hospital]."

Muhammad remains in Soroka, and is slated to be transferred to a hospital in the West Bank for further treatment. He is currently in stable condition.

As Mariam described what had happened, her son Qusay, also three years old, was screaming in her arms. He too had been hit by a stone that day. The wailing of children could be heard in every home in Mufagara, even though the attack happened hours earlier.

"I am 45, I was born here, and I've never seen anything like this," said Mahmoud Hamamdah, another resident. "Settlers entering our homes while we're in the valley and another group of settlers attacking us with stones. There has never been such an attack with such an enormous number [of settlers]."

For Mahmoud, the assault serves a clear purpose. "The settlers want to create territorial contiguity between Avigayil and Havat Ma'on, with us in the middle. That is their goal now: to use violence to force us to leave. They are always taking over more land and attacking us. It's like the army, which destroys our homes. [They do] everything so that we leave."

Israeli settlers have established seven new outposts in the South Hebron Hills over the past several, calling them "shepherds' farms." Settlers have built a total of around 54 new outposts across the West Bank in the last five years, all of them illegal according to Israeli law itself as well as international law. The settlement farms receive thousands of dunam of land, which have been expropriated from Palestinians by the Israeli state.

Several hundred Israeli settlers operate these farms, and many of them hop from farm to farm voluntarily. They communicate and coordinate via WhatsApp groups, and in preparation for the Sukkot holiday, they asked people to come to the farms to volunteer. It is not clear whether there is a connection between the recent call for volunteers and the attack that took place on Tuesday.

Settlers regularly come out of these outposts in order to attack Palestinians in an attempt to coerce the latter off their land. We have witnessed and documented dozens of such cases, which appear to have escalated and grown more dangerous with every passing year.

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## Gulf Region

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## ASIA

**War in Afghanistan Isn't Over – It's Taking the Form of Illegal Drone Strikes (Truthout)** By Marjorie Cohn  
September 26, 2021

**Three weeks after his administration launched a drone attack that killed 10 civilians in Kabul, Afghanistan, President Joe Biden addressed the United Nations General Assembly. He proudly declared, "I stand here today, for the first time in 20 years, with the United States not at war." The day before, his administration had launched a drone strike in Syria, and three weeks earlier, the U.S. had conducted an air strike in Somalia. The commander-in-chief also apparently forgot that U.S. forces are still fighting in at least six different countries, including Iraq, Yemen, Syria, Libya, Somalia and Niger. And he promised to continue bombing Afghanistan from afar.**

Unfortunately Biden's withdrawal of U.S. troops from Afghanistan is substantially less meaningful when analyzed in light of his administration's pledge to mount "over-the-horizon" attacks in that country from afar even though we won't have troops on the ground. "Our troops are not coming home. We need to be honest about that," Rep. Tom Malinowski (D-New Jersey) said during congressional testimony by Secretary of State Antony Blinken earlier this month. "They are merely moving to other bases in the same region to conduct the same counterterrorism missions, including in Afghanistan."

As Biden pulled U.S. forces out of Afghanistan, his administration launched a hellfire missile from a U.S. drone in Kabul that killed 10 civilians, including seven children, and then lied about it. Chairman of the Joint Chiefs of Staff Gen. Mark Milley immediately said it was a "righteous strike" to protect U.S. troops as they withdrew.

Nearly three weeks later, however, an extensive investigation conducted by The New York Times revealed that Zemari Ahmadi was a U.S. aid worker, not an ISIS operative, and the "explosives" in the Toyota that the drone strike targeted were most likely water bottles. Gen. Frank McKenzie, commander of the U.S. Central Command, then called the strike "a tragic mistake."

This senseless killing of civilians was not a one-off event, although it received more publicity than most past drone strikes. Biden is following in the footsteps of his four predecessors, all of whom also conducted illegal drone strikes that killed myriad civilians.

The Kabul drone strike "calls into question the reliability of the intelligence that will be used to conduct the [over-the-horizon] operations," the Times noted. Indeed, this is nothing new. The "intelligence" used to conduct drone strikes is notoriously unreliable.

For example, the Drone Papers disclosed that nearly 90 percent of those killed by drone strikes during one five-month period during January 2012 to February 2013 were not the intended targets. Daniel Hale, who revealed the documents that comprise the Drone Papers, is serving 45 months in prison for exposing evidence of U.S. war crimes.

Drones do not result in fewer civilian casualties than piloted bombers. A study based on classified military data, conducted by Larry Lewis from the Center for Naval Analyses and Sarah Holewinski of the Center for Civilians in Conflict, found that the use of drones in Afghanistan caused 10 times more civilian deaths than piloted fighter aircraft.

These numbers are probably low because the U.S. military considers all people killed in those operations presumptive “enemies killed in action.” George W. Bush, Barack Obama, Donald Trump and Biden all presided over drone strikes that killed countless civilians.

Bush authorized approximately 50 drone strikes that killed 296 people alleged to be “terrorists” and 195 civilians in Yemen, Somalia and Pakistan.

The Obama administration conducted 10 times more drone strikes than his predecessor. During Obama’s two terms in office, he authorized 563 strikes — largely with drones — in Somalia, Pakistan and Yemen, killing between 384 and 807 civilians, according to the Bureau of Investigative Journalism.

Trump, who relaxed Obama’s targeting rules, bombed all the countries that Obama had, according to Micah Zenko, former senior fellow at the Council on Foreign Relations. During Trump’s first two years in office, he launched 2,243 drone strikes compared to 1,878 in Obama’s two terms in office. Since the Trump administration was less than forthcoming with accurate civilian casualty figures, it is impossible to know how many civilians were killed on his watch.

Drones hover above towns for hours, emitting a buzzing sound that terrorizes communities, especially children. They know a drone could drop a bomb on them at any moment. The CIA launches a “double tap,” deploying a drone to kill those trying to rescue the wounded. And in what should be called a “triple tap,” they often target people at funerals mourning their loved ones killed in drone attacks. Rather than making us less vulnerable to terrorism, these killings make people in other countries resent the United States even more.

Drone attacks mounted during the “war on terror” are illegal. Although Biden pledged in his General Assembly speech to “apply and strengthen ... the U.N. Charter” and promised “adherence to international laws and treaties,” his drone strikes, and those of his predecessors, violate both the Charter and the Geneva Conventions.

The UN Charter forbids the use of military force against another country except when acting in self-defense under Article 51. On August 29, after the U.S. drone killed 10 civilians in Kabul, the U.S. Central Command called it “a self-defense unmanned over-the-horizon airstrike” The Central Command claimed that the strike was necessary to prevent an imminent attack on the Kabul Airport by ISIS.

But the International Court of Justice has held that countries cannot invoke Article 51 against armed attacks by non-state actors that are not attributable to another country. ISIS is at odds with the Taliban. Attacks by ISIS cannot therefore be imputed to the Taliban, which once again controls Afghanistan.

Outside areas of active hostilities, “the use of drones or other means for targeted killing is almost never likely to be legal,” Agnès Callamard, UN special rapporteur on extrajudicial, summary or arbitrary executions, tweeted. She wrote that “intentionally lethal or potentially lethal force can only be used where strictly necessary to protect against an imminent threat to life.”

Civilians can never legally be the target of military strikes. Targeted or political assassinations, also called extrajudicial executions, violate international law. Willful killing is a grave breach of the Geneva Conventions which is punishable as a war crime under the U.S. War Crimes Act. A targeted killing is only lawful if it is deemed necessary to protect life, and no other means — including capture or nonlethal incapacitation — is available to protect life.

International humanitarian law requires that when military force is used, it must comply with both the conditions of distinction and proportionality. Distinction mandates that the attack must always distinguish between combatants and civilians. Proportionality means that the attack can’t be excessive in relation to the military advantage sought.

Moreover, Philip Alston, former UN special rapporteur on extrajudicial, summary or arbitrary executions, reported, “The precision, accuracy and legality of a drone strike depend on the human intelligence upon which the targeting decision is based.”

The Drone Papers included leaked documents revealing the “kill chain” the Obama administration used to determine whom to target. Innumerable civilians were killed using “signals intelligence” — foreign communications, radar and other electronic systems — in undeclared war zones. Targeting decisions were made by tracking cell phones that might or might not be carried by suspected terrorists. Half of the intelligence used to identify potential targets in Yemen and Somalia was based on signals intelligence.

Obama’s Presidential Policy Guidance (PPG), which contained targeting rules, outlined procedures for the use of lethal force outside “areas of active hostilities.” It required that a target pose a “continuing imminent threat.” But a secret Department of Justice white paper promulgated in 2011 and leaked in 2013 sanctioned the killing of U.S. citizens even without “clear evidence that a specific attack on US persons and interests will take place in the immediate future.” The bar was presumably

lower for killing non-U.S. citizens.

The PPG said there must be “near certainty that an identified HVT [high-value terrorist] or other lawful terror target” is present before lethal force could be directed against him. But the Obama administration launched “signature strikes” that didn’t target individuals, but rather men of military age present in areas of suspicious activity. The Obama administration defined combatants (non-civilians) as all men of military age present in a strike zone, “unless there is explicit intelligence posthumously proving them innocent.”

“Intelligence” upon which U.S. drone strikes are based is extremely untrustworthy. The United States has engaged in repeated violations of the UN Charter and the Geneva Conventions. And the unlawful U.S. killing with drones violates the right to life enshrined in the International Covenant on Civil and Political Rights, another treaty the U.S. has ratified. It says, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

“That drone strike in Kabul was not the last act of our war,” Representative Malinowski said during Blinken’s congressional testimony. “It was unfortunately the first act of the next stage of our war.”

“There must be accountability,” Sen. Christopher S. Murphy (D-Connecticut), a member of the Foreign Relations Committee, wrote in a Twitter post. “If there are no consequences for a strike this disastrous, it signals to the entire drone program chain of command that killing kids and civilians will be tolerated.”

In June, 113 organizations dedicated to human rights, civil rights and civil liberties, racial, social environmental justice and veterans rights wrote a letter to Biden “to demand an end to the unlawful program of lethal strikes outside any recognized battlefield, including through the use of drones.” Olivia Alperstein from the Institute for Policy Studies tweeted that the United States should “apologize for all the drone strikes, and put an end to drone warfare once and for all.”

**War crimes prosecutor would not focus on US forces in new Afghanistan probe (Reuters)** By Anthony Deutsch and Stephanie van den Berg  
September 27, 2021

**The International Criminal Court prosecutor on Monday said he was seeking approval to resume a war crimes investigation of Afghanistan, focusing on the actions of the Taliban and the Islamic State Khorasan (ISIS-K) militia.**

A statement said the request was being made to the court's judges in light of developments since the Taliban militants seized control of Afghanistan in a lightning advance last month. Prosecutors had previously also looked into suspected crimes by U.S. forces and Afghan government troops. But Karim Khan, six months into his nine-year tenure, said they would now "deprioritise" that element due to lack of resources, and instead focus on "the scale and nature of crimes within the jurisdiction of the court".

Afghan human rights activist Horia Mosadiq, who has been helping victims to support the ICC probe for many years, called the announcement "an insult to thousands of other victims of crimes by Afghan government forces and U.S. and NATO forces".

The ICC had already spent 15 years looking into war crimes allegations in Afghanistan before opening a full investigation last year.

But that probe was put on hold by the Afghan government, which said it was investigating the crimes itself. The Hague-based ICC is a court of last resort, intervening only when a member country is unable or unwilling to prosecute war crimes, crimes against humanity or genocide. Khan said the fall of the internationally recognised Afghan government and its replacement by the Taliban represented a "significant change of circumstances".

"After reviewing matters carefully, I have reached the conclusion that, at this time, there is no longer the prospect of genuine and effective domestic investigations ... within Afghanistan," his statement said.

The court had found there was a reasonable basis to believe war crimes had been committed between 2003 and 2014, among them suspected mass killings of civilians by the Taliban, as well as suspected torture of prisoners by Afghan authorities and, to a lesser extent, by U.S. forces and the U.S. CIA.

But the United States is not a party to the ICC, and imposed sanctions against the office of the prosecutor for investigating the role of U.S. forces. Shifting the focus of the probe could help mend the court's relationship with Washington. "We're pleased to see that the ICC prioritises resources to focus on the greatest of allegations and atrocity crimes," State Department spokesperson Jalina Porter told reporters in response to the prosecutor's statement.

A lawyer who represents Afghan victims of suspected U.S. torture in the ICC investigation said the narrowing of its focus was "deeply flawed".

"Allowing powerful states to get away (with) multi-year, multi-continent torture against so many, feeds impunity for all," she said on Twitter.

Judges will now review the request.

If approved, the investigation will face an uphill battle to gather evidence, as the Taliban rulers appear unlikely to cooperate in the same way as the governments in place since the Taliban's last period in power ended in 2001.

The Taliban administration in Kabul could not immediately be reached for comment. "Early indications suggest that their policies on matters related to criminal justice and other material considerations are unlikely to conform to those adopted since 2002," Khan said in his submission to the court.

**Afghanistan: Why has the ICC excluded the US from war crimes probe? (Deutsche Welle)** By Teri Schultz  
September 30, 2021

**The call by prosecutor Karim Kahn to resume an International Criminal Court (ICC) probe into potential war crimes committed in Afghanistan is a development many human rights defenders are applauding after the Taliban takeover of the war-torn country.**

Until now the investigation covered crimes alleged to have been committed on the territory of Afghanistan since May 1, 2003, as well as other actions linked to the US-led "war on terror" that may have happened elsewhere since July 1, 2002.

Alleged perpetrators include the Taliban and other militant groups but also Afghan, American and international armed forces and the CIA for its renditions and so-called "black sites" — clandestine interrogation sites — in Lithuania, Romania and Poland.

But Khan went further than seeking to reopen the investigation into "crimes allegedly committed by the Taliban and the Islamic State Korasan Province (IS-K)" which had been deferred at the request of the former Afghan government.

He additionally stated that he would "deprioritize other aspects of this investigation" — the allegations against American and Afghan personnel — angering many.

The International Federation for Human Rights says the ICC "should not exclude groups of victims or crimes" within its jurisdiction. Raquel Vazquez Llorente, the organization's permanent representative to the ICC, has urged the prosecutor to "ensure that accountability in the investigation already opened is pursued without further delay."

"Reverse the decision," demands Jamil Dakwar, director of the American Civil Liberties Union's (ACLU) Human Rights Program. The ACLU represents three men trying to hold the US government to account for what they say was their detention and torture in Afghanistan. Katherine Gallagher, an attorney representing some victims, tweeted that she was stunned — both to learn that the "prosecutor is not investigating crimes against my clients" and that, after a decade of collaboration with the ICC office, she heard about that from a press release.

Working with the US-based Center for Constitutional Rights, Gallagher represents three men detained in Guantanamo, and warns that "allowing powerful states to get away w[ith] multi-year, multi-continent torture against so many feeds impunity for all."

Khan's announcement seemed particularly odd for some, recalling how much trouble his predecessor Fatou Bensouda went through to get the investigation authorized in the first place, appealing an initial rejection by ICC judges, and then to maintain the inclusion of US troops in the probe.

Former US President Donald Trump verbally abused her and her staff and imposed sanctions on them but Bensouda didn't back down. President Joe Biden removed the sanctions in April. It's not clear what the precise impetus is for Khan to take such action at this time. "After these years of such battles over making sure the US forces were part of the equation," notes Patricia Grossman from Human Rights Watch, "now to just give that away, it's just really quite stunning."

Grossman believes the credibility of the court, already battling criticism for the high proportion of inictes from Africa, will further suffer. "People have seen this as an important institution to defend justice and this move undermines all of that," she told DW.

"It's a one-sided, selective view of who deserves justice, which is a terrible thing for the court to do. That selectivity is

extremely dangerous, that some victims are preferable to others, that they deserve something better than others — that's just wrong and I was just shocked."

Haroun Rahimi, an assistant professor of law at the American University of Afghanistan, currently a visiting researcher in Rome, agrees, saying those who accept that this was a "pragmatic choice" due to the lack of ICC resources "miss the point of what it means in terms of moral standing of the court, what it means in the eyes of the world."

Rahimi told DW that Khan's refocus on Muslim militants will be a "big victory" for the Taliban and other groups to use in the "us versus them" narrative, as well as for anyone else trying to undermine the institution.

"That's what infuriated me," he explained.

"[The ICC] was supposed to be holding the moral high ground on the crimes we agreed that no one should be able to commit and could face consequences if they do," he said. "The whole purpose is to reaffirm the common morality, the universal morality that underpins those values and that's going to be violated."

Attorneys and organizations representing victims are demanding a meeting with Khan to make the case to him that they deserve their days in court.

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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**

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## **Bangladesh International Crimes Tribunal**

**Int'l conference held in Geneva to recognise Bangladesh genocide (The Daily Star)**

October 1, 2021

**An international conference on "Recognition of 1971 Bangladesh Genocide" at the Geneva Press Club, Switzerland was held yesterday.**

Europe-based Diaspora organisation, European Bangladesh Forum (EBF), in collaboration with Switzerland Human Rights Commission Bangladesh organised the program, according to a correspondent in Geneva.

Dr Mojibur Doftori, a writer and senior researcher from Finland chaired the conference.

Earlier in the same day, EBF held a demonstration in front of the "Broken Chair" at United Nations in Geneva,

The demonstration and the conference was broadcast live simultaneously by the television channels from Bangladesh, Ekattor Television & Somoy Television and from the UK by the British Bangla News.

Member of the European Parliament Brando Benifei, Italy, Member of the British Parliament from the Labour Party, Rushanara Ali, former Member of the Dutch Parliament Harry van Bommel, Socialist Party, member of a martyred family Asif

Munier from Bangladesh addressed the program, among others.

President of EBF UK Ansar Ahmed Ullah, Director of Switzerland Human Rights Commission Bangladesh Khalilur Rahman and EBF Netherlands President Bikash Chowdhury also spoke at the program.

A documentary film "War Crimes 1971" directed by Shahriar Kabir was screened at the beginning of the conference.

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## **War Crimes Investigation in Myanmar**

**Myanmar junta abducting children of people targeted for arrest, says UN expert (The Guardian)** By Rebecca Ratcliffe  
September 23, 2021

**Myanmar's military junta is systematically abducting the relatives of people it is seeking to arrest, including children as young as 20 weeks old, according the UN special rapporteur for the country.**

Tom Andrews told the UN Human Rights Council on Wednesday that conditions in the country had continued to deteriorate and "current efforts by the international community to stop the downward spiral of events in Myanmar are simply not working".

His speech was followed by the release of a report by the UN Human Rights Office on Thursday, which warned of a "human rights catastrophe" and said abuses perpetrated since the coup may amount to war crimes and crimes against humanity.

The military and its forces have killed more than 1,100 people, according to the UN report. It details systematic, targeted killings by the junta, including the use of semi-automatic rifles and snipers against pro-democracy protesters. Weapons designed for military confrontation, such as grenade launchers and artillery shells, have also been used against protesters and fired into residential areas, it said.

"Victims of security forces often sustained wounds to their heads and torsos, indicating that they were targeted for maximum harm," the report said.

As of July, the junta had killed at least 75 children ranging in age from 14 months to 17 years, according to Andrews. The military, he added, was routinely abducting family members when it is unable to locate individuals it is seeking to arrest.

"I have received credible reports that junta forces have arbitrarily detained at least 177 individuals – when the initial target of a raid had successfully eluded arrest. These victims include very young children as young as 20 weeks old," he said.

More than 8,000 people have been detained since the military seized power on 1 February. The junta, which faces widespread public opposition, has arrested anyone who has challenged its rule – from elected politicians, to activists, medical workers and journalists.

Most are held without any form of due process, and lack access to legal counsel, or even the ability to communicate with their families, according to the UN Human Rights Office report. "We continue to receive reports from multiple locations of interrogation techniques that amount to ill-treatment and torture, and have credible information that more than 120 detainees have died in custody – some within 24 hours of their arrest," said Michelle Bachelet, UN high commissioner for human rights, in a speech to the UN Human Rights Council on Thursday.

"Conflict, poverty and the effects of the pandemic are sharply increasing, and the country faces a vortex of repression, violence and economic collapse," Bachelet said.

In response to the coup, peaceful protests and a civil disobedience campaign spread across the country. A growing armed resistance movement has also emerged, with civilians taking up arms to defend their areas from military repression. Bachelet warned of "the alarming possibility of an escalating civil war".

Over recent days, virtually the entire population of a town in western Myanmar, home to 7,500 people, were forced to flee, after clashes between the military and its opponents, according to media reports.

The Global New Light of Myanmar, which is controlled by the junta, said the military was ambushed by “some 100 terrorists” while patrolling Thantlang in Chin state, near the border with India.

Residents started to flee on Monday after soldiers “began to randomly shoot out the windows” of houses in the town, according to a resident who spoke to AFP anonymously.

“Almost everyone has left,” he said, adding he was sheltering in a nearby village with about 500 people, and that several hundred had already headed towards India.

Another resident said she travelled for three days with her elderly parents to reach India after soldiers bombed her house and fighting escalated around the town.

“I never thought of running from my own house even after the military bombed it ... but as things got worse ... I finally had to flee,” she told AFP on condition of anonymity. The independent outlet Myanmar Now reported that soldiers shot dead a Baptist pastor, who had gone outside to extinguish fires. His body was discovered with his left ring finger missing, the chair of the Thantlang Association of Baptist Churches said, adding that he believed troops had stolen his wedding ring.

The junta spokesperson Zaw Min Tun dismissed such reports as fake news. He said 20 homes and a government building had been destroyed in a fire after a clash on 18 September. Attacks on junta troops have increased after Myanmar’s self-declared parallel government, which was set up by pro-democracy politicians, announced a “defensive war” against the military earlier this month.

There are now more than 230,000 civilians who have been displaced as a result of the junta. Speaking to the Human Rights Council, Andrews called for greater humanitarian aid for the more than 3 million Myanmar people who are in need of assistance. “The international community must make a stronger commitment to ensuring lifesaving aid reaches those in need,” he said. “Myanmar civil society organizations who are saving lives need and deserve our support. The 2021 UN Myanmar Humanitarian Response Plan has received only 46% of requested funds to date. We can and should do better.”

**Myanmar Junta Violations May Amount to Crimes Against Humanity (Voice of America)** By Lisa Schlein  
September 23, 2021

**A U.N. investigator on Myanmar has accused the country’s military junta of systematic attacks against the people of Myanmar that may amount to crimes against humanity. The report by the special rapporteur was submitted Wednesday to the U.N. Human Rights Council.**

Tom Andrews told the UN Human Rights Council on Wednesday that conditions in the country had continued to deteriorate and “current efforts by the international community to stop the downward spiral of events in Myanmar are simply not working”.

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## AMERICAS

### North & Central America

**Canada’s last Nazi, Helmut Oberlander, avoids deportation and dies ‘peacefully’ at home (National Post) By**



**Helmut Oberlander, the last known wartime Nazi in Canada, got his final wish: he avoided deportation to Germany over Second World War atrocities long enough to die peacefully in Canada with his family.**

Oberlander, a former member of a German killing squad during the Holocaust of the Second World War and a retired businessman in Waterloo, Ont., was 97.

His death ends a 35-year-long bid to remove him from Canada after immigrating to Canada fraudulently in 1954, when he hid his activities with the Nazis.

“Oberlander found comfort and freedom in Canada. His victims were denied the right of life, of family, of happiness, of children and grandchildren — all of which Oberlander celebrated in abundance,” said Bernie Farber, who worked for decades with the Canadian Jewish Congress to have Oberlander face justice.

“It is a sad day not because he died, but because Canada has been exposed in terms of allowing men and women like Oberlander to come to this country, live here in peace and never face justice.

“And that’s shameful.”

Oberlander’s family confirmed his death in a statement sent through his lawyer, who was arguing Oberlander’s case at another hearing of the Immigration and Refugee Board this month.

“Helmut Oberlander has passed away peacefully. In the end, he was surrounded by loved ones in his home,” the family said.

“Notwithstanding the challenges in his life, he remained strong in his faith. He took comfort in his family and the support of many in his community. He gave generously to charity, supported his church, and was a loving family man. He will be dearly missed.”

His death was seen differently by members of the Jewish community who have been frustrated over decades of government and judicial reluctance to act in the case.

“The peaceful demise of Helmut Oberlander on Canadian soil is a stain on our national conscience,” said Michael Mostyn, chief executive officer of B’nai Brith Canada, a Jewish Human Rights organization. “The fact is that this country slammed its doors on Jewish refugees fleeing the Nazis, then allowed some of their tormentors into Canada and failed to deport them.”

David Matas, senior legal counsel at B’nai Brith Canada, said the record of Oberlander’s case is a sad one: “The delays in these cases were unconscionable. The result was justice for victims of the crimes addressed in these cases was denied.”

Avi Abraham Benlolo, chairman of the Abraham Global Peace Initiative, a global human rights organization based in Toronto, also condemned years of government inaction against Oberlander.

“Canada’s war record on first admitting Nazi war criminals and then failing to properly investigate and then deport them is a national shame. While victims of the Holocaust were brutally murdered, Nazi war criminals mostly died peacefully in this country.

“Many have literally gotten away with murder.”

Oberlander, well financed after years as a successful real estate developer in the Waterloo region, west of Toronto, continued to pursue every avenue, appeal every decision, dispute every effort to deport him.

His wish, he made clear, was to remain in Canada until his death and be buried here.

In the 1990s, that seemed an unrealistic goal.

By the time of this month’s deportation hearings, however, Oberlander’s mental and physical health had deteriorated greatly. His condition was chronicled in a doctor’s report from a June assessment at his home.

“He was seen today in his family room. He sits on a Lazy Boy chair with his feet on an ottoman,” the doctor’s report reads. “He answered at times tangentially, and at other times his answer was irrelevant and slurred. According to his family, this was one of his better days.

“He hallucinates, seeing squirrels or people with suitcases. We observed him picking at invisible things in the air with his hands. He is generally quite drowsy. Sleep is poor.

“A referral to palliative care services was recommended and accepted.”

His death was expected before the immigration hearing could conclude, but it continued nonetheless, finally with a sense of urgency on the government’s part.

“He very successfully played a very poor Canadian immigration system — and won,” said Farber.

“Every government, it doesn’t matter if it was Conservative government or Liberal government throughout the post-war period, has blame on this file, as does the very poor Canadian justice system.”

Oberlander was among the first targets of a war crimes unit set up by the federal government in the 1990s.

Because of the passage of time and the difficulty in obtaining criminal prosecutions, deportation was seen as a more realistic goal. Even this tool, was ineffective.

Four times his Canadian citizenship was stripped from him by the government and three times that decision was overturned by the courts, in 2001, 2007, and 2012.

In 2019 the Supreme Court of Canada refused to hear Oberlander’s appeal of the last revocation of his citizenship. The country’s highest court accepted that Oberlander entered Canada fraudulently after the war.

Oberlander is an ethnic German who lived in the Soviet Union — in what is now Ukraine — during the Second World War when it was invaded by Nazi forces. Then a teenager, he was assigned to work as a translator for Einsatzkommando 10a, known as Ek10a, one of the special police task forces that operated in occupied territory.

A Canadian judge described them as “mobile killing units” used by the Nazi SS for mass murder.

Oberlander claimed he was a child soldier who was forcibly conscripted at age 17 to work for the Nazis. He said he was not involved in death squad killings.

Oberlander’s death should not just be about the past, Farber said.

“Government did nothing until it was too late. We just closed our eyes and walked away from it. I hope we learned a lesson from it,” he said.

“War crimes never end. We see war crimes happening today.

“And those who commit them are always looking for safe harbours and if they are paying attention they will note that if you commit war crimes and you make it into Canada, you can live here as long as you have the means to do so — and that’s what happened with Helmut Oberlander.

“If these war criminals escape, Canada is the land of freedom for them and Oberlander is their ticket.”

At his deportation hearing earlier this month, his lawyers asked for the process to be halted because of Oberlander’s diminished capabilities. His lawyers said Oberlander was never getting on a plane.

“There’s kind of a ghoulish kind of spectre hanging over this proceeding because it’s not expected that he is going to live a long period of time,” one of his lawyers, Barbara Jackman, said at the hearing.

The IRB adjudicator reserved judgment on his motion and was expected to rule shortly. Her decision, as they say in law, is now moot — of no practical relevance.

**Comment: Indian boarding schools purpose was cultural genocide (HeraldNet)** By David A. Love  
September 30, 2021

**The recent discovery of unmarked mass graves of 1,300 Indigenous children buried in five former residential schools has forced Canada to come to grips with a legacy of cultural and physical genocide against Native people.**

In the 19th and 20th centuries, 150,000 children were separated from their families, language and culture and placed in 150 government-funded residential schools. There, children were subjected to torture, trauma and death to “kill the Indian in the

child.” Thousands of children died; 4,100 according to Canada’s Truth and Reconciliation Commission on the residential schools, although the actual number may have been as high as 15,000. And we can only imagine the trauma these children experienced, including those who were forced to bury their classmates and build their coffins.

America’s original sin: The disturbing news from Canada was a reminder that the United States maintained its own system of 367 Indian boarding schools from 1860 until 1978. The two countries’ systems were intertwined, with the United States providing a model that Canada would adopt and emulate.

Responding to events in Canada, U.S. Interior Secretary Deb Haaland — the first Native American to hold a Cabinet position and a granddaughter of people forced into these boarding schools — announced an investigation of residential schools. She noted that most Americans would be alarmed to learn that “the United States also has a history of taking Native children from their families in an effort to eradicate our culture and erase us as a people.” But, she emphasized, “it is a history that we must learn from if our country is to heal from this tragic era.”

She is right. Just as America is being forced to address its legacy of enslavement, segregation and systemic racism, the nation must confront the genocide of Indigenous people — who are rendered all but invisible in society — and the role of settler colonialism in building the country. Native American genocide, like slavery, constitutes America’s original sin.

From the earliest colonial days, violently clearing the land of Indigenous people — like slavery — was critical to the formation of the country. And, as with slavery, Christianity played an instrumental role in advancing violence against Indigenous communities. Three papal edicts — known together as the Doctrine of Discovery — provided a religious justification for colonial conquest and exploitation of non-Christian people and paved the way for the West African slave trade, slavery and Indigenous genocide.

These beliefs permeated the Declaration of Independence, which referred to the original inhabitants of this land as “merciless Indian savages.” And with U.S. expansion came Native American dispossession, death, forced relocation and containment in reservations. In fact, it was public policy. In 1819, Congress enacted the Civilization Fund Act, which authorized the president “in every case where he shall judge improvement in the habits and condition of such Indians practicable” to “employ capable persons of good moral character” to introduce tribes to the “arts of civilization.” In 1824, the Bureau of Indian Affairs was established to administer the fund, which paid Christian missionaries to “civilize” the Indians.

The creation of residential schools were part of the broader settler colonial project to exterminate Native American culture and separate them from the land through war and violence. The first government-run boarding school for Native American children was the Carlisle School, which opened in Pennsylvania in 1879 for the purpose of “civilizing” by forcibly assimilating the children into white society.

Kill the Indian, save the man: Founded by a Civil War veteran, Gen. William Henry Platt, who was in charge of Native American prisoners of war, its mission was clear. “A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres,” Platt said. “In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.”

Of the 10,000 children who attended the Carlisle School until it closed in 1918, more than 180 died amid abuse, malnourishment and disease related to substandard living conditions. After 100 years, the bodies of 10 of these children were returned to their families in June 2021.

Nevertheless, Carlisle came to serve as a model for other residential schools. Employing Platt’s assimilationist and genocidal philosophy of eliminating Native American culture, these schools adhered to policies forcing children to speak, dress and behave according to white American values, focusing on individualism and materialism, private rather than communal property and the monogamous nuclear family structure. Boys received industrial training, while girls learned home life skills in regimented environments, suffering under living conditions the Native American Rights Fund described as “somewhere between dungeons and death camps” in a 2019 report.

The role of the church: Between one-third and 40 percent of the Indian boarding schools in the United States were operated by Christian denominations. Churches believed that “civilizing” and converting Indigenous people to Christianity was their only hope of salvation from a “dying” culture. Missionaries regarded Indigenous spirituality as witchcraft and Christianity as the only acceptable moral law for a civilized society.

But, in fact, the boarding school system is now recognized as a form of genocide designed to forcibly remove children from their homes and separate them from their families, culture, clothing and language. Their hair was cut in a humiliating manner. Sadistic missionaries punished them for speaking their native tongue by washing out their mouths with soap, lye and chlorine. They were neglected, denied food, beaten and raped, sometimes leading to death; all for the sake of destroying Indigenous

culture.

And their influence spread across the northern border. Nicholas Flood Davin, the architect of the Canadian residential school program, visited Indigenous boarding schools in the United States in 1879 and was impressed with what he saw, particularly with the Carlisle School and its solution to the "Indian problem" through an "aggressive civilization" policy that deconstructed Indigenous children.

"The experience of the United States is the same as our own as far as the adult Indian is concerned. Little can be done with him," Davin wrote in his 1879 report to the Canadian government. "He can be taught to do a little at farming, and at [live]stock-raising, and to dress in a more civilized manner, but that is all. The child, again, who goes to a day school learns little, and what little he learns is soon forgotten, while his tastes are fashioned at home, and his inherited aversion [avoidance] to toil [work] is in no way combated [stopped]." In Canada, residential schooling was made compulsory for all First Nations children in 1920.

The school doors close: Most of the schools ceased operations by the mid-1970s, with the last one closing in the late 1990s. With the Indian Residential Schools Settlement Agreement in 2007, Canada paid reparations to the survivors of residential schools and issued an apology.

Lawyers in Canada have requested the International Criminal Court investigate the Canadian government and the Vatican for alleged crimes against humanity. While the Canadian government identified 5,300 abusers, none has been charged under a federal law addressing war crimes and crimes against humanity. A few priests have faced sexual assault charges but not homicide. Out of more than 38,000 reports of abuse at the residential schools, there were fewer than 50 convictions.

The mass graves in Canada are a wake-up call for the United States to seize the opportunity and get on the right side of human rights. As a country with a long, unresolved and traumatic history of genocide and mass graves, of family separation and the erasure of children, America must heal itself by accounting for its past.

**Whitewashing US crimes in Afghanistan: Why the ICC must go (Middle East Eye)** By Arnaud Mafille  
October 4, 2021

**In a stunning statement released on 27 September, the prosecutor for the International Criminal Court (ICC) Karim Khan announced he intended to resume the investigation into war crimes in Afghanistan, in light of the recent developments in the country, namely the end of US occupation and the Taliban's rise to power.**

However, the statement made clear the investigation will essentially exclude war crimes committed by US forces and their allies. Khan said he decided "to focus my office's investigations in Afghanistan on crimes allegedly committed by the Taliban and the Islamic State – Khorasan Province and to deprioritise other aspects of this investigation."

The ICC had already spent 15 years looking into alleged war crimes in Afghanistan before opening a full investigation.

In 2017, Fatou Bensouda, the previous chief prosecutor, had announced plans to start investigating historic allegations of crimes against humanity and war crimes. This followed a 2016 ICC report that affirmed a "reasonable basis" to believe that the US had carried out war crimes in Afghanistan.

The ICC then issued a call to submit representations on behalf of victims, giving NGOs just two months to collect and file evidence.

Since 2003, my organisation, CAGE, has worked to document state abuses in the post-2001 world, and seek justice for survivors and victims of the US-led war on terror. As a result, we submitted first-hand accounts and medical evidence of harrowing prisoners abuses committed by US forces, including homicide, rape and brutal torture.

The investigation was utterly rejected by the US, which gave no credit whatsoever to the ICC.

"We will let the ICC die on its own. After all, for all intents and purposes, the ICC is already dead to us," said John Bolton, then US national security adviser in the Trump administration. "We will ban its judges and prosecutors from entering the United States. We will sanction their funds in the US financial system, and we will prosecute them in the US criminal system. We will do the same for any company or state that assists an ICC investigation of Americans."

Former US President Donald Trump actually followed through with the threats in September 2020, and imposed sanctions on ICC officials. In any case, the ICC's inquiry was put on hold in 2020 after the now-deposed government in Kabul said it would investigate war crimes allegations itself.

This was in itself an astonishing concession since the US-backed government had been described as a "self-organised kleptocracy" which routinely tortured prisoners, and allegedly indulged in a range of sexual abuses. From then on, it was clear there would be no accountability for crimes committed by American forces and its allies in Afghanistan.

The ICC has actually no track record in holding powerful states to account. In 2020, the ICC already gave a pass to the United Kingdom over crimes committed in Iraq. "It is without dispute there is evidence war crimes were committed," the ICC explained at the time.

The ICC had released a 180-page report documenting the abuse of hundreds of Iraqi detainees at the hands of British soldiers between 2003 and 2009. This included prisoners being battered to death, subjected to sexual violence and rape.

The report also concluded "that early steps taken by the UK authorities to investigate allegations appear to have been marred by a lack of independence and impartiality inconsistent with an intent to bring the persons concerned to justice."

Yet, the ICC decided it would take no action against the UK since it could not make a determination as to whether the UK had acted to shield soldiers from prosecution.

It is often pointed out that the ICC is seen by many nations around the world as a "European neo-colonial enterprise" that suffers from a great lack of trust among non-western nations. The ICC has indeed proven to be much more relentless in pursuing alleged perpetrators from Africa.

As a matter of fact, the International Criminal Court has 30 open cases, seven defendants in its custody and four convictions thus far. All originate from the African continent. Yet, the ICC cannot hold accountable powerful western nations for an estimated 900,000 killed in the Muslim world as a result of post-2001 wars.

The new prosecutor has not only decided to ignore war crimes committed by the US but is also seeking to focus on the new government in Kabul, i.e the Taliban. Many will look at this move as politically motivated and an attempt to increase pressure on the Islamic Emirate of Afghanistan.

This comes in a wider context in which international institutions seem to act in that way too.

In the immediate aftermath of the American withdrawal, the World Bank and the International Monetary Fund halted aid to Afghanistan. The United States also froze most of the country's assets which happened to be held at the US Federal Reserve Bank of New York.

The military war in Afghanistan is now over, and ended with the historic defeat of the US.

It seems that a segment of the international community is, however, determined to wage economic and diplomatic warfare on Afghanistan, placing at risk ordinary Afghans in a country already on the brink of starvation.

Upon learning of the prosecutor's decision, one of the Afghans who submitted evidence of his brutal torture by the US told me: "The ICC was meant to be a tool to end humanitarian disasters, not participate in creating new ones. Where are these human rights we hear about? For Afghans, there were no human rights in Guantanamo, no human rights in Bagram, and there no human rights at the Hague either."

It will be hard for anyone to argue with him.

**How the U.S. derailed an effort to prosecute its crimes in Afghanistan (The Intercept)** By Alice Speri  
October 5, 2021

**Last Week, the new chief prosecutor of the International Criminal Court — the only international body with the authority to prosecute individuals over genocide, crimes against humanity, and war crimes — sought to reopen a previously suspended investigation in Afghanistan but with a caveat. The probe would not include conduct by the United States and its allies, including the U.S.-backed former Afghan government, all of which have committed crimes that fall squarely within the court's jurisdiction.**

The court's prosecutor, Karim Khan, who has been on the job for just over three months, wrote in a statement that his office would focus exclusively on crimes committed by the Taliban and by the Islamic State Khorasan Province, or IS-K, the Islamic State group's affiliate in Afghanistan.

A preliminary investigation of crimes committed in Afghanistan since the country joined the court in 2003 had been underway for more than a decade, before a full investigation was authorized and then suspended in favor of an Afghanistan-led process.

That investigation included crimes committed by all parties to the conflict, marking the first time the ICC probed crimes committed by U.S. forces, which in Afghanistan include extrajudicial killings, drone strikes that killed an untold number of civilians, and torture.

Now, if a panel of ICC judges authorize the prosecutor's request, the resumed investigation would "deprioritise other aspects of this investigation," Khan said, an implicit reference to the U.S. and its allies.

The announcement dealt a blow to victims, human rights advocates, and those who had placed in the ICC their last hope to see the crimes committed by U.S. personnel and officials prosecuted in a court of law. While many Afghans welcomed the reopening of a case that they hope will preserve the international community's scrutiny of the newly installed Taliban government, they warned that the decision would threaten the credibility of a court that has long faced questions about its ability to take on the world's most powerful countries.

"This just proves one more time to Afghans that international mechanisms do not value their life when foreigners are involved and international forces are involved," Shaharzak Akbar, who chaired Afghanistan's Independent Human Rights Commission until the Taliban took control of the country in August, told *The Intercept*. "This decision reinforces the perception that these institutions set up in the West and by the West are just instruments for the West's political agenda."

The ICC has historically operated with limited resources, with an annual budget of roughly \$172 million paid for by its 123 members. In a world starved for justice and accountability, the ICC's resource problem has at times become a political one, raising questions about how the court prioritizes which cases to tackle. In recent years, the ICC has opened inquiries into potential Russian crimes in Georgia and Ukraine and Israeli crimes in Palestine, and it has opened, and then shuttered, preliminary inquiries into acts committed by British troops in Iraq. All have faced significant opposition.

The United States, which is not an ICC member, has also long taken a hostile stance toward the court, opposing investigations into its allies, including Israel, and fiercely contesting the court's jurisdiction over U.S. nationals. U.S. officials have put extensive pressure on the court, the Afghan government, and U.S. allies in an effort to derail any investigation of American crimes.

"This was clearly a political decision — there's really no other way it can be interpreted. It gave the US, the UK and their allies a get out of jail free card," Jennifer Gibson, an attorney focused on extrajudicial executions at the human rights group Reprieve, wrote in a statement to *The Intercept* in response to Khan's announcement. "It's almost as if the two countries wrote the script for him. He mentions the attack on Kabul Airport in the waning days of the withdrawal, but ignores the U.S. drone strike that killed a family of ten, including seven children, soon afterwards."

The International Criminal Court, which is based in the Netherlands, began operating in 2002, just as the U.S.-led war on terror was ramping up. Afghanistan ratified the Rome Statute, the ICC's founding treaty, in 2003, shortly after the U.S. defeated the Taliban and installed a transitional government. By that point, the country had been at war for decades, and many foreign and domestic parties had committed atrocities that could qualify as war crimes and crimes against humanity. A 10-year war with Soviet Russia had killed over 1 million Afghans and displaced millions more. A subsequent period of civil conflict between Afghan factions had killed hundreds of thousands more. Then in 1996 came the first Taliban government, which ruled over Afghanistan until the U.S. invasion in the aftermath of the 9/11 attacks.

In 2002, one month after the court began operating, the U.S. enacted the American Service-Members' Protection Act, which sought to protect U.S. personnel from international prosecution. U.S. officials also pursued dozens of bilateral agreements to pressure other countries not to collaborate with the court.

"From the very beginning, they were trying to shield themselves from responsibility," Raquel Vázquez Llorente, the International Federation for Human Rights' permanent representative to the ICC, told *The Intercept*. "They were very scared that the court would bring their people to the Hague."

In 2006, then-ICC prosecutor Fatou Bensouda opened a preliminary probe in Afghanistan, though the court would only have jurisdiction over crimes that had taken place since Afghanistan had ratified the Rome Statute. At the time, the court was facing pressure to investigate abuses beyond Africa, where all of the ICC's early cases had taken place. Bensouda, a Gambian national, and Phakiso Mochochoko, another senior ICC official who is from Lesotho, were eager to change the narrative that the court was not willing to take on global superpowers and made clear they would look at conduct by all parties to the Afghan conflict, foreign powers included.

Under ICC rules, the court can open an investigation if a member country requests it, if the United Nations Security Council refers a case, or if it believes that one of the crimes that fall under its jurisdiction were committed within the territory of a member state or by nationals of a member state operating in another country. It was under that third category that the court claimed authority over the conduct of U.S. nationals in Afghanistan, as well as in Romania, Lithuania, and Poland, where the

CIA operated black sites.

The prosecutors had hoped to find a receptive partner in the administration of President Barack Obama, particularly as the American public had widely condemned the war on terror tactics of his predecessor. But U.S. officials unequivocally warned the court that opposition to the investigation of American crimes was bipartisan. With political opposition from the strongest party to the conflict, the preliminary inquiry in Afghanistan dragged along for a decade. In 2017, with President Donald Trump newly in office, Bensouda finally moved to formally request the court's permission to launch an official investigation. In 2019, the ICC's pretrial chamber, the body tasked with authorizing a formal investigation, denied such authorization — an unprecedented decision that cited, among other things, the “political climate” surrounding the probe.

“We all read between the lines,” Katherine Gallagher, a senior staff attorney at the Center for Constitutional Rights who represents victims of U.S. torture, told *The Intercept*, noting that the statement clearly referenced “the political pressure that the Trump administration has put on the court.”

Trump's national security adviser, John Bolton, had been fiercely opposed to the ICC since his days in the Bush administration, and he encouraged Trump to threaten ICC officials with sanctions and prosecution as well as to revoke Bensouda's entry visa to the U.S. The prosecutor's team denounced the scare tactics and pressed forward, projecting, outwardly at least, a continuing willingness to take on the U.S. The court's investigation of U.S. acts had barely started, however, and political pressure on the ICC was threatening to thwart other aspects of the probe as well.

ICC prosecutors and representatives of victims successfully appealed the denial from pretrial chambers, and the ICC's appeals chambers authorized a formal investigation in Afghanistan on March 5, 2020. In response, the Trump administration issued an executive order condemning the ICC and imposed sanctions on Bensouda and Mochochoko — the first time the U.S. had ever taken such action against officials of an international body.

The administration also stepped up its pressure on the Afghan government, which was eager to maintain U.S. support and made a last-minute request to testify before the ICC in opposition to the appeal. When that effort failed, former Secretary of State Mike Pompeo flew to Kabul; a day after his visit, the Afghan government petitioned to “defer” the ICC investigation in Afghanistan in order to allow a national investigation to take place instead. As a court of last resort, the ICC is required to give precedence to national processes — but it's unclear whether the Afghan government was actively pursuing one. (The deferral also meant a pause of ICC investigations into U.S. torture at CIA black sites across Eastern Europe, even though those were crimes that the Afghan government was not in a position to investigate.)

Akbar, the Afghanistan Independent Human Rights Commission chair, told *The Intercept* that she had tried to talk Afghan government officials out of effectively killing the ICC probe.

“In private conversations I would say to Afghan government officials, why are you guys going with the U.S.'s ways, especially after they have signed an agreement with the Taliban?” she said, referring to a peace agreement between the U.S. and the Taliban signed in Qatar in early 2020. “Withdraw your deferral, do something for your nation.”

Akbar kept advocating for Afghan officials to allow an ICC investigation until the last months before the Taliban takeover, including when a government delegation met with court officials in The Hague last May, around the same time as an IS-K attack at a Kabul school killed 90 people, most of them teenage girls. “This culture of impunity, it all feeds into each other, this lack of justice creates conditions and emboldens people to do these things,” Akbar said she told her Afghan government colleagues. “I said, ‘For God's sake, look at what's happening, let them investigate, please.’ But it was clear that they were under a lot of U.S. pressure and that that was a key factor in making that decision.”

The deferral essentially put a stop to the ICC investigation in Afghanistan before it could start. It also relieved ICC prosecutors of their pledge to push through with an investigation that faced powerful opposition without having to publicly capitulate to the U.S. When the administration of President Joe Biden lifted the sanctions on the ICC officials earlier this year, it did so with the tacit understanding that the court's probe on U.S. crimes wouldn't resume. The White House did not respond to a request for comment.

In the ICC prosecutor's statement, Khan cited the “gravity, scale and continuing nature of alleged crimes by the Taliban and the Islamic State,” as well as his office's “limited resources,” as a reason to scale back the probe. While many human rights advocates condemned the decision, others said it was a pragmatic one that would allow the ICC to move forward with at least some parts of an investigation that U.S. pressure had already successfully derailed. The ICC prosecutor's office did not respond to a series of questions by *The Intercept*.

On Friday, a group of Afghan victims filed a statement with the ICC in support for the reopening of the investigation. “The international community failed the Afghan people in letting the Taliban take over Afghanistan and by allowing impunity to reign for the past 15 years due to inactivity and unjustified delays by this Court in administering justice,” they wrote. “There is

no further basis to wait and there is no reason to do so.”

Ghulam Sakhi, a researcher with Afghanistan Human Rights and Democracy Organization, an Afghan-based human rights group, told The Intercept that it would have been ideal for the ICC “to investigate crimes committed by all conflict parties in Afghanistan, including the Afghan government, as well as international military troops, which obviously includes the U.S.” He denounced superpowers’ pressure on the court as a “tragic aspect of international justice.”

But the narrower investigation is also important, he said, considering the Taliban’s recent return to power and the grisly attacks that IS-K has committed against civilians in recent years, including massacres at a hospital maternity ward and a suicide bombing that killed nearly 200 people outside the Kabul airport in August.

“We cannot delay this forever just because unfortunately, the U.S. cannot be encouraged to cooperate,” said Sakhi, whose group has facilitated the representation of victims before the ICC. “There was a fear that [the U.S.] could have derailed this entire Afghanistan investigation, which I think would have been to the detriment of the victims of conflict in Afghanistan. It’s far better if certain crimes are investigated, than if no crimes are investigated at all.”

Critics of the decision argued that deprioritizing U.S. and other foreign powers’ crimes undermines the court’s principle of impartiality and reveals a lack of understanding of the conditions that precipitated the collapse of the Afghan government in the first place.

“When you know the conflict, those abuses were so much part of where we are today, they were the kinds of things that fueled a lot of grievances that alienated people from the government,” Patricia Gossman, Human Rights Watch’s associate director for Asia, told The Intercept. “It’s very disappointing that the prosecutor would make a statement basically suggesting that only one side of the conflict is worthy of investigation.”

Liz Evenson, an associate director of HRW’s International Justice Program who focuses on the ICC, noted that Khan’s decision — one of his first official actions — reignites long-standing questions about how the court chooses to allocate its limited resources. “The work that the ICC does has to be meaningful,” she said. “For it to be meaningful it needs to resonate and relate to victims’ experiences, it needs to be perceived as independent, it needs to be perceived as impartial.”

Before it was shelved, the ICC investigation into U.S. crimes in Afghanistan was expected to focus primarily on the torture program, which was much better documented than drone strikes and other crimes. Those would also fall under the ICC’s jurisdiction, but it’s unclear how closely the court was investigating them. Critics of the decision to scale back the probe have noted that by essentially enabling impunity for U.S. crimes, the court risks sending the message — to dictators, autocrats, and even other powerful democracies — that they may get away with them too.

Khan, a British lawyer, previously led a United Nations investigative team focused on crimes committed by the Islamic State in Iraq. In his announcement, he emphasized the U.N. has repeatedly warned that the “terrorist activities of the Islamic State constitute a global threat to international peace and security.”

Gallagher, the CCR attorney, was alarmed by that reference. Unlike war crimes and crimes against humanity, there is no clear definition of terrorism in international criminal law, and terrorism is not cited in the Rome Statute. Instead, she said, the reference reflected a war on terror mentality. “It is concerning to see the language of terrorism, which is a term that operates in the political sphere, come into a criminal court,” she said, particularly when the shift was announced in conjunction with impunity for U.S. crimes. “International law has been turned into a sword rather than a shield to protect civilians. ... We see it when we look at autocrats and dictators around the world who label their political enemies as terrorists.”

Even as the ICC’s effort to reopen part of its Afghanistan investigation could lead to justice for some victims of the Taliban and IS-K, it is leaving countless others behind. It is also denying Americans an opportunity to see their own government held accountable for the crimes it committed in their name. While a series of public inquiries have shed light on many of the abuses the U.S. has carried out during its two-decade war on terror, there have been no significant criminal or civil cases against those responsible.

“This is as much about the U.S. as it is about Afghanistan,” said Akbar, the IHRC chair, who has called on the U.S. to take responsibility for its actions and initiate a process of reparations. “It’s about Afghan victims, but it’s also about the U.S. military in its deep and systematic problems. Americans who care about the U.S. should care about this.”

**The CIA’s Afghan proxies, accused of war crimes, will get a fresh start in the U.S. (the Intercept)** By Andrew Quilty and Matthew Cole  
October 5, 2021

**Before the Taliban took control of Kabul in August, the U.S.-backed Afghan commandos known as Zero units were the ghosts of the Afghan battlefield. Along**



**with their CIA advisers, they were feared and, in recent years, virtually invisible./p>**

But in the hectic, violent weeks between the Taliban victory and the U.S. military withdrawal, fighters belonging to a Zero unit known as O1 — and other linked militias known collectively as National Strike Units, or NSUs — helped the Americans secure Hamid Karzai International Airport. Firing warning shots day and night, O1 fighters sought to corral and search crowds of Afghans and foreigners trying to enter the airport to board evacuation flights, much as Taliban fighters struggled to maintain control at other airport entrances around the same time.

One evening in late August, an Afghan O1 commander whose fighters were guarding the airport's northwestern gate asked an Intercept journalist taking photographs to identify himself to the fighter's American handler. The handler, who was wearing a baseball cap and had a pistol strapped to his waist, suggested that if the journalist wanted to leave on an evacuation flight, he should do so immediately. Soon, the man said, he'd be evacuating "my guys," referring to the O1 fighters. After that, the gate would be closed for good. The American then turned to the O1 commander and explained the value placed on a free press by citizens of the country to which he and his fighters would soon be flown.

The CIA prioritized the evacuation of Zero unit members from Afghanistan, flying out as many as 7,000 of the former commandos and their relatives even as thousands of vulnerable former U.S. government and military employees, human rights activists, and aid workers were left behind. NSU commandos refused to allow a former U.S. government interpreter through the airport gates unless she gave them \$5,000 each for herself, her husband, and their three children, Al Jazeera reported. The woman, who said she and her relatives were beaten by NSU members at the airport, could not afford the bribe. Two former members of a different U.S.-trained military unit, the Afghan National Army's KKA, or Afghan Special Unit, told The Intercept from a safe house in Kabul that no formal effort was made to evacuate them and that unit members who were able to board flights did so through personal connections. The two former members themselves had been turned away by O1 militiamen after approaching the airport's northwestern gate. Since then, they said, at least four KKA members have been tracked down by Taliban fighters and killed.

The CIA's ability to evacuate its allies appears to have far outstripped that of other U.S. government entities and signals its pivotal role in the war. The agency evacuated as many as 20,000 Afghan "partners" and their relatives, the Washington Post reported, nearly one-third of the 60,000 Afghans the U.S. has taken in overall. The CIA did not respond to a request for comment.

Most coverage of the CIA's efforts has been laudatory. But the Zero units were known for deadly night raids that killed an untold number of civilians across Afghanistan. The Intercept documented 10 raids conducted by O1 in Wardak Province, southwest of Kabul, in which at least 51 civilians, including children, were killed — many at close range, in execution-style assaults. Most O1 missions were led by a small number of CIA "advisers," as their Afghan fighters knew them, or U.S. special forces borrowed from the Pentagon's Joint Special Operations Command.

"The U.S. should not be offering safe haven to those who committed war crimes or serious human rights abuses," said Patricia Gossman, associate director for the Asia division at Human Rights Watch, who wrote a report on the units' abuses. "In Afghanistan, these forces were never held accountable for their actions, which included summary executions and other abuses. The U.S. and any other countries resettling members of these units should screen arrivals and investigate any for their possible involvement in human rights violations."

Most of the Zero unit members were flown to Qatar, where CIA paramilitary officers worked to get their former Afghan colleagues sent to the U.S., according to a former senior U.S. intelligence official with direct knowledge of the operation. The former Afghan commandos are being housed on U.S. military bases, including two in Virginia and New Jersey, and at Ramstein Air Base in Germany while they await resettlement, according to the former senior U.S. official, two former senior Afghan intelligence officials, and a former commando from a different Afghan unit who was evacuated to the same U.S. base as some Zero unit members. Another small group of Zero unit members is in the United Arab Emirates, but they are expected to come to the U.S. within weeks, one of the former Afghan officials told The Intercept. Both former Afghan officials said they have spoken with relatives who previously belonged to the Zero units and are now in the United States.

Once known within the U.S. government as the Mohawks, Zero units started as an irregular commando force controlled by the CIA. The intelligence agency trained the teams to serve as guerrilla fighters out of small U.S. outposts, mainly in the north and east of the country, near the Pakistan border. Much of the original purpose of the program was to enable the CIA to conduct cross-border raids into Pakistan, a politically fraught and rarely approved activity for U.S. personnel.

The Zero units allowed the U.S. to conduct deniable operations and avoid accountability and were similar in some respects to the CIA's Phoenix program during the Vietnam War. For that program, the agency created Provincial Reconnaissance Units comprised mostly of South Vietnamese guerrillas led by American commanders. Like the Afghan Zero units, the PRUs gathered intelligence and assassinated suspected Viet Cong.

In 2010, the Afghan government signed an agreement with the CIA to turn the NSUs into a joint program with Afghanistan's former intelligence service, the National Directorate of Security, or NDS, according to the two former senior Afghan officials, who were involved in the arrangement. While the missions would be jointly run, the units continued to be funded exclusively by the U.S. government, the two former Afghan officials told *The Intercept*. The change allowed the CIA to claim plausible deniability against accusations of human rights abuses or war crimes.

But in 2019, Afghanistan's most senior defense official, then-Afghan national security adviser Hamdullah Mohib, told *The Intercept* that O1 was controlled by the CIA. "Quite frankly, I'm not fully aware ... of how they work," he said at the time. "We've asked for clarification on how these operations happen, who are involved, what are the structures of this. When they were set up, why are they not in Afghan control?"

Just after President Joe Biden took office in January, the CIA gave the NDS one year's budget and said the agency would no longer support Zero units or continue funding them, one of the former Afghan intelligence officials told *The Intercept*.

Eagle Base, the sprawling CIA and O1 compound on a hillside northeast of Kabul, used to be off-limits to all but America's closest allies.

From the highway, passersby could see a shooting range cut into the side of the hill and a narrow road snaking up to a cluster of beige structures. Less visible was the complex of helicopter hangars, ammunition depots, and barracks as well as the former CIA black site known as the Salt Pit, where interrogations and torture were carried out in the earliest years of the war.

Perimeter security was extreme, even by Afghanistan's standards. A ditch ringed an earthen wall 6 feet high. Next came concertina wire, faded red bollards linked by steel cables, and a 10-foot mud and concrete wall topped with more concertina wire, with elevated guard posts every 300 feet. Floodlights illuminated the entire circumference at night.

Before 2019, O1 fighters left Eagle Base in vehicle convoys for nighttime missions. That changed when convoys on two Wardak missions were ambushed, according to a former NDS counterterrorism officer who used to accompany O1 on raids in the province. Thereafter, almost all O1 missions were flown into Wardak aboard American Chinook helicopters. Residents living near Eagle Base told *The Intercept* in 2019 that they heard the distinct thwap of the dual-rotor helicopters several times a week, departing early in the evening and returning before dawn. Otherwise, O1 fighters were rarely seen.

But the Taliban knew who occupied Eagle Base. On July 25, 2019, a suicide car bomb targeted CIA officers traveling in unmarked Toyota Land Cruisers arriving at the gate, Taliban spokesperson Zabihullah Mujahid said in an interview that year. Local residents confirmed that a bombing took place against white Land Cruisers at the compound gate that day. The incident attracted little media attention. A spokesperson from Resolute Support, the now-defunct U.S. military mission in Afghanistan, told *The Intercept* that he was unaware of any foreign military casualties in Kabul that day. The CIA declined to comment.

Taliban fighters have occupied the expansive facility since parts of it were destroyed by fire and explosives in the final days of the American military withdrawal from Afghanistan at the end of August. In early September, a week after the last U.S. military aircraft had departed Kabul, Taliban fighters clad in a darker version of fatigues with the same tiger-stripe pattern worn by O1 escorted journalists through the ruins of Eagle Base, leading them through areas they said had been cleared of land mines and booby traps left by the Americans and their Afghan partners.

The fighters were from the Taliban's "Badr" 313 Brigade, an elite commando unit named for the Battle of Badr 1,400 years ago, when the Prophet Mohammad is said to have overcome enemy forces with just 313 men. They were led by an English-speaking Taliban member in his 40s wearing traditional clothes, sunglasses, and a surgical mask.

Nearly two weeks earlier, at dusk on August 26, a suicide attack at the airport and subsequent gunfire had killed about 170, including 13 U.S. service members. Kabul residents were on edge. When another huge explosion was heard across the city before midnight, many feared that there had been a second deadly attack. But that explosion was a controlled detonation, one of several that destroyed ammunition depots, armories, and vehicles as well as various facilities inside Eagle Base that the CIA didn't want to leave for the Taliban once the agency finally abandoned it. Brian Castner, Amnesty International's senior crisis adviser for arms and military operations and a former U.S. Air Force explosive ordnance disposal officer, said *The Intercept's* photos from the site suggested "a very hasty and messy withdrawal."

Constellations of bullets, mortars, and grenades littered the charred foundations of ammunition depots destroyed by fire. In the burned-out shell of what appeared to be an armory, the barrels of Kalashnikovs, belt-fed PKM and DShK machine guns, rocket-propelled grenade launchers, and mortar tubes lay in piles like pick-up sticks.

Inside a dormitory building, the Zero units' trademark tiger-stripe uniforms hung from hooks and littered the floor. In a steel locker, amid the discarded packaging of tactical gadgets and passport photos of a young family, a military patch in the shape of a pentagon read "The Shield & Swords of Afg, NSU (O1)."

## **South America**

**Five Years After Peace Deal, Colombia Is Running Out of Time, Experts Say (NYT)** By Julie Turkewitz  
September 26, 2021

### **On a coca farm hidden in the jungle, a half-dozen day laborers slip out of hammocks and head to work, harvesting the shiny green leaves that will become cocaine.**

In the nearby village of La Paz, chalky white cocaine base serves as currency, used to buy bread or beans. And in the community pavilion, propaganda on the wall pays homage to an insurgency that, in villages like this one, never ended.

Scenes like these were supposed to be a thing of the past in Colombia.

Five years ago, the government signed a peace deal with the largest group of rebels waging war, the Revolutionary Armed Forces of Colombia, or FARC, signaling the end of a conflict that had raged for half a century and left more than 220,000 people dead.

The rebels agreed to put down their arms, while the government promised to fold long-neglected rural communities into the Colombian state, offering jobs, roads, schools and a chance at a better life. By addressing poverty and inequality, the peace pact was supposed to extinguish the dissatisfaction that had fueled the war.

But a third of the way into the deal's 15-year time frame, much of that help has still not reached the Colombian countryside. Armed groups still control villages like La Paz.

And, experts warn, Colombia's window to achieve the lasting peace envisioned in the accord may be closing.

"They spoke of benefits," said Jhon Jiménez, 32, a coca farmer. "It was a lie."

Colombia's 2016 peace pact was among the most comprehensive in modern history, earning global applause and a Nobel Peace Prize for Juan Manuel Santos, then president. The United States, which had spent billions of dollars supporting the Colombian government during the conflict, was among its biggest supporters.

Since then, more than 13,000 FARC fighters have laid down their arms. Many are integrating into society. The deal also established an ambitious transitional justice court that is investigating war crimes and indicting major players.

After five years, many scholars consider a peace agreement a success if the signatories have not returned to battle. By those terms, the treaty is a success: While dissident factions remain, such as in La Paz, FARC as an institution has not rearmed.

But many scholars and security experts warn that the transformation of the long-neglected countryside — the heart of the deal — is perilously stalled. By failing to gain the trust of rural people, experts say, the government is allowing violent groups, old and new, to move in and perpetuate new cycles of violence.

"There are too many things that have not been done," said Sergio Jaramillo, a top negotiator for the government in 2016.

President Iván Duque, a conservative who since his election in 2018 has been in the uncomfortable position of implementing a deal opposed by his party, called the criticism unfounded.

"There is not a slow implementation whatsoever," he said in an interview. "We have been not only implementing, but the issues that we have been implementing are going to be decisive for the evolution of the accords."

To secure poor farmers' rights to land, his office has granted thousands of them land titles, he said, and approved more than a dozen regional development plans.

But Mr. Duque's party is allied with powerful landholders who have the most to lose if land ownership rules are rewritten, and

many critics accuse him of slow-walking the effort.

According to the Kroc Institute for International Peace Studies, which monitors the deal's progress, just 4 percent of the accord's rural reform measures are complete. As of June, an additional 83 percent either had just started, or had not been started at all.

At the same time, security has worsened in many rural areas, as criminal groups battle for territory previously held by the demobilized FARC.

Mass killings, mass displacements and the murders of social leaders are all up since 2016, according to the United Nations, making it increasingly difficult for the state to move in.

Analysts fault both Mr. Duque and his predecessor, Mr. Santos, for failing to fill the vacuum left by the FARC.

The village of La Paz sits more than three hours from the nearest city, down a long, muddy road. A statue of the Virgin Mary presides over the town's two main streets. There is no cell service here, and community meetings are announced over a loudspeaker hitched to a post at the center of town.

During the war, La Paz was FARC territory. Coca was the main driver of the economy. Poor farmers picked it, rebel fighters taxed it and narcotraffickers turned it into cocaine, then ferried it to buyers in the United States and beyond.

When the deal was signed, it was met in La Paz, a town whose name means "peace," with much skepticism — and some hope. The government included the area in one of its development plans, while coca farmers were invited to participate in a substitution program meant to help them grow new crops.

But the changes that followed were limited. A portion of the highway to La Paz has been paved. Electricity and ambulances have reached some of the remote towns.

And a dissident faction of FARC remains in the jungle nearby, taking in new recruits. Its "laws" — laid out in a manual — dictate everything from punishments for thieves (death after a third infraction) to labor rules (forbidding wage discrimination) to taxes (those with means must pay).

Coca still dominates.

The bad roads prevent them from getting other crops to market, residents said, and a lack of cash shuts them out of the mainstream economy. The town's store accepts cocaine base as payment, instead of coins and bills.

"We know that what we are doing is illegal, and that we are hurting Colombia and the world," said Orlando Castilla, 65, a community leader, speaking of the coca crops.

"But how else are we going to make a living?"

At her home down a long dirt path, Sandra Cortés, 44, a mother of 11 — her "half battalion," she called them — explained that she was among those to join the coca crop substitution program.

The decision to participate was a leap of faith: It required her family to rip out their entire crop, which represented almost everything they owned. In return, she received a year of subsidies equal to the minimum wage, a cluster of fruit tree saplings, some farm equipment and a few visits from a technician who was supposed to teach her new skills. She wanted to raise cattle.

But soon the subsidies ended, most of the trees died, and the technician disappeared. She never received the funds or the know-how for the cattle.

Desperate, she sold her land to a neighbor, she said, and now she borrows money to feed her children.

"We really thought that they were going to help us," she said, cradling her 14-month-old. "We were wrong."

Of the 99,000 families who participated in the substitution program, just over 7,000 have productive new businesses today, according to the government.

On another morning, on a coca farm outside of La Paz, farmers taking a lunch break said they had noticed one shift since the peace deal. The government had drastically increased its efforts to eradicate the crop — and with it, their livelihoods.

"Today, the war is the government against the peasant," said José Yarra, 44, a coca farmer.

“If I have no other way to make a living,” said another farmer, Mr. Jiménez, “I will have to go to the guerrilla.”

Colombia will hold an election next year, and by law a president cannot run for re-election. So it will fall to Mr. Duque’s successor to try to build peace on the back of the current distrust and insecurity.

Despite these concerns, several experts said they still saw reason for cautious optimism.

“Implementation is going to be consistently more and more difficult because of growing insecurity,” said Kyle Johnson, a founder of Conflict Responses, a nonprofit in Colombia focused on peace and security issues, “but not impossible.”

Many hours from La Paz, a village called Las Colinas offers a glimpse of what the future could look like.

Built following the peace accord, Las Colinas is home to hundreds of former FARC fighters now leading civilian lives. Thanks to government and international funding, they have 270 homes, a school, a meeting house, a health clinic, a library and a computer lab.

They have also formed several cooperatives, and on a recent day construction was underway for a supermarket, a produce collection center, a processed food plant and a restaurant.

More than 60 children have been born here since 2016.

Success is far from certain. It’s unclear if any of these businesses will be profitable, or how long government and donor funds will last.

And the village president, Feliciano Flórez — still best known by his nom de guerre, Leider Méndez — said that they live in fear. Since the deal was signed, at least 286 former combatants have been killed, according to the United Nations — many by armed groups, some for supporting the peace deal.

But Mr. Flórez, 27, sitting on his porch with his toddler on his lap, encouraged Colombians not to lose faith in the peace promised by the accord.

“We’re committed,” he said. “But I believe it’s a job we all have to do together.”

“The thing is,” he added, “there is no other way.”

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## **TOPICS**

## **Terrorism**

**From Malaysia to the Philippines, what are the most serious terror threats in Southeast Asia 20 years after 9/11? (South China Morning Post) By Amy Chew**

September 23, 2021

**A senior Malaysian counterterrorism official has warned that religious and ethnically motivated violent extremism is the most significant terrorism-related danger the country faces, while Indonesia, the Philippines and Singapore are most concerned by groups linked to al-Qaeda and Islamic State (Isis).**

The comments from officials and analysts came as This Week in Asia asked security agencies in the region about the most serious terror threats they faced 20 years after September 11.

The response from Malaysia was starkly different, and drew attention to the sensitive issues of race and religion that in recent years have been increasingly prominent in the country's political rhetoric.

"The biggest terror threat in Malaysia can be categorised under religious and ethnically motivated violent extremism which eventually sparks ethno-nationalistic division that may lead to violent incidents," said the counterterrorism official, who declined to be named.

"It is not recommended for political leaders to play to their galleries along religious and ethnic lines, even if that is what their constituents want so much to listen to."

The echo chamber effect created by these politicians radicalised their audience and created more far-right extremists, the official said, which did not augur well for the multireligious and multiracial country. "If left untreated, this will be cancerous to national unity and much-needed nation building in Malaysia." From al-Qaeda-linked Jemaah Islamiah (JI) to Isis affiliates in Malaysia, Indonesia, and southern Philippines, the issues of race and religion have been exploited by militant groups in the region to radicalise and recruit disaffected individuals.

"What terrorist groups do so effectively is exploit pre-existing societal and sectarian wedges. They create crises, then when the state fails to act, they can then justify their vigilante actions in the name of defending the religion," said Zachary Abuza, professor of Southeast Asia studies at the Washington-based National War College.

He said these schisms were often created by politicians, government policies, and laws, adding that there were a host of organisations in Indonesia and Malaysia that engaged in provocative and highly divisive practices.

#### Playing into militants' hands

According to Abuza, terrorist groups try to provoke a heavy-handed response from the state.

"The United States is the poster child of overreaction," he said, praising Indonesia as a country that had maintained a level course in the wake of the 2002 Bali bombings, which killed 202 people from more than 20 countries. "Indonesia deserves a tonne of credit for not overreacting since 2002. They have shown considerable restraint, knowing that any overreaction plays into the hands of militants."

However, Abuza expressed concerns over Malaysia. He said that while the country had been spared most terrorist attacks, any successful mass casualty attack there, "which would invariably be designed to provoke ethnic tensions", might spark such an over-the-top response.

Among the analyst community, there are worries that Malaysia is at risk of attacks from Isis. Mohamed Faizal, a visiting fellow at the ISEAS-Yusof Ishak Institute in Singapore, said the Taliban's return to power in Afghanistan, which won praise from the Pan-Malaysian Islamic Party (PAS), had exposed Malaysia to Isis as the terror group was a sworn enemy of the Taliban.

"This open support of PAS for Taliban will surely be observed by Isis-K. This might drag [Malaysia] into unnecessary fight between the Taliban and Isis-K," he said, referring to Islamic State Khorasan, the group behind the deadly August 26 attacks on the Kabul airport.

PAS is currently a member of Malaysia's ruling coalition led by Prime Minister Ismail Sabri Yaakob.

Colin Clarke, director of policy and research at The Soufan Group intelligence and security consultancy, said Isis-K was a Salafist group, while the Taliban adhered to Deobandi Islam – but while the former was ideologically rigid, it did not mean the latter was moderate in any way.

"They are just two different variations of extreme, fundamentalist Islam. They are sworn enemies, and Isis-K has been accusing the Taliban of being sell-outs because they coordinated with the US and engaged in political negotiations," he said.

Faran Jeffery, deputy director and head of the South Asia desk on terrorism at the Britain-based Islamic Theology of Counter Terrorism think tank, expects to see Isis-K carry out more attacks on the Taliban now that the US forces have completed their withdrawal.

“Currently, Isis-K is operating mainly in the form of cells in Afghanistan. It doesn’t have the capability at the moment to carry out conventional military attacks against the Taliban, but it can wage guerilla warfare,” he said. “With foreign forces and the previous regime in Kabul gone, Isis-K has only one target left to attack, and that’s the Taliban.”

Clarke estimates Isis-K has between 1500 and 2200 fighters for now, though he expects the group’s numbers to rise “given the level of interest in Afghanistan by foreign fighters, especially now that the US military has withdrawn”.

#### The threat of JI

Analysts see the resurgent JI, the Southeast Asian branch of al-Qaeda, as the biggest terror threat in Indonesia. JI staged its last attack in 2011, when a suicide bomber detonated an explosive device at a mosque attended by police officers in Cirebon, West Java.

Iwa Maulana, a researcher at the Centre for Detention Studies in Jakarta, said while the group was not actively planning terror acts – unlike Jamaah Ansharut Daulah, the Indonesian affiliate of Isis – JI’s capacity in terms of experience, qualifications, organisation, and the skill of its members far exceeded those of pro-Isis groups.

“The more capable a group, the greater its ability to carry out attacks which cause great destruction,” Maulana said of JI, which has in recent years also sent members to Syria to train with the al-Qaeda-linked Nusra Front.

Over the past two years, Indonesian special counterterrorism squad Detachment 88 (Densus 88) has arrested 242 suspected JI members, and the number of those taken into custody “keeps increasing year by year”, according to Aswin Siregar, the unit’s operations chief.

He estimated there were now more than 6,000 JI members, some of which were in sleeper cells.

Sofyan Tsauri, a former senior member of al-Qaeda Southeast Asia, said JI was more dangerous than Indonesian pro-Isis groups as it was well organised, highly adaptable and blended easily into society.

“[JI] likes to exploit chaos, poverty, political and economic turmoil, rally the opposition, and approach vulnerable groups,” said Sofyan, who spent five years in an Indonesian prison for helping to arm terror groups. He was released in 2015 and now helps the country’s efforts in countering violent extremism by sharing his knowledge at seminars.

Indonesian police arrested JI’s leader Para Wijayanto in 2019 and discovered he had transformed it from a group funded by donations and robberies into an organisation with business interests in oil-palm plantations, hotels, gyms, and more.

Maulana of the Centre for Detention Studies in Jakarta said a new candidate to lead JI had been named by the organisation, but his identity was still unknown.

#### ‘Weak link to regional security’

Abuza from the National War College said the southern Philippines remained the weak link to regional security in Southeast Asia.

It was a less permissive environment for militants than it was a few years ago, in part because of the peace process with the insurgent Moro Islamic Liberation Front (MILF), he said, but governance remained weak, and too much of the region was poorly governed space beyond the control of security forces, despite billions of dollars in US assistance to Philippine forces.

“Sadly, the Philippines will continue to be a draw for foreign fighters,” said Abuza, adding that corruption within the Philippine security forces remained a problem.

Rommel Banlaoi, chairman of the Philippine Institute for Peace, Violence and Terrorism Research, said the greatest threats were from pro-Isis groups, particularly the Abu Sayyaf Group in Sulu, which was committed to mounting suicide attacks, apart from roadside bombings and assassinations.

A new threat is also rising in Central Mindanao, according to Banlaoi, particularly in the Sultan Kudarat province, in the form of the Hassan Salahuddin Group that has pledged allegiance to Isis. The group is part of the Bangsamoro Islamic Freedom Fighters, a breakaway group of the MILF.

He also warned of threats from remnants of the pro-Isis Maute group that took over Marawi city on Mindanao island in 2017, sparking a five-month armed conflict. It was Isis' most serious assault in Southeast Asia, unsettling governments across the region.

Meanwhile, Singapore's Internal Security Department (ISD) expects social media to continue to play a key role in the radicalisation and recruitment of individuals to overseas conflict zones, including Afghanistan.

In an emailed response, the ISD said the island nation would not hesitate to take action against anyone engaging in, inciting, or condoning terrorism and armed violence.

**America's War in Afghanistan Is Over. But in the Horn of Africa, Its War on Terror Rages On (TIME)** By W.J. Hennigan  
September 30, 2021

**In a remote corner of eastern Africa, behind tiers of razor wire and concrete blast walls, it's possible to get a glimpse of America's unending war on terrorism. Camp Lemonnier, a 550-acre military base, houses U.S. special-operations teams tasked with fighting the world's most powerful al-Qaeda affiliates. Unfolding over miles of sun-scorched desert and volcanic rock inside the tiny country of Djibouti, the base looks—the troops stationed here will tell you—like a sand-colored prison fortress.**

In a remote corner of eastern Africa, behind tiers of razor wire and concrete blast walls, it's possible to get a glimpse of America's unending war on terrorism. Camp Lemonnier, a 550-acre military base, houses U.S. special-operations teams tasked with fighting the world's most powerful al-Qaeda affiliates. Unfolding over miles of sun-scorched desert and volcanic rock inside the tiny country of Djibouti, the base looks—the troops stationed here will tell you—like a sand-colored prison fortress.

Inside, two subcamps sit behind opaque 20-ft. fences ringed with yet more razor wire. The commando teams emerge anonymously from behind the gates and board lumbering cargo planes to fly across Djibouti's southern border with Somalia for what they call "episodic engagements" with local forces fighting al-Shabab, al-Qaeda's largest offshoot. General Stephen Townsend, commander of military operations in Africa, describes it as "commuting to work." The Pentagon has dubbed the mission Operation Octave Quartz.

The operation may be a sign of things to come. Despite President Joe Biden's pledges to end America's "forever wars," he doesn't plan a retreat from global counterterrorism missions. One month after his chaotic Afghan pullout, Biden is continuing the work his predecessors began, drawing down high-profile military missions abroad while keeping heavily armed, highly engaged counterterrorism task forces in place in trouble spots. The President plans to fight terrorism from "over the horizon," he says, parachuting in special operators, using drones and intercepted intelligence, and training partner foreign forces.

Some 1,500 miles northeast of Lemonnier, about 2,500 U.S. forces operate from bases across Iraq, where they routinely come under rocket and mortar attack. An additional 900 forces are on the ground in Syria within striking distance of ISIS and al-Qaeda. In a June 8 letter to Congress, Biden listed a dozen nations, from Niger to the Philippines, where U.S. troops were on counterterrorism operations. These missions are undertaken by 50,000 men and women on the front lines of an active, under-the-radar conflict mainly waged in the Middle East and Africa.

Just how deeply Biden should invest in what used to be called the Global War on Terror has been the subject of live debate inside the Administration. His national-security team is finishing a new counterterrorism strategy that will in turn decide how big a global deployment of forces the U.S. makes. Biden has already halted most lethal drone strikes, ordering commanders to consult the White House on decisions to strike, and has initiated a review of when such lethal force should be used. At home, he's increased counterterrorism investigations of domestic violent extremists, which, after the Jan. 6 attempted insurrection at the Capitol, the FBI rates as the single biggest threat to the homeland today.

The evolving U.S. approach represents a turning point for America and the world. Critics of U.S. military engagement abroad say the country should stop fighting shadow wars altogether, arguing that they can never be won, and that the ensuing civilian casualties and other costs create a self-sustaining global conflict. But full withdrawal would be dangerous. The U.S. military's leaders worry their chaotic pullout from Afghanistan, and a new, diminished approach to fighting terrorism worldwide, could endanger Americans and their allies. "A reconstituted al-Qaeda or ISIS with aspirations to attack the U.S. is a very real possibility," the Chairman of the Joint Chiefs of Staff, General Mark Milley, told Congress on Sept. 28. "Strategic decisions have strategic consequences."

Biden is banking that a low-profile globe-spanning battle, and whatever collateral damage comes with it, will be politically palatable enough for Congress to keep funding, and effective enough to keep existing and emerging militant groups from



threatening America. At Camp Lemonnier, the U.S. military's only permanent base on the African continent, the approach is already being put to the test every day.

In the brightening dawn of Aug. 24, a truck loaded with goats and sheep pulled up to a Somali military camp near the central town of Cammaara. Suddenly the road erupted into a fireball. The explosion was the beginning of a multipronged al-Shabab attack that left four Somali soldiers dead and several others wounded.

As the chaos unfolded on the ground, American special operators deployed as part of Operation Octave Quartz were watching through the high-powered cameras of a drone flying overhead. The U.S. forces were sitting far from the combat in a makeshift operations center elsewhere in Somalia, where they attempted to remotely advise their Somali partners, called the Danab Brigade, via encrypted radio. With their allies under serious threat, they ordered up an airstrike on the militants' positions.

The U.S. bombing run ultimately turned the fight in Danab's favor. The Somalis gained back control of Cammaara, which lies on a coastal smuggling route that is valuable to al-Shabab. U.S. Africa Command (AFRICOM), which oversees all American military operations on the continent, characterized the airstrike as a "collective self-defense strike" in its public announcement, a description that allowed commanders to stay in line with the Biden Administration's mandate that airstrikes in Somalia be approved by the White House unless they're taken in self-defense.

Targeted drone strikes may help U.S. partners win individual battles, but they are unlikely to win a war against an entrenched enemy like al-Shabab. The group, whose name in Arabic means "the youth," has waged an insurgency against Somalia's fragile U.N.-backed government since 2007. Al-Shabab has received less attention than other terrorist organizations, but at 10,000 fighters it is al-Qaeda's largest affiliate, controlling vast swaths of rural, south-central Somalia. Like the Taliban in Afghanistan, it runs a shadow government that extorts business owners and imposes its own harsh form of Shari'a, or Islamic law, with punishments such as public flogging, stoning and amputation. The group earns as much as \$15 million per month in taxes, according to an October 2020 study from the Hiraal Institute, a Somalia-based think tank, revenue on par with that of the Somali government itself.

Al-Shabab strikes in the capital of Mogadishu at will. On Sept. 25, an explosive-laden car detonated near the presidential palace, killing at least seven people. Eleven days earlier, a suicide bomber walked into a tea shop and detonated an explosive vest, killing at least 11. Al-Shabab is responsible for the deaths of more than 4,400 civilians since 2010, according to the Armed Conflict Location and Event Data Project.

The group has occasionally carried out high-profile attacks beyond Somalia, including the assault on Kenya's upscale Westgate shopping mall in 2013 that killed 67. The militants also launched the January 2020 attack on a Kenyan military base in Manda Bay, where U.S. troops were training local forces. An American soldier, Specialist Henry Mayfield Jr., and two U.S. civilian contractors were killed.

For years, the U.S. has been satisfied with containing al-Shabab. But the Taliban's conquest in Kabul has stoked new fears that something similar may befall the frail government of Somalia. Al-Shabab has praised the takeover of Afghanistan on social media channels and repeated its desire to strike America and its allies. Unlike with the Taliban, whose sheltering of al-Qaeda paved the way for 9/11, it's unclear what kind of damage an al-Shabab takeover could inflict on the U.S. A Pentagon inspector general report from November noted the group's threats to kidnap or kill Americans in neighboring Kenya. "Al-Shabab retains freedom of movement in many parts of southern Somalia and has demonstrated an ability and intent to attack outside of the country, including targeting U.S. interests," the report said.

The efforts to help stabilize Somalia have had some successes, like when Kenyan troops as part of the African Union Mission in Somalia (AMISOM) drove al-Shabab out of Mogadishu and the port town of Kismayo in 2011. But AMISOM has been unsuccessfully trying to hand over the fight to the Somali government ever since. "We know we cannot stay forever, but we do not want to see all the gains reversed," says Kenyan Lieut. Colonel Irene Machangoh. "They can strike at any time." The fractious Somali government, plagued by corruption and complacency, depends on foreign funding and training to support its military, and "Al-Shabab is not degraded to the point where Somali security forces can contain its threat independently," the inspector general report found.

The U.S. has a checkered history of deployments to Somalia. It mostly pulled out after the infamous "Black Hawk Down" incident in 1993, when 18 American soldiers were killed and two helicopters were shot down over Mogadishu. After 9/11, contingents of U.S. special-ops forces started to rotate through the anarchic nation. Those missions targeting al-Shabab continued for years until President Donald Trump's final days in office. Citing his own desire to end America's "forever wars," Trump ordered a full withdrawal from Somalia by Jan. 15, 2021, days before Biden was sworn in.

The U.S. had Camp Lemonnier nearby to which it could withdraw many of its forces. The Marines had first come to the base, a former French Foreign Legion garrison, in 2002 because of its strategic location. Near the choke point where the Red Sea meets the Gulf of Aden, it is on a sea-lane that's critical to commercial shipping, but also to ensuring military supplies reach

the Persian Gulf. Djibouti, a French colony until independence in 1977, is a politically stable nation that was willing to lease the U.S. a scrap of land sandwiched between an airport and a harbor.

From the start, the base served as a launching pad for U.S. operations against al-Qaeda in the region. Now, it's at the forefront of Biden's "over the horizon" approach. At nearby Chabelley airfield, drones take off on missions bound for Yemen, where they fight al-Qaeda in the Arabian Peninsula (AQAP), or for Somalia, just 10 miles south. The official name of the mission is Combined Joint Task Force—Horn of Africa—but the military, in its passion for acronyms, calls it CJTF-HOA. "We don't want to own all the problems in the region, but we do want to be part of the solution," the task force's commander, Major General William Zana, tells TIME. "The U.S. presence in the region is a modest insurance policy to help achieve greater stability in the Horn."

The deployment at Lemonnier may be modest, but it's effective. What began as an 88-acre Marine Corps outpost is now a vast combat hub, home to around 5,000 U.S. troops, civilians and contractors who train regional militaries, collect intelligence and deploy to combat zones. The command building bristles with antennas and satellite dishes, while an on-site forensics lab helps specialists hack into suspected terrorists' phones and laptops, feeding future missions across the continent. The war these troops are fighting doesn't turn on breaking the enemies' defensive lines or sacking their seat of power. They grind along, ensuring an amorphous threat doesn't grow into something more.

Commuting to Somalia, though difficult, may serve as a model for fighting terrorist groups from the distance Biden wants. Already, this mission is similar to the one the U.S. now carries out in Afghanistan and other nations: developing intelligence on suspected terrorist activity, largely from airborne surveillance, captured communications chatter and images captured by drones circling overhead, then launching strikes.

But it has its own costs. During the Trump Administration, the U.S. military was handed more authority to target al-Shabab leaders, bomb-makers and operatives. There were 203 U.S. airstrikes on Somalia during Trump's tenure, far more than were carried out under George W. Bush or Barack Obama. Trump's willingness to use airpower led to rising claims of civilian casualties. Airwars, a London-based nonprofit, has received more than 100 allegations that innocent Somalis were killed under Trump. Those deaths are a big reason Biden launched a review into counter-terrorism policy, officials say. So far, only four strikes have been carried out under Biden, all in self-defense, according to the military. But with fewer troops on the ground, the U.S. military will likely become increasingly dependent on airpower in helping the Danab, Somalia's special forces.

Specialists at Camp Lemonnier's Joint Theater Forensic Analysis Center examine militants' electronics, guns and improvised bombs collected on the battlefield. Specialists at Camp Lemonnier's Joint Theater Forensic Analysis Center examine militants' electronics, guns and improvised bombs collected on the battlefield. Emanuele Satolli for TIME It's not clear that remote war will work. Lawmakers, terrorism analysts and current and former government officials say that no technology can substitute for troops on the ground. Troops can't develop strong personal relationships or understand local dynamics from afar. "We can remotely advise anybody," one U.S. official says, "but it's just more efficient when you're there one-on-one."

The U.S. military is prepared to continue the Somalia mission from afar, though it prefers to operate alongside its Somali partner force, the Danab. "The reposition of forces outside Somalia has introduced new layers of complexity and risk," AFRICOM commander Townsend told U.S. lawmakers in April. "Our understanding of what's happening in Somalia is less now than it was when we were there."

Humanitarian groups, for their part, have repeatedly alleged that "over the horizon" strikes have killed or injured civilians in AFRICOM's area of operations, as they have in other parts of the world where unmanned drones launch attacks. The true toll of civilian deaths is significantly higher than the handful AFRICOM has admitted, says Chris Woods, director of Airwars. "U.S. military commands so routinely ignore reports of tragedies from affected communities," he says. U.S. Africa Command says it researches each allegation it receives and refines tactics to avoid civilian deaths.

Biden's critics, like Human Rights Watch, say his strategy will result in a never-ending battle, and point to the Afghan army's spectacular collapse after 20 years of funding and training as evidence his approach is flawed. The U.S. military argues that by training local forces and joining them on operations, the U.S. can keep an eye on the evolving militant threat, and justify airstrikes if partner forces come under fire—a kind of trip wire for targeting terrorists.

About 10 miles off base from Camp Lemonnier, the U.S. Army's 2nd Security Force Assistance Brigade trains a group of recruits from a Djiboutian infantry unit, which may one day join the AMISOM mission. Marksmanship training takes place on a windy Saturday at the foot of Mount Gubad. The young men lay on their bellies in dirt the color of dried blood, firing their M4 rifles at paper targets roughly 50 yards away. The snap of gunfire resounds for miles. Sergeant First Class Jonathan Mills, 41, paces back and forth behind a dozen of the soldiers. "Hold your lead hand tight, and keep your eyes on the target," Mills shouts, before an interpreter translates into French.

Aside from a 2014 attack that killed two at the La Chaumière restaurant in Djibouti City, the country hasn't suffered much from al-Shabab's violent campaigns. The nation has, however, capitalized on its strategic position, hosting bases for France, the U.S. and China—Beijing's first overseas military facility. The bases, and foreign investment in local infrastructure, ensure some economic benefit from the regional counterterrorism campaigns.

Many of the Djiboutian troops come from parts of the impoverished country where quarrels are often settled with fists, rocks or shards of glass, and some have the scars to prove it. Now they wear the high-and-tight hairstyles of their American instructors, dress in similar camouflage uniforms and fire the same weapons. While they have not fought in Somalia, their commander, Lieut. Colonel Mohamed Mahamoud Assoweh, did throughout 2016 and 2017. "The fighting was very difficult," he says, walking among volcanic rocks the size of beach balls. "Now that [al-Shabab] see what happens in Afghanistan, maybe they think they can wait us out." Wearing a red beret and wraparound sunglasses, Assoweh says he's pleased with his troops' progress. He's also happy with his arsenal of American-made M4s, .50-caliber Browning machine guns, encrypted radio systems and 54 humvees, even if it's nearly impossible for his men to maintain. "This is what we need to fight," Assoweh says of the al-Shabab threat.

And so the war on terrorism continues, marking grim anniversaries year after year, despite the talk of withdrawals and homecomings. At Camp Lemonnier, on Sept. 11, 2021, hundreds of troops stood in the windless heat in commemoration of the 9/11 attacks. It wasn't yet 9 a.m., but the temperature had already soared past 104°. Rings of sweat began to appear upon the bands of the troops' camouflage caps.

Twenty years ago, many of these service members were toddlers. Some weren't born. But the attacks led them to a country that few could have found on a map before they received their deployment orders. "Things changed remarkably and irreparably after the attacks," Major General Zana tells the service members. "None of us would be here. The street, this building, the planes that flew overhead, the relationships we formed, none of this would be here." The troops uniformly salute an American flag as it's pulled, inch by inch, to half-staff. An Army specialist steps into the silence, wets his lips and lifts his trumpet to play the distinctive 24 notes of taps—G, G, C, G, C, E.

**Canadian Man Who Narrated ISIS Videos Flown to U.S. To Face Terrorism Charge (NY Times)** By Adam Goldman  
October 2, 2021

**A Canadian man who narrated two infamous propaganda videos that the Islamic State used to recruit Westerners and to encourage terrorism attacks was secretly whisked to the United States to face federal prosecution in Virginia.**

The man, Mohammed Khalifa, 38, a Canadian who traveled to Syria in 2013 and later joined the Islamic State, was charged with material terrorism support that resulted in death, according to a criminal complaint made public on Saturday. He was captured in early 2019 by a Kurdish-led militia, the Syrian Democratic Forces, which is backed by the United States.

The militia handed over Mr. Khalifa to F.B.I. agents this week, and he was flown to the United States. Mr. Khalifa, who was born in Saudi Arabia, appears to be the first foreign fighter to be prosecuted in the United States during the Biden administration. He is scheduled to make an initial appearance in court early next week.

"Mohammed Khalifa not only fought for ISIS on the battlefield in Syria, but he was also the voice behind the violence," said Raj Parekh, the acting U.S. attorney for the Eastern District of Virginia.

Mr. Parekh added that Mr. Khalifa "promoted the terrorist group, furthered its worldwide recruitment efforts and expanded the reach of videos that glorified the horrific murders and indiscriminate cruelty" of the Islamic State.

Mr. Khalifa was the voice of a 2014 ISIS video known as "Flames of War." The unit he worked for was responsible for publicizing such brutal footage as the beheading of the American journalist James Foley and other Western hostages.

Prosecutors said Mr. Khalifa "played an important role in the production and dissemination of ISIS propaganda across multiple media platforms targeting Western audiences."

In a 2019 interview with The New York Times conducted from a prison in northeast Syria, Mr. Khalifa claimed he played no role in the actual killings carried out by the Islamic State.

"I was just the voice," Mr. Khalifa said. He added in the interview that he did not regret what he had done. Although Mr. Khalifa played down his contributions to the Islamic State in the interview, prosecutors and the F.B.I. made clear he was a "prominent figure" within the Islamic State media unit, which he joined in April 2014. An F.B.I. agent described him as "essential" because of his fluency in Arabic and English and said he was in charge of the Islamic State's "English Media Section," according to the criminal complaint.

Prosecutors said that he assisted in the translation and narration of approximately 15 videos that were created and distributed by the Islamic State. Two of the most “influential and exceedingly violent” propaganda videos, prosecutors said, were called “Flames of War: Fighting Has Just Begun” and “Flames of War II: Until the Final Hour.” The first was distributed in September 2014 and the second in November 2017.

According to court documents, Mr. Khalifa was not just a propagandist but engaged in fighting. In the days before his capture by the Syrian Democratic Forces, he threw “grenades against opposing combatants,” prosecutors said.

F.B.I. agents interviewed Mr. Khalifa in March 2019, just months after he was captured. He said he was motivated to travel to Syria after watching videos of the Syrian government and listening to lectures of Anwar al-Awlaki, Al Qaeda’s leading voice in English, who was killed years earlier in a drone strike.

In an August 2013 email the F.B.I. obtained, Mr. Khalifa disclosed to a close relative that he had gone to Syria, and not Egypt as the relative had been led to believe, to fight. “I came here to join the mujahideen fighting against Bashar and the Syrian army,” he wrote.

The F.B.I. said that Mr. Khalifa flew to Turkey and then used a smuggler to enter Syria. He joined a battalion led by Omar al-Shishani, a Georgian militant. He received military training and participated in fighting against Syrian government forces in the Aleppo countryside. In about November 2013, he joined the Islamic State, swearing allegiance to its leader, Abu Bakr al-Baghdadi. While a member of the Islamic State, he was known as “Abu Ridwan al-Kanadi” and “Abu Muthanna al-Muhajir,” the F.B.I. said.

Mr. Khalifa thought he would be sent to an Islamic State training camp but instead he was recruited to join the media unit. The F.B.I. said Mr. Khalifa’s recruitment into the media unit would mark an almost five-year period in which he would become “a leading figure in ISIS’s English-language propaganda creation and distribution operations.”

While working for the media unit that publicized and exploited the killings of hostages, Mr. Khalifa was asked in a series of Gmail chats how he could justify the beheadings and executions of aid workers, journalists and prisoners of war. The chats occurred after Mr. Foley’s gruesome execution, which the Islamic State filmed and released, shocking the world.

Mr. Khalifa justified the treatment of them, saying “free them, ransom them, or execute them,” according to one Gmail chat. The F.B.I. said the statement demonstrated Mr. Khalifa’s knowledge of the “objectives, purposes and scope” of the Islamic State’s hostage taking scheme.

Mr. Khalifa was finally captured after a brief firefight with the Syrian Democratic Forces. The F.B.I. said that, at one point, he threw a grenade onto the roof of a house where Syrian Democratic Forces soldiers were positioned.

Mr. Khalifa’s arrest is the latest example of F.B.I. agents and federal prosecutors at the U.S. attorney’s office in Alexandria pursuing Islamic State terrorists and bringing them to Virginia to face charges despite the many complications associated with these types of international terrorism cases.

Last month, Alexandra Kotev, 37, who was part of an ISIS cell of four Britons called “the Beatles,” pleaded guilty to multiple charges, including conspiracy to commit hostage taking resulting in death and conspiracy to murder U.S. citizens outside the United States.

Another member of the same cell, El Shafee Elsheikh, has pleaded not guilty.

**Are Brotherhood members forming terror cells in Sudan? (Al-Monitor)** By Mohamed Saied  
October 5, 2021

### **Sudanese security services have recently arrested members of a terrorist cell affiliated with the Islamic State (IS).**

In the midst of political and security tension in Sudan, the country’s intelligence services announced Sept. 28 that a raid in neighborhoods south of the capital, Khartoum, targeted a cell affiliated with IS, which has never claimed responsibility for an attack in the country.

An exchange of fire erupted during the operation, killing five members of the Sudanese intelligence service. Meanwhile, 11 terrorists of different foreign nationalities were arrested, while four fled but were later tracked down and arrested.

Sudan was designated a state sponsor of terrorism in 1993 by the United States. Since former Islamist President Omar al-Bashir came to power in 1959, his regime harbored and supported extremist Islamist groups including al-Qaeda, the Islamic Resistance Movement (Hamas) and Lebanese Hezbollah. Sudan hosted al-Qaeda leader Osama bin Laden between 1992 and

1996.

In 2020, the United States removed Sudan from its list of state sponsors of terrorism following the overthrow of Bashir in April 2019. However, the US State Department had warned in 2018 against IS making its way back to Sudan after the organization lost much of its territories in Syria and Iraq.

In its Country Reports on Terrorism 2018, the US Department of State said that despite the absence of large-scale attacks in Sudan, it appears that IS has an active network of enablers and “extremists” linked to the group in the country.

Osman Mirghani, a Sudanese political analyst and editor-in-chief of the independent daily al-Tayar, doubts that the cell that was recently dismantled in Sudan is affiliated with IS. “The security services may have been hasty by pinning this on IS. It may actually be a terrorist group, but it does not necessarily have to be IS,” he told Al-Monitor.

On Sept. 29, Al-Ressali Movement for Preaching and Combat - Wilayat Sudan claimed responsibility for killing the Sudanese intelligence service members. This jihadi movement had also claimed responsibility for the failed assassination attempt on Sudanese Prime Minister Abdalla Hamdok in March 2020.

This movement, which denies it is connected to IS, threatened to respond to the recent raid and continue its activities in Sudan amid fears that the country would witness more terrorist operations. The raid came a week after a failed coup attempt in the country, which resulted in more tension between the military and civilian politicians.

Mirghani says there is no connection between the reports of the terrorist cell and the political tension in the country. Sudanese security services, he said, “were keeping tabs on the cell for a long time before cracking down on it, following the public prosecutor’s orders.” The conflict, he said, will continue, “even with the possibility of terrorist operations increasing.”

Sudanese newspapers revealed that the cell leader, nicknamed Abu Mohammed, is an Egyptian who was arrested along with four other Egyptians in the northeastern city of Port Sudan. Mada Masr, an independent Egyptian news website, quoted anonymous security sources as saying that the cell included 10 Egyptians.

The Saudi Al-Arabiya channel reported on Sept. 30 that Cairo and Khartoum have discussed extraditing the Egyptian detainees who belong to the Muslim Brotherhood. Al-Sharq news channel also reported that an Egyptian security delegation headed to the Sudanese capital after the incident to discuss handing over the detainees.

Among the Egyptian detainees is Akram Abdel Badih Ahmed Mahmoud, who was sentenced to death in absentia in Egypt for the attempted bombing of the Suez Canal in 2009. Mahmoud is also a member of a cell accused of the December 2013 bombing of the Dakahlia security directorate, which killed 16 people. The Egyptian government at the time accused the Muslim Brotherhood of being behind the attack and has since listed it as a terrorist organization and banned all its activities.

The detainees also include Aya Hassan Abdel Salam Abu al-Saud, a student who was reportedly arrested and forcibly disappeared in April 2019 from Beni Suef, south of Cairo, but it turned out that she had traveled to Sudan.

Hundreds of Brotherhood members fled to Sudan, Turkey and Qatar after the Egyptian army ousted Islamist President Mohammed Morsi in 2013. Since Egyptian President Abdel Fattah al-Sisi — known for his fierce hostility to political Islam — took power in 2014, Egyptian authorities have launched a massive crackdown on Brotherhood members, as thousands have been prosecuted on terrorism charges.

The Egyptian government accuses the Brotherhood of having ties with armed Islamic organizations in the country and of inciting and financing terrorist operations.

Ahmed Ban, an independent Egyptian researcher on Islamic groups affairs and a former Brotherhood member, told Al-Monitor that some of those who fled Egypt settled in Sudan, left the organization, and formed separate terrorist groups in cooperation with al-Qaeda or IS. Ban added, “Perhaps the cell in Khartoum came within this context, as different local groups with the same goals and orientations came together and planned to carry out separate terrorist operations.”

On Oct. 1, the Sudanese intelligence services denied that members of the terrorist cell had been handed over to any party, stressing that “criminals are undergoing legal procedures.”

Ban noted that handing over Brotherhood members to Egypt would increase pressure on the group, which “is facing an existential crisis” without its former main power base in Egypt.

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# Piracy

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## Gender-Based Violence

**Expanding Justice for Gender-Based Crimes with a Treaty on Crimes Against Humanity (Just Security)** By Akila Radhakrishnan and Danielle Hites  
September 29, 2021

**Over the last 30 years, the world has seen progress, largely due to feminists, in delivering justice for gender-based crimes — particularly sexual violence. However, most of this progress has relied on retrofitting gender-specific experiences into pre-existing legal frameworks that didn't care much for gender. Take, for example, the International Criminal Tribunal for Rwanda's groundbreaking finding of rape as an act of genocide in the Akayesu case, or much of the jurisprudence out of the International Criminal Tribunals for Rwanda and the former Yugoslavia related to sexual violence, including finding rape as a form of torture. These precedents were built on gendered readings of crimes whose definitions make no explicit reference to sexual or gender-based violence.**

The Rome Statute that created the International Criminal Court (ICC) was certainly an improvement on the Genocide and Geneva Conventions in its explicit codification of sexual and gender-based crimes. But the last 20 years of the Court's practice have also shown its limitations, with only two standing convictions for sexual and gender-based crimes.

Given this track record, a new convention on crimes against humanity could be a gamechanger for the effective prevention and prosecution of gender-based crimes.

### Accountability for Sexual and Gender-Based Crimes

As a starting point, there is no question that the Rome Statute was an important step forward in the codification of atrocity crimes, including in its explicit recognition of a broad range (at the time) of sexual and gender-based crimes beyond rape — sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and gender-based persecution. Despite a dismal record on securing standing convictions for such crimes, a concerted effort to improve prosecutions for crimes of sexual and gender-based violence (SGBV) by former ICC Prosecutor Fatou Bensouda has resulted in some important steps forward.

For example, the landmark prosecution against Dominic Ongwen, a brigade commander in the Lord's Resistance Army, bore the broadest spectrum of gender-based charges in the Court's history, including the first charge and subsequent conviction for the crimes against humanity of forced pregnancy and forced marriage. Significantly, the charge of forced marriage was brought as the crime against humanity of "another inhumane act," as it was not a specifically codified crime on its own. Previous prosecutions of forced marriage had been subsumed under the crime of sexual slavery, which had the effect of erasing some of the non-sexual harms of forced marriage. In addition, the ongoing Al-Hassan case marks the ICC's first inclusion of the crime of gender-based persecution at the confirmation stage for the defendant's actions as de facto chief of Islamic police in Mali. These recent precedents demonstrate the potential for the crimes against humanity framework to further the fight for gender-justice.

In the broader field of public international law, more progressive understandings of gender justice have also taken root, which similarly highlight the opportunities posed by a new convention. The process to date of drafting the proposed Convention on the Prevention and Punishment of Crimes Against Humanity is itself a case in point. In 2019, after the concerted work of feminist and LGBTQI+ activists and legal experts, the International Law Commission removed the regressive definition of 'gender' in the draft convention that had been carried over from the Rome Statute. This removal reflected the fact that, in the 20 years since the creation of the Rome Statute, gender is no longer understood to reflect "the two sexes, male and female." Other gender gaps in the current draft, including a limited definition of forced pregnancy with an unnecessary caveat on national abortion laws, as well as a limited framework for the crime of enslavement, offer further opportunities for a new

convention to be more gender-competent.

However, the Rome Statute also remains the only international codification equipped to address new and emerging crimes against humanity. While ad hoc tribunals have been established to respond to specific crises, the ICC is the only permanent mechanism for criminal accountability at the international level. Thus the substantive, procedural, and practical limitations of the ICC restrict the justice outcomes for crimes against humanity. Neither was the Court intended to be the sole body responsible for seeking judicial remedies for mass atrocities, nor does it have the capacity to investigate every situation and try every individual. The ICC can only address one side of the accountability picture — individual criminal responsibility — leaving state responsibility for crimes against humanity aside.

In addition to the potential directly related to sexual and gender-based crimes, the concept of crimes against humanity also covers a broader range of contexts. Whereas war crimes are dependent on the existence of an armed conflict and genocide bears a specific intent requirement, crimes against humanity can be committed in times of peace or war and — with a few exceptions — do not require a determination of conflict or genocidal intent. The effective codification of crimes against humanity is essential to capturing a range of gender-related harms that are excluded from the existing frameworks on mass atrocity crimes.

#### State Responsibility for Crimes against Humanity

While the Rome Statute, as well as a patchwork of domestic laws on crimes against humanity allow for individual criminal responsibility for these crimes, one glaring gap in the current legal architecture of mass atrocities is the lack of specific obligations for States to act in the face of crimes against humanity and of a mechanism for holding them accountable when they fail in their obligations.

Importantly, the draft convention being considered by the United Nations General Assembly's Sixth Committee lays out clear obligations for States to not commit crimes against humanity, as well as to prevent and punish them, including through the passage of domestic legislation, cooperative action at the multilateral level, and obligations to extradite or prosecute and to provide mutual legal assistance. These obligations are bolstered with provisions to hold States accountable for the violations of the convention, including at the International Court of Justice.

The ongoing Uyghur crisis is an apt illustration of why such obligations are needed. It is clear that widespread and systematic violations are occurring in Xinjiang against Uyghurs and Turkic Muslims, including gender-based crimes such as forced contraception and sterilization. Yet, far too much of the conversation is mired in a question of whether, for the purposes of triggering obligations under the Genocide Convention, these crimes are being committed with the specific intent to destroy the group as such and if, without mass killings, the evidence is sufficient to demonstrate serious risk of genocide. Despite commitments to prevent and suppress any mass atrocity crimes, including under the principle of the Responsibility to Protect, States have largely tied their capacity and duty to prevent these violations to the Genocide Convention's explicit obligations to act. Closing the gap in the framework of State obligations to act — including to prevent other atrocity crimes — is an important and needed step forward, the one that the proposed convention would offer.

#### Conclusion

The decades since the Rome Statute first codified sexual and gender-based crimes have been marked by the continued use of sexual and gender-based violence by perpetrators exploiting existing power structures, patterns of discrimination, and gender roles. While the facts on the ground have always been gender-specific, neither State responses nor justice have always reflected that reality.

The opportunity to establish a new convention that incorporates lessons learned and progressive jurisprudence, as well as to redress gaps and regressive political compromises, can shift the paradigms around which experiences are deserving of justice and trigger State obligations to act. Such a legal framework could be transformative for so many who have been left out or on the margins of existing frameworks, including women.

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## **Commentary and Perspectives**

**As Guinea embarks on a political transition process after the September 5, 2021 coup, the opening of this trial would send a strong signal that the authorities are willing to put respect for human rights and the fight against impunity at the center of their priorities.**

The groups are the Association of Victims, Relatives and Friends of September 28, 2009 (AVIPA), Equal Rights for All (MDT), the Guinean Human and Citizens' Rights Organization (OGDH), the International Federation for Human Rights (FIDH), Amnesty International, and Human Rights Watch.

Although 12 years have gone by, the need for justice remains as strong as ever for the survivors of the massacre and victims' families. Just one year ago, the six groups had denounced the delays and time wasted in organizing the trial. The wait has become unbearable for the survivors and victims' families, the groups said, given that the investigation phase concluded in late 2017. The Guinean government has promised several times to begin the trial as soon as possible, and no later than June 2020. The organizations remain concerned by an evident lack of will to complete preparations for this trial in Guinea.

In recent months, the steering committee overseeing the preparations for the trial, made up of government officials and international partners, had resumed its work and adopted a road map. Construction had progressed at Conakry's Court of Appeal, where the trial is to take place, and a training session for judges was planned by the French government. However, despite these efforts, no trial date has yet been set.

"Given the deteriorating health of the survivors, we, together with the Association of Victims, Relatives and Friends of September 28, 2009, are calling for this year to be the last commemoration before justice is done," said Aissatou Diallo, a survivor of the September 28 events. "It is urgent for the trial to be held and reparations awarded before all the victims die."

The investigation by Guinean judges began in February 2010. More than 13 suspects were charged, 11 of whom were sent for trial. Among them is Moussa Dadis Camara, the former leader of the National Council for Democracy and Development junta that ruled Guinea in September 2009, who is living in exile in Burkina Faso. Some of the suspects who have been charged held influential positions until the recent coup, including Moussa Tiegboro Camara, who was in charge of fighting drug trafficking and organized crime.

The organizations are closely following Guinea's period of political transition after the National Committee for Reconciliation and Development (Comité national du rassemblement et du développement, CNRD) took power on September 5, and reiterated their call for the respect of human rights and fundamental liberties of all Guineans. As the CNRD leader, Mamady Doumbouya, stated that "justice will be the compass guiding every Guinean citizen," the fight against impunity should be at the heart of the authorities' actions, the groups said.

"It is more than urgent for Guinea to put an end to the cycle of impunity that has deeply marked the country's history for more than 60 years," the groups said. "We remind the authorities that international law requires states to provide effective remedies to victims of human rights violations and that any lack of justice or the adoption of an amnesty for serious crimes is incompatible with these requirements."

"It is also essential for the new authorities to guarantee the protection of human rights defenders and activists who have suffered numerous violations of their right to freedom of expression and peaceful assembly for years," the groups said. "The new authorities should make justice a prerequisite of their actions."

The International Criminal Court (ICC) opened a preliminary examination of the situation in Guinea in October 2009. Designed as a court of last resort for the most serious crimes, the ICC steps in when national courts are unable or unwilling to investigate and prosecute such cases. In its latest report, the ICC had expressed its disappointment that "the trial has not yet started and no timeline or action plan for the opening of the trial has been communicated by the Government of Guinea." The ICC had indicated that "the Guinean authorities must demonstrate, in the coming months, their will and ability to combat impunity and to prevent renewed cycles of violence."

Guinea's partners, particularly the Economic Community of West African States (ECOWAS), the African Union, the European Union, the ICC, and the United Nations should pay increased attention to the current situation in the country and strengthen their actions and support, on the one hand, for the September 28 trial to be organized as soon as possible, and on the other, for the new authorities in Guinea to respect human rights.

**Background** Shortly before noon on September 28, 2009, several hundred members of Guinea's security forces opened fire on tens of thousands of people who had gathered peacefully at the 28 September stadium in Conakry for a march against Dadis Camara's intention to run for president. The security forces also individually or in gangs raped more than 100 women and sexually assaulted some of them with objects such as batons or bayonets, during <https://www.amnesty.org/en/latest/news/2009/10/international-inquiry-needed-violence-guinea-security-forces-20091001/>



or soon after the events. The security forces killed more than 150 people and wounded hundreds of others. The security forces then organized a [HYPERLINK "https://www.fidh.org/fr/regions/afrique/guinee-conakry/Urgent-Guinee-Dernieres"](https://www.fidh.org/fr/regions/afrique/guinee-conakry/Urgent-Guinee-Dernieres) cover-up operation, sealing off all the entrances to the stadium and morgues and removing the bodies to bury them in mass graves. Many of the graves have yet to be identified.

After the investigation was completed, in April 2018, the then-justice minister, Cheick Sako, set up a steering committee to organize the trial. It set Conakry's Court of Appeal as the location.

In January 2020, justice minister Mohammed Lamine Fofana announced to the United Nations his government's "unequivocal" support for opening the trial. Despite his announcement that proceedings would begin in June, following completion of construction on the courtroom facility, the trial did not move forward during this past year.

In June, Mory Doumbouya was appointed justice minister. Minister Doumbouya said that he supported the trial, but that the judiciary was responsible for organizing it.

#### **Mozambique: ISIS-linked Group Using Child Soldiers (Human Rights Watch) September 29, 2021**

### **An Islamic State (ISIS) linked armed group in northern Mozambique is kidnapping boys and using them to fight government forces in violation of the international prohibition on the use of child soldiers, Human Rights Watch said today.**

The armed group, known locally as Al-Shabab, has abducted hundreds of boys, some as young as 12, trained them in bases across Cabo Delgado province, and forced them to fight alongside adults against government forces. In the town of Palma, parents said that they watched their sons wield guns when they returned with other fighters to raid their village.

"Using children in fighting is cruel, unlawful, and should never take place," said Mausi Segun, Africa director at Human Rights Watch. "Mozambique's Al-Shabab should immediately stop recruiting children and release every child in their ranks."

Human Rights Watch spoke by phone with four parents of kidnapped boys, a former child soldier, and two witnesses to abuses. The child soldier and witnesses had escaped from the Al-Shabab training base in the town of Mbau, where they were held captive for several weeks. Their accounts are consistent with media reports that the armed group was kidnapping boys to be fighters.

A 42-year-old man said that seven Al-Shabab fighters kidnapped his 17-year-old son during their March 24 attack on Palma. He said the gunmen found his family of seven on a farm where they had been hiding for two days from the fighting.

"I was on my knees begging the Mashababos [the local popular name for Al-Shabab] to take me instead, while my wife grabbed my boy's trousers to stop him from walking away," the man said. "One of the men hit my wife in the head with an AK-47 [assault rifle] to force her to release [our son], while the other man threatened to kill all of us if we didn't allow the boy to go." The boy's mother, 36, said she saw him again in May, just before the family abandoned Palma to seek refuge elsewhere.

"I was hiding inside the house when I heard his voice and I checked outside the window," she said. "I saw him in a group of about a dozen other boys, all wearing camouflage trousers and a red band around the head."

Two other women said that Al-Shabab had abducted their sons during the raid on Mocimboa da Praia in August 2020 that culminated in the seizure of the port town.

Three women who escaped from an Al-Shabab base in Mbau said that there are "hundreds of boys" in the ranks of the group. "They behave like adult men, even picking 'wives' among the kidnapped girls," one woman said.

Another woman who escaped said that Al-Shabab forces abducted her in March from Palma and that the armed group drove her and hundreds of women and boys in three trucks to Mocimboa da Praia, where they were kept captive. "The boys were taken for military training in Mbau and Macomia," she said. "After training they were brought back to receive Islamic classes and instructions for attacking villages."

A young man said that he was under 18 in April 2020 when six Al-Shabab fighters found him and two 16-year-old friends hiding in a farm during an attack on Mocimboa da Praia. The fighters argued about what to do with the boys and considered beheading them because they considered their "hair styles" against Islam. Instead, they forced the boys to walk blindfolded for many kilometers inside the forest to the fighters' base in Mbau.

"We joined many other men and boys and were trained on how to use guns and knives to fight," the young man said. "They told us that we had to kill and fight for our land and to protect our religion, which is under attack in Mozambique."

He escaped a month later, while on patrol duty, and now lives in fear of being recaptured by the armed group.

In June 2021, the humanitarian organization Save the Children estimated that non-state armed groups in Cabo Delgado had abducted at least 51 children, most of them girls, over the past year. A local group, Observatório do Meio Rural (OMR), reported that kidnapped boys were expanding the ranks of armed groups in the area.

The United Nations Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which Mozambique ratified in 2004, prohibits non-state armed groups from recruiting children under the age of 18. The Rome Statute of the International Criminal Court categorizes as a war crime the conscription, enlistment, or active use of children under 15 years old in active hostilities during armed conflict.

“Al-Shabab’s growing use of children as fighters is the latest horrifying chapter in the Cabo Delgado violence,” Segun said. “Mozambican authorities should urgently take steps to protect children, so they remain with their families and in school, and aren’t exploited as weapons of war.”

**Libya: War crimes likely committed since 2016, UN probe finds (UN News) October 4, 2021**

**From arbitrary detention to torture, the recruitment of child soldiers and mass killings, the Independent Fact-Finding Mission on Libya listed numerous grave rights violations which had impacted the country’s people and which gave them “reasonable grounds” for the war crimes allegations.**

Civilian targets

Civilians were particularly at risk during the 2019-2020 fight for the capital Tripoli, the Mission said, as well as during other violence in the country since 2016, which has been marked by attacks on hospitals, schools, migration detention centres, and communities at large.

“Airstrikes have killed dozens of families. The destruction of health-related facilities has impacted access to healthcare, and anti-personnel mines left by mercenaries in residential areas have killed and maimed civilians,” said Mission chair, Mohamed Auajjar.

The investigators – whose Fact-Finding Mission was created by the Human Rights Council in June last year - published their findings after reviewing hundreds of documents and interviewing more than 150 individuals, alongside parallel research in Libya, Tunisia and Italy.

‘Unbearable’ conditions “Arbitrary detention in secret prisons and unbearable conditions of detention are widely used by the State or militias against anyone perceived to be a threat to their interests or views,” said the Mission’s Tracy Robinson speaking to journalists in Geneva.

Organised violations “Violence in Libyan prisons is committed on such a scale and with such a level of organisation that it may also amount to crimes against humanity.”

The UN-appointed independent investigators highlighted violence against migrants, refugees and other vulnerable minorities including LGBTQI individuals.

“Violations against migrants are committed on a widespread scale by State and non-State actors with a high level of organisation and with encouragement of the State. All of this is suggestive of crimes against humanity,” said Mission member Chaloka Beyani.

Mr. Beyani also pointed to worrying reports about the continued presence of foreign fighters in the country from the Syrian conflict and private mercenaries allegedly contracted by the Russia-based Wagner Group, in the fight for the Libyan capital from 2019 to 2020, claims highlighted previously by the UN Working Group on the use of mercenaries.

Mercenaries remain “Our investigations have indicated that there are foreign fighters, there are mercenaries in Libya, and they have not yet left the territory of Libya as required,” he said.

Other likely violations of international law covered by the Mission included the recruitment of children to fight.

“Our report also documents the recruitment and direct participation of children in hostilities, the enforced disappearance and extrajudicial killings of prominent women and continuing sexual and other forms of violence against vulnerable populations including LGBTQI persons,” said Ms. Robinson.

Tarhuna atrocity The Mission also verified allegations of atrocity crimes committed in the town of Tarhuna, southeast of Tripoli, between 2016 and 2020, where mass graves containing the bodies of men, women and children have been found.

According to reports, the Kaniyat militia were responsible for killing perhaps hundreds of civilians in Tarhuna, their wounds indicating that they had been shot many times while blindfolded, handcuffed and with their legs tied.

Mission chair Mohamed Auajjar noted that the recently installed Government of National Unity has created the possibility of national dialogue and unification of State institutions.

The UN has been supporting peace efforts in Libya, which descended into chaos and conflict following the overthrow of President Muammar Gaddafi in 2011, resulting in the country being divided between the internationally recognized Government of National Accord (GNA) and the rival Libyan National Army (LNA) based in the east.

In a statement, the Mission noted that it had identified “both Libyans and foreign actors who may bear responsibility for the violations, abuses and crimes committed in Libya since 2016”.

Confidential list These names will remain on a confidential list “until the need arises for its publication or sharing with other accountability mechanisms”, the Mission continued, acknowledging the continuing work of the investigation opened in 2011 by the International Criminal Court (ICC) into alleged crimes against humanity and war crimes committed in Libya, at the request of the UN Security Council.

“As Libyans strive to secure peace, ensuring accountability for gross human rights violations and international crimes committed in the country is more necessary than ever to deter further violations and promote long-term peace and reconciliation,” said Mr. Auajjar.

“We urge Libya to intensify its efforts to hold those responsible to account. It is also essential that the international community continues to provide support to the Libyan judicial authorities.”

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## WORTH READING

### **Terrorist Offences and International Humanitarian Law: The Armed Conflict Exclusion Clause (forthcoming, International Review of the Red Cross)**

By Thomas Van Poecke, Frank Verbruggen, and Ward Yperman  
September 27, 2021

**While armed conflicts are principally governed by international humanitarian law (IHL), activities of members of non-state armed groups and their affiliates may also qualify as terrorist offences. After explaining why the concurrent application of IHL and criminal law instruments on terrorism causes friction, we analyse the chief mechanism to dissipate it: a clause excluding activities governed by IHL from the scope of criminal law instruments on terrorism. Such armed conflict exclusion clauses exist at the international, regional and national level. We suggest how an exclusion clause can best avoid friction between IHL and criminal law instruments on terrorism.**

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